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WRIT OF ERROR.

NEW JERSEY *ss.*

The State of New Jersey to the HONORABLE SAMUEL M. KALISCH, and the HONORABLE HAROLD B. WELLS, Judges of the Court of Oyer and Terminer of the County of Burlington.

(SEAL)

Because in the judgment of the Court of Oyer and Terminer of the County of Burlington upon a certain indictment against Harry C. Mohr, late of Riverside in said county that he did wilfully and maliciously and with malice aforethought, kill and murder one, John T. Brunen.

Pro ut the said indictment and the several counts therein, whereon before you he hath been indicted and is therefore convicted by a certain jury of the said county, taken between the State of New Jersey and the said Harry C. Mohr, as it is said, manifested error hath intervened to the great damage of the said Harry C. Mohr, as from his complaint we have received information, we being willing, in this behalf, to correct the error in due manner, if any there shall be, and that speedy justice be done to him, the said Harry C. Mohr.

We command you that if judgment be thereon given, then that you distinctly and openly send under your seal, the record and proceedings aforesaid with all things touching and concerning the same, to our Court of Appeals in the last resort in all causes of law, to be held at Trenton, on the tenth day of February, 1923, and this writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon for correcting that error, what of right and according to the laws and customs of New Jersey, ought to be done.

WITNESS, EDWIN ROBERT WALTER, our Chancellor, at Trenton, this twenty-fourth day of January, 1923.

THOS. F. MARTIN,
Clerk.

WALTER S. KEOWN,
Attorney of Plaintiff-in-Error.

[ENDORSED]

New Jersey Court of Error and Appeals,
The State of New Jersey,
Defendant-in-Error,
v.
Harry C. Mohr,
Plaintiff-in-Error.

Writ of Error.

Walter S. Keown,
Atty. of Plaintiff-in-Error.
520 Market Street,
Camden, N. J.

RETURN.

The answer of Samuel Kalisch, Esquire, and Harold B. Wells, Esquire, Judges of the Court of Oyer and Terminer, in and for the County of Burlington, and State of New Jersey within named:

The record and proceedings of the plaint whereof mention is within made, with all things touching and concerning the same, including the record of the proceedings had upon the trial of the said defendant, to the Court of Errors and Appeals in the last resort in all causes, within specified, at the day and place within contained, we certify in a certain schedule to this writ annexed, as we are within commanded.

SAMUEL KALISCH,
Judge.
HAROLD B. WELLS,
Judge.

JUDGMENT RECORD.

INDICTMENT.

CAPTION.

STATE OF NEW JERSEY, BURLINGTON COUNTY, Court of Oyer and Terminer, holden before Samuel Kalisch, and Harold B. Wells, Judges.

April Term, 1922.

THE STATE OF NEW JERSEY, v. CHARLES M. POWELL, HARRY C. MOHR and DORIS BRUNEN.	Sur Indictment. Murder.

JOHATHAN H. KELSEY, ESQ.
WALTER S. KEOWN, ESQ.

BURLINGTON COUNTY, To wit:

Be it remembered, that at a Court of Oyer and Terminer, holden at Mount Holly, in and for the County of Burlington, on the fourth Tuesday of April in the year of our Lord one thosuand nine hundred and twenty-two, before the Honorable Samuel Kalisch, one of the Justices of the Supreme Court of Judicature of the State of New Jersey, and Honorable Harold B. Wells, Esquire, Judge of the Court

of Common Pleas, of the said County of Burlington, and the Grand Jury being desirous of making presentment of sundry bills of indictment, according to the form of the statute in such case made and provided, by the oath of Theodore H. Budd, John Kiessling, Charles Moser, Annie G. Morris, Helena Mount, Lilia Garwood, Martin W. Hargrove, Albert H. Hodson, Henry Chaffey, Herman Black, Robert Turner, Thomas Lee, Charles E. Woodward, William Roland Warrack, Charles Dennis, Herbert J. Jacoby and the affirmations of Aaron Engle Haines, Anna K. Ridgway, William E. Darnell, Alice E. Sherman, Newlin L. Lippincott, Edward S. Wood and Susan W. Spencer, severally alleged themselves to be conscientiously scrupulous of taking an oath, good and lawful men and women of the said county, duly summoned, and then and there sworn and affirmed and charged to inquire for the State of New Jersey, in and for the body of the said County of Burlington.

It is presented, in manner and form following, that is to say:

The bills herewith presented are true bills.

AARON ENGLE HAINES,
Foreman.

Filed September 21, 1922.

WILLIAM H. REEVES,
County Clerk.

IN THE COURT OF OYER AND TERMINER OF BURLINGTON COUNTY.

April Term, A. D. 1922.

BURLINGTON COUNTY, to wit:

THE GRAND INQUEST of the State of New Jersey, and for the body of the County of Burlington, upon their respective oath and affirmation,

PRESENT, that CHARLES M. POWELL, HARRY C. MOHR and DORIS BRUNEN late of the Township of Riverside in the said County of Burlington, on the tenth day of March in the year of our Lord nineteen hundred and twenty-two with force and arms at the Township of Riverside aforesaid, in the county aforesaid, and within the jurisdiction of this Court, one, John T. Brunen, in the peace of God and this State, then and there being, wilfully, feloniously and of their malice aforethought, did kill and murder contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

JONATHAN H. KELSEY,
Prosecutor of the Pleas.

Burlington Oyer and Terminer
April Term, 1922.
Indictment for Murder.
The State vs. Charles M. Powell,
Harry C. Mohr, Doris Brunen.
Jonathan H. Kelsey, Prosecutor of the Pleas.
A True Bill, Aaron Engle Haines, Foreman.
Filed September 21, 1922.

WILLIAM H. REEVES,
County Clerk.

PLEA.

And afterwards, to wit, on the twenty-first day of September, in the year of our Lord one thousand nine hundred and twenty-two, at a session of the Court of Oyer and Terminer aforesaid, being as yet the April Term aforesaid, before the Honorable Samuel Kalisch, Justice as aforesaid, and Harold B. Wells, Judge of the Court of Common Pleas in and for said County of Burlington, at Mount Holly aforesaid, here cometh the said Harry C. Mohr, under custody of Edward H. Flagg, Jr., Sheriff of the County of Burlington aforesaid, in whose custody in jail of the County of Burlington aforesaid, he has been committed for the cause aforesaid, being brought to the bar and having heard the indictment read, and forthwith being commanded of and concerning the premises, in the said indictment aforesaid specified and charged upon him how he will acquit himself thereof, he says that he is not guilty thereof and puts himself upon the country.

And Jonathan H. Kelsey, Esquire, Prosecutor of the Pleas for the said County of Burlington, who prosecutes for the State of New Jersey in this behalf, doth the like.

And afterwards, to wit, on the tenth day of October, in the year of our Lord one thousand nine hundred and twenty-two, at a session of Court of Oyer and Terminer aforesaid, being the October Term of said Court, in the year of our Lord one thousand nine hundred and twenty-two, before the Honorable Samuel Kalisch, Justice as aforesaid,

and Harold B. Wells, Judge of the Court of Common Pleas, in and for said County of Burlington, at Mount Holly aforesaid, here cometh the said Doris Brunen, under custody of Edward H. Flagg, Jr., Sheriff of the County of Burlington, aforesaid, in whose custody in jail of the County of Burlington aforesaid, she has been committed for the cause aforesaid, being brought to the bar, and having heard the indictment read and forthwith being commanded of and concerning the premises in the said indictment aforesaid specified and charged upon her how she will acquit herself thereof, she says she is not guilty thereof and puts herself upon the country.

And Jonathan H. Kelsey, Esquire, Prosecutor of the Pleas for the said County of Burlington, who prosecutes for the State of New Jersey in this behalf, doth the like.

Thereupon Walter S. Keown, attorney for Harry C. Mohr and Doris Brunen, moved for a severance of the indictment and the Court stated that arguments would be heard as to the severance aforesaid on a date to be fixed, and afterwards argument of all parties was heard by the Court and the severance denied.

BILL OF PARTICULARS.

To WALTER S. KEOWN, ESQ.,
Attorney for Defendants.

The following is a bill of particulars requested by you in the above matter and in compliance with your application before Justice Kalisch, at the Supreme Court in Trenton on December 4th, 1922.

That John Brunen was murdered at his home in Riverside, this county, on March 10th last, between the hours of five and nine o'clock in the afternoon, while sitting in a chair reading a newspaper, that he was murdered with a load of shot fired from a shot gun through the window from the outside by Charles M. Powell, that Harry C. Mohr hired or engaged or induced Charles M. Powell to commit the murder, and both Harry C. Mohr and Doris Brunen planned, aided and abetted in the murder of John Brunen, that said murder was wilful, felonious and of their malice aforethought, and that both Harry C. Mohr and Doris Brunen were in the vicinity at the time and at the place and did aid and assist the said Charles M. Powell in the murder of John Brunen, contrary to the statute in such case made and provided.

JONATHAN H. KELSEY,
Prosecutor of the Pleas of
Burlington County.

Dated December 4th, 1922.

CAPTION.
BURLINGTON COUNTY OYER
AND TERMINER.
The State,
v.
Harry C. Mohr and Doris Brunen,
Defendants.

In Sur. Indictment for Murder.

BILL OF PARTICULARS.

Service of the within bill of Particulars is hereby acknowledged this 5th day of December, 1922.

Walter S. Keown,
Atty. for Defendants.

CHALLENGE TO THE ARRAY.

BURLINGTON COUNTY COURT OF OYER AND TERMINER.

STATE,		Sur Indictment for Murder.
v.		Challenge to the Array.
HARRY C. MOHR.		

The defendant, by his attorney, Walter S. Keown, challenges the array of jurors summoned to be in attendance for the trial of the above named defendant as follows:

If your Honor pleases I wish at this time to make a challenge to the array on the following grounds:

Section 82 of the Criminal Procedure Act (Second Comp. St. Page 1847) provides that in all cases where any defendant in any indictment is entitled to twenty peremptory challenges and to have a list of the jury delivered to him previous to his trial, it shall be the duty of the sheriff to draw such list of 48 jurors or such larger number as the Court in which such indictment shall be pending shall by special order direct so to be served.

Section 83 of the Criminal Procedure Act (Second Comp. Stat. Page 1847) further provides that when the special panel or list of jurors served on the defendant in a case in which the defendant shall be entitled to twenty peremptory challenges shall be exhausted from any cause before a jury for the

trial of the indictment is obtained, talesmen shall be taken from the general panel of jurors returned, for the term at which such indictment is to be tried, if any remain, and if more talesmen shall be required and the number of jurors remain on the general panel the sheriff shall forthwith summon from among the by-standers or others such additional number of persons qualified to serve as jurors as may be ordered by the Court and make return thereof immediately and place the names of the jurors so returned in the box and draw therefrom until the jury be completed.

In this case the sheriff on the 29th day of November, 1922, in pursuant to an order entered by your Honor and duly filed in the clerk's office, drew a special panel of sixty jurors, a copy of which list was duly served upon the defendants on the second day of December, 1922.

On the 5th day of December, 1922, the sheriff also in accordance with an order made by your Honor on file in the clerk's office, drew another panel of 120 jurors, which panel was duly served upon the defendants on the same day.

It is contended on the part of the defendants that the order of your Honor's upon which the second panel of 120 jurors was drawn was improperly entered as the statute expressly provides for the entry of one order and then provides the manner of obtaining additional jurors from the general panel or from the by-standers in the event of the number drawn by the sheriff becoming exhausted before a jury is selected.

WALTER S. KEOWN,
Att'y for Defendants.

CHALLENGE FOR DISMISSAL.

And thereupon on the eleventh day of December, in the year of our Lord one thousand nine hundred and twenty-two, application was made by Harry C. Mohr, by his attorney Walter S. Keown, by way of a challenge for the dismissal of the array supported by the application in writing filed with the Court, and the Court after hearing argument thereon, thereupon denied the motion, and thereupon let a jury come before the Justice aforesaid, at Mount Holly aforesaid, in the County of Burlington, at the October Term of the Court of Oyer and Terminer aforesaid, on the eleventh day of December, in the year of our Lord one thousand nine hundred and twenty-two, twelve good and lawful women and men, each of whom shall be a citizen of this State and reside within the County of Burlington aforesaid, above the age of twenty-one years, and under the age of sixty-five years, by whom the truth of the matter may be better known and who are not of kin to the said Harry C. Mohr and Doris Brunen, to recognize upon their oaths whether the said Harry C. Mohr and Doris Brunen be guilty of murder in the indictment aforesaid specified, or not guilty, because as well the said Jonathan H. Kelsey, Prosecutor of the Pleas, for the County of Burlington aforesaid, who prosecuted for the State of New Jersey aforesaid, as the said Harry C. Mohr and Doris Brunen, have put themselves upon said jury and the same day is given to the parties aforesaid, at the same place at which time, that is to say, the eleventh day of December, in the year of our Lord one thousand nine hundred and twenty-two at the same term of Oyer and Terminer, holden at Mount Holly afore-

said, in the County of Burlington, before the said Justice aforesaid, here cometh as well the said Jonathan H. Kelsey, Prosecutor of the Pleas aforesaid, who prosecutes as aforesaid, as well as the said Harry C. Mohr and Doris Brunen, in the custody of the sheriff of the County of Burlington, being brought to the bar here in their proper persons by the said sheriff, and the trial of the indictment aforesaid being moved by the said Jonathan H. Kelsey, Prosecutor as aforesaid, and the jurors of the said jury by the sheriff of the county aforesaid for the purpose empanelled and returned, to wit: Walter Wills, Samuel Wilson, Frank C. Brock, Harry B. Ridgway, Arthur J. Chant, Jackson DeCamp, William Poinsett, Charles H. McElvee, Howard Miller, Eugene Haines, Roy S. Kinsley, Alonsa Shinn, being called, come, who being chosen, tried and sworn to speak the truth, of and concerning the premises, and thereupon the trial of the issue commenced and continued before the said Court and jury, from day to day, until the twentieth day of December in the year of our Lord one thousand nine hundred and twenty-two, at Mount Holly aforesaid, the jury in the meantime having all that time been kept together and in the care of officers of the said Court, who were selected and duly sworn by the Court for that purpose, at which last mentioned day the said issue, after a charge from said Court, was submitted to the said jury and the said jury in charge of the officers of the said Court, duly sworn for the purpose, were taken to a private room to consider on the verdict, and afterwards, that is to say, on the day aforesaid, at Mount Holly, the said jury returned into and before the said Court in charge of the said officers sworn to keep them in charge, and then and there in the presence of the said Prosecutor Jonathan H. Kelsey, and the said defendants

Harry C. Mohr and Doris Brunen, do say that the said Harry C. Mohr is guilty of murder in the first degree in manner and form as in and by the said indictment as charged against him, with recommendation by said jury of life imprisonment, and further say that the said Doris Brunen is not guilty of murder in manner and form as in and by the said indictment as charged against her; and thereupon the said Harry C. Mohr is committed to the custody of the said sheriff of Burlington County, and there to remain until the ninth day of January, in the year of our Lord one thousand nine hundred and twenty-three; and the said Harry C. Mohr, now, to wit, on the ninth day of January, 1923, being produced before the said Court at Mount Holly aforesaid, in his proper person, in the custody of the sheriff of said county, whereupon all and singular the premises being seen, and by the Court here being fully understood, it is considered and adjudged that the said Harry C. Mohr be imprisoned at hard labor in the State Prison of this State for the term of his natural life.

Judgment entered and signed this ninth day of January in the year of our Lord one thousand nine hundred and twenty-three.

SAMUEL KALISCH,
President Judge of the Court of Oyer and Terminer.

STATE OF NEW JERSEY, }
COUNTY OF BURLINGTON, } *ss.*

I, WILLIAM H. REEVES, clerk of the Court of Oyer and Terminer, in and for the said County and State, do hereby certify that the foregoing is a true, full

and complete copy of the record and proceedings with all things touching and concerning the same in the trial and conviction of Harry C. Mohr of the crime of murder, as the same are now on file in my office.

Witness my hand and seal of said Court, this eighth day of February, in the year of our Lord one thousand nine hundred and twenty-three.

(SEAL)

WILLIAM H. REEVES,
Clerk.

CHALLENGE TO THE ARRAY.

Mr. Kelsey: Mr. Keown was speaking about the desire to make a motion that the witnesses be excluded from the court room.

Mr. Keown: I thought you were going to agree to that.

The Court: You must do that out, however; it must be on the record. I don't want anything done in camera. We can't do that. There are two members absent. You are ready to go on?

Mr. Keown: As far as that is concerned we have no serious objection, but I do have a motion to make as to the array.

The Court: Well, you can make that. As to the number that are present?

Mr. Keown: Oh, I have no objection to that.

The Court: You must make your motions before the jury is called. Do you want to make your motion now?

Mr. Keown: If your Honor is about to have the jury called, I am, sir.

The Court: Those names that have been called will probably be called as the jury.

Mr. Keown: I was wondering whetner the defendants would not plead before the jury was called.

The Court: They did plead. Didn't they plead?

Mr. Kelsey: They have pleaded; yes, sir.

Mr. Keown: It is quite the custom in Camden to have them plead also on the day of the trial.

The Court: Well, I have a different practice. I pleaded them some time ago.

Mr. Keown: If your Honor please, I wish at this time to make a challenge to the array on the following grounds:

Section 82 of the Criminal Procedure Act (Second Comp. St. Page 1847) provides that in all cases where any defendant in any indictment is entitled to twenty peremptory challenges and to have a list of the jury delivered to him previous to his trial, it shall be the duty of the sheriff to draw such list of 48 jurors or such larger number as the Court in which such indictment shall be pending shall by special order direct so to be served.

Section 82 of the Criminal Procedure Act (Second Comp. St. Page 1847), further provides that when

the special panel or list of jurors served on the defendant in a case in which the defendant shall be entitled to twenty peremptory challenges shall be exhausted from any cause before a jury for the trial of the indictment shall be obtained, talesmen shall be taken from the general panel of jurors returned, for the term at which such defendant is to be tried, if any remain, and if more talesmen shall be required and the number of jurors remain on the general panel the sheriff shall forthwith summon from among the by-standers or others such additional number of persons qualified to serve as jurors as may be ordered by the Court and make return thereof immediately and place the names of the jurors so returned in the box and draw therefrom until the jury be completed.

In this case the sheriff on the 29th day of November, in pursuance to an order entered by your Honor and duly filed in the clerk's office, drew a special panel of sixty jurors, a copy of which list was duly served upon defendants on the second day of December, 1922.

On the 5th day of December, 1922, the sheriff also in accordance with an order made by your Honor on file in the clerk's office, drew another panel of 120 jurors, which panel was duly served upon the defendants on the same day.

It is contended on the part of the defendants that the order of your Honor upon which the second panel of 120 jurors was drawn was improperly entered as the statute expressly provides for the entry of one order and then provides the manner of obtaining additional jurors from the general panel or from by-standers in the event of the number drawn by the sheriff becoming exhausted before a jury is selected.

The Court: Your challenge is in writing?

Mr. Keown: Yes.

The Court: The law requires it. Now isn't there a provision of the statute which provides that a larger number may be drawn than 48 jurors?

Mr. Keown: Yes, the provision of the statute says that 48 or such larger number as the Court may by special order direct.

The Court: Well, now do you mean to say that the words "special order" limit the Court to only one order, making one order?

Mr. Keown: That is my contention, sir.

The Court: Is there anything in the statute which says that there shall only be one order?

Mr. Keown: Nothing further than what I have read from the section.

The Court: Where are those order?

Mr. Kelsey: The orders are right here, may it please the Court.

The Court: Let me see that statute. (Examines statute.) I will hear what you have got to say, Mr. Kelsey.

Mr. Kelsey: When the trial was set sometime in November ——

The Court: I will hear what you have got to say in reference to the 82nd section. I don't care to hear what reasons you have got. Do you think

that that section bears out the contention made by Mr. Keown?

Mr. Kelsey: No, I don't. The statute states that your Honor can draw a larger number than 48 by special order.

The Court: I have read that statute and the Court thinks that the Court is not limited to one order. There is a provision there which says that where the number is under 48 or for any other cause, it seems to me, that the Court may make another order.

Mr. Kelsey: "Or such larger number as the court in which such indictment shall be pending shall by special order direct."

The Court: So I think that is against your objection, Mr. Keown; that the Court may make as many orders as are necessary to give the defendant a complete panel to which they are entitled under the law. They have been served, haven't they? Haven't they been served, Mr. Keown?

Mr. Keown: Yes.

The Court: With the 120?

Mr. Keown: Yes.

The Court: And they were served within the time required by law?

Mr. Keown: Yes, sir.

The Court: I think I will overrule your motion and give you an exception.

(Whereupon the defendants, by their counsel, pray a bill of exceptions, which is hereby allowed and sealed accordingly.)

SAMUEL KALISCH,
Judge. (Seal)

(Mr. Keown files written challenge.)

TESTIMONY.

BURLINGTON COUNTY OYER AND TERMINER.

THE STATE OF NEW JERSEY,
v.
DORIS BRUNEN and HARRY C. MOHR,
Defendants.

On Indictment for Murder.

Mount Holly, N. J., December 11, 1922.

TESTIMONY

Before HON. SAMUEL KALISCH, Judge and a jury.

APPEARANCES:
For the State, JONATHAN H. KELSEY, ESQ., Prosecutor and ROBERT PEACOCK, ESQ.
For the defendants, WALTER S. KEOWN, ESQ.

GEORGE K. WILKINS, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Mr. Wilkins, are you the commercial manager of the Western Union Telegraph?

A. Through this section; yes, sir.

Q. You have been served with a subpoena on the part of the State, a subpoena duces tecum to produce certain telegrams here?

A. Yes, sir.

Q. You have those telegrams with you?

A. I have all that I could find after the search.

Q. Are they the original telegrams?

A. Originals and the copies.

Q. Originals and copies?

A. Yes, sir.

Mr. Kelsey: This is in response to a subpoena duces tecum. At this time, may it please the Court, this is the return of the papers into court, and I am asking Mr. Keown if he has any objection or will you consent to the offer of these telegrams.

Mr. Keown: I cannot answer the Prosecutor's question until I first see the telegrams.

Mr. Kelsey: Well, I don't desire to show them at this particular time. I want to look over them myself. I have not seen them.

The Court: If you offer this witness to prove those telegrams and make it appear that you offer him out of time and that you propose to connect

those telegrams up with the other evidence, that will be offered in this case, I will let you do it.

Mr. Kelsey: Most assuredly. That is my desire. But at this time I cannot say that I will connect all of those telegrams up with the case, but I will say that only such telegrams as I can connect up with the case will be offered. They may be business telegrams, some that haven't any connection with the case whatever.

The Court: You don't have to offer those, business matters. We don't know whose telegrams they are.

Mr. Kelsey: Yes, they are telegrams between—

Mr. Keown: I don't think Mr. Kelsey should testify.

The Court: No, you have got to find out. Show the witness these dispatches that you hold in your hand and ask him ——

By the Court:

Q. Whose telegrams are those, if you know?
A. The telegrams are telegrams that were taken from the files of the Western Union Telegraph Company at Riverside, New Jersey, Camden and other points, which are signed as per the ——

By Mr. Kelsey:

Q. By Harry C. Mohr or Charles Powell ——

The Court: No, Mr. Kelsey, you must not do that.

A. By Harry C. Mohr and Charles M. Powell, one signed Julius and others are signed Dot.

By the Court:

Q. And those are the originals?
A. Those are the originals taken from our files.

By Mr. Kelsey:

Q. Now give us the dates of those telegrams.
A. On December 23rd there is a money order sent out from Philadelphia to Wilkes-Barre, in the amount of $50, payable to Charles M. Powell from Harry C. Mohr.

Mr. Kelsey: I ask you to have them marked for identification as they are read off.

The Court: Do you want him to read it, Mr. Keown? Is there any objection to his reading what that telegram says?

Mr. Keown: No.

The Court: There is no objection. Read what that says.

A. This is a money order.

The Court: What does it say?

The Witness: Pay to Charles M. Powell, 20 West Jackson Street, Wilkes Barre, Pennsylvania, $50. Signed "Harry C. Mohr."

Mr. Keown: I think, your Honor, these tele-

grams being read now to the jury before the signature is proven ——

The Court: They are going to connect it up. If they don't connect it up I will rule it out and tell the jury not to pay any attention to it. I will handle that all right. I won't let them put it in unless they connect it up. It is only done for the purpose of letting this witness get away. We don't want to keep him here two or three days.

Mr. Kelsey: I offer that first money order for identification.

By Mr. Kelsey:

Q. Is there an original copy there?
A. The original application and the draft that was paid at Wilkes-Barre, the original that was filed and the draft that was paid and the signature of the payee is on the back of the draft.

(Paper marked Exhibit A for identification.)

A. And another money order was on November 30th.

The Court: What year?

The Witness: 1921; to Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, in the amount of $20. It was paid in Wilkes-Barre on November 21st.

Q. Whose signature is it?
A. The endorsement is Charles M. Powell.
Q. That is, it is purported to be signed that?

A. Yes, purported.
Q. You don't know their signature?
A. I don't know their signature; no, sir.

(Paper marked Exhibit B for identification.)

The Witness: The next telegram I have is one dated February 4, 1922, H. C. Heckert, Secretary. This seems to be a business telegram.

The Court: Don't give any ——

Mr. Kelsey: I just would like the date and the number of the telegram at this time.

The Court: Well, he is giving the date. Who is it purported to be signed by?

The Witness: By Harry C. Mohr.

The Court: To whom?

The Witness: M. C. Heckert, Secretary, York Fair, York, Pennsylvania. You don't want the text of the telegram?

Mr. Kelsey: No. I offer it for identification.

(Paper marked Exhibit C for identification.)

Mr. Keown: If your Honor please, if the witness is going to read some ——

The Court: He is not reading them. Do you want him to read those?

Mr. Keown: He has already read all that he has offered.

The Court: Have you any objection to reading this stuff?

Mr. Keown: No, sir. If there are going to be any read we ought to read all.

The Court: Well, let him read it. Let him read the telegram that he said was in February.

The Witness: "Would like to figure with you on this year's fair days. Wire me my expense if you are open for our proposition. My personal regards to you and Mr. Deardorf.

Mighty Doris and Col. Ferari Show."

That is the signature. "By Harry C. Mohr, Manager."

Telegram of Novemebr 2, 1921, dated Wilkes-Barre, Pennsylvania.

"Harry C. Mohr,
508 New Jersey Avenue,
Riverside.

Answered your letter Monday. Did you get it? Wire answer 20 West Jackson Street.

Charles M. Powell."

Mr. Kelsey: May it please your Honor, I object to the reading of these telegrams at this time. Here is a pile of them, all of the files, some of them with no connection with the case at all, and it is just taking the time of the Court and it is embarrassing the State.

The Court: I know, but here you are producing a witness out of order, and unless you pick out—you should have picked out these telegrams which you intended to use. You give the witness a whole bunch of telegrams.

Mr. Kelsey: But this return was the return of the duces tecum. I could not get possession of these papers until they presented them to you.

The Court: It can make no difference whether it was by duces tecum or not. You have got the telegrams. You should have taken those telegrams and sorted them and said, "Here is a bunch of telegrams connected with this case." Now you can withdraw this witness if you see fit, and if you agree on what telegrams are relevant to the case you may do that.

Mr. Kelsey: I desire to do that. I ask to have the witness withdrawn at this time.

The Court: Somebody take them and show them to Mr. Keown and you may agree with them, you may have no dispute about this at all. Somebody can do that.

HAROLD B. WILLS, sworn for the State.

The Court: What is this witness, to establish the map?

Mr. Kelsey: Establish the map.

The Court: Is there any dispute about the correctness, the accuracy of that map?

Mr. Keown: I haven't seen it. It has not been submitted to me.

The Court: Do you want it proven?

Mr. Keown: I think I want some proof on it.

Direct examination.

By Mr. Kelsey:

Q. Mr. Wills, you are a surveyor?
A. Yes, sir.
Q. Did you make a map at my direction?
A. Yes, sir.
Q. What is the map?
A. It is a map of the location of the Brunen residence at Riverside.
Q. And there are two maps, are there not?
A. Yes.
Q. What is the other map, the blueprint?
A. A road map of Camden County and part of Burlington County.
Q. Will you come down and explain this map, the first one you referred to, to the jury?
A. The first map on the white paper is the Brunen residence at Riverside. The object in the center of the paper is the Brunen house, which faces New Jersey Avenue in Riverside parallel to the railroad track, and the right-hand side of the map is facing Riverton. The left-hand side is facing Riverside. The avenue which runs at right angles with New Jersey Avenue is Rancocas Avenue, that runs towards the south. The object in the lower part of the map, which I have stated, is the Brunen residence. The heavy black lines which run parallel to the street represent the curb lines, and the two lighter black lines represent the sidewalk. The cross hatched lines which run parallel with the sidewalk represents the hedge which surrounds the Brunen house. The openings in this cross-hatching represent openings in the hedge. To the left of the Brunen house is the house of sheriff Stecher, and to the right is the residence of Walters. The object in

the upper right-hand corner represents a double dwelling, and beyond this is a vacant lot. The object in the center of the map represents the garage of the Brunen residence. In the upper left-hand corner is a detail of the Brunen house. The object marked "Porch" is the front of the house. The front door enters the hallway and the stairs go up on the right. On the left of the hallway is the parlor. Immediately back of the hallway is the dining room. To the left is the living room. A door on the left-hand corner of the dining room enters the kitchen. To the right of the kitchen is the side porch with a door which leaves the kitchen on the right. On the left of the kitchen is a pantry with a swinging door. In the back of the kitchen are two windows and on the back of the house is an outside cellar door.

Q. Now what are the figures between the Brunen house and the Stecher house? What do they represent?

A. 57 feet 7 inches represents the distance from the extreme left side facing the Brunen house to the Stecher house, 57 feet 7 inches. From the extreme right of the Brunen house 153 feet 3 inches is the distance to the near side of the Walters house.

Q. What is the distance from the garage to what purports to be the house?

A. The garage is 52 feet 2 inches directly back of the house.

Q. What are the figures at the extreme upper left-hand corner of the map as you are looking at it?

A. The figures are 5 feet 1 inch from the sill of the window to the ground.

By the Court:

Q. What is the scale of the map?

A. The scale of the plan of the map is one inch

equals three feet. The scale in the detail is —— I beg your pardon, your Honor. Yes, that is correct, the scale of the detail is one inch equals ten feet.

By Mr. Kelsey:

Q. And so marked on the map?

A. Yes.

Q. Now I call your attention to the blueprint. Explain that to the jury.

A. The blueprint is a print of Camden County and part of Burlington County, which part of Burlington County has also been sketched. In the upper right-hand corner, where the word "Riverside" is lettered, represents the town of Riverside. To the left is a red square which represents Cambridge Station. The first red line extending to the left of the map is the River Road, and the second red line, running directly south, is the first street, or rather is a street which runs parallel to Cinnaminson Avenue and is one square to the east. The next red line is a small street which runs parallel to the River Road and is one square south. The next red line represents Cinnaminson Avenue, running from Riverton to Cinnaminson. The next red line represents the Burlington Pike, running to the westward from Cinnaminson into Camden. The next red line represents a road running from the Burlington Pike to the Mount Holly-Camden Pike. This road is called Wellwood Avenue and runs directly into Merchantville. The next red line represents the road from Merchantville to Camden. The next red line represents Cooper Street, Camden, and the next is Third Street, Camden, and thence westward to the ferries.

Q. What is the distance of that red line?

A. The distance from Cambridge station, over

the route which I explained, is a distance of 13.6 miles. That road extends from Cambridge station to the ferries at Camden.

Cross-examination.

By Mr. Keown:

Q. Do I understand that that 153 feet 3 inches represents the distance from the Brunen house to the Walters house?

A. Yes.

Q. And can you tell us, mark on this map now, the width of the street, Rancocas Avenue?

A. Between curbs?

Q. Yes.

A. Thirty-five feet.

Q. Have you any way of marking the distance from the rear of the Walters house to the house that you have marked up here on the upper right-hand corner?

A. I will have to consult my notes on that.

The Court: Can't you ask him some other question in the meantime?

Q. Do you happen to have the distance, the length? Can you tell me how deep the Walters house is?

A. No, I can't tell you how deep it is. That is the distance anyway. I can give you the location of the double house from the curb line, but I haven't the detail of the Walters house.

Q. I want to know how much distance there is between the Walters house and the other house that you have marked on the map.

The Court: Give it as near as you can.

A. The near side of the double house is 359 feet from the curb line of New Jersey Avenue. That is, this point is 350 feet from this curb line. That is as near as I can tell you. I don't have the depth of this house.

Q. That will be all right. Now can you estimate the distance between the garage and Rancocas Avenue curb for us there, please? Just estimate there from your map.

Mr. Kelsey: Which side of the curb?

Mr. Keown: Oh, the near side of the curb.

A. That is approximately seventy-five feet.

Q. Would you mind just marking it on there please?

(Witness marks on map.)

Mr. Peacock: Also mark this other distance.

(Witness marks.)

Q. And can you just mark the dimensions of the garage while you are there, please?

(Witness marks.)

A. 32 by 20.

Q. Who prepared the blueprint?

A. The blueprint is a copy of the original which is in Mr. Albertson's office, Camden County Engineer.

Q. Not prepared by you?

A. No, sir.

Mr. Keown: I object, of course, to the admission of the blueprint in evidence.

Re-direct examination.

By Mr. Kelsey:

Q. I ask you if you know that to be a true copy of the road map of Camden County.

A. Yes, it is signed by Mr. Albertson, the Camden County Engineer.

Q. And that is a true copy?

A. That is a true copy. It is a blueprint of the original tracing.

Mr. Kelsey: Now I ask that the maps shall be marked for identification.

The Court: They need not be marked for identification. Leave them as they are now.

Mr. Keown: Your Honor allows the blueprints offered in evidence at this time?

The Court: I have not allowed anything in evidence.

Mr. Keown: I did not understand what your Honor said.

The Court: They may be used as illustration, is all.

Juror No. 2: May I ask why he wishes that blueprint discarded?

The Court: Well, he is not obliged to state that.

Mr. Keown: I do not mean, if your Honor would like me to—I merely want to make sure that we have an accurate road map.

The Court: I will give you an opportunity to confirm your doubt about it.

Mr. Peacock: We have subpoenaed Mr. Albertson, who will prove that map of Camden County.

The Court: You may have Mr. Albertson if Mr. Keown objects to it. He may agree to it, I don't know.

Sidney Grimes, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Mr. Grimes, where do you live?
A. New York City.
Q. What is your occupation?
A. Photographer.
Q. Where is your place of business?
A. At present Mitchell Studio, Arcade Building.
Q. Mount Holly?
A. Yes, sir.
Q. Did you take any photographs?
A. I did.
Q. When did you take them?
A. About six or seven weeks ago.
Q. Who was present when the photographs were taken?

A. Yourself and Mr. Peacock and Detectives Parker and Kain and the stenographer.

By the Court:

Q. Photographs of what?
A. Photographs of different views concerning and pertaining to this trial.

The Court: Have you seen them?

Mr. Keown: No, sir.

The Court: Why don't you show them? He may agree to them.

Mr. Kelsey: He told me he had seen some of them and he wouldn't agree to them.

(Mr. Keown examines photographs.)

Mr. Keown: There are two photographs here that I do recognize as something that I have seen, as correct views.

The Court: Well, have those marked by consent. Mr. Kelsey, there are two he consents to. Now you can prove the rest of them.

(Photographs marked Exhibits S1 and S2.)

Q. I show you a photograph of a building with something in the foreground and ask you what that photograph represents.
A. That represents a view of the ——

Mr. Keown: If your Honor please, I think we

ought to fix a time when these photographs were taken.

Mr. Peacock: He has fixed a time. He said six weeks ago.

The Witness: Approximately.

Q. I will ask the question, was there a memorandum taken of each photograph at the time they were taken in your presence?

A. Yes.

Q. Was that reduced to typewriting?

A. Well, that I don't know. The stenographer made notes. I don't know whether they were reduced to typewriting afterwards or not. I didn't see.

Q. What stenographer?

A. Miss Lutz, I believe her name is.

Q. Was that the photograph taken at the time?

A. Yes.

Q. What does it represent, do you know?

A. Well, it represents the Brunen house, as far as I know, with a couple identification marks, two stakes or something—the only two articles that were found.

Mr. Keown: Before the witness described the photograph shouldn't we pass upon whether it is admissible or not? In other words, the picture would be just as good to the jury from the describing it as it would be if they saw it.

The Court: I don't know what the object or use of these photographs is; I haven't the slightest idea. I may say now, I don't put much faith or value in

photographs unless they represent something that cannot be otherwise reproduced.

(After consultation at side bar.)

The Court: You may reserve this witness until later. It may be material to the case, but now I see no materiality to those photographs, except the two photographs that are in evidence, they may remain.

Dr. Stuart R. Maul, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Where do you reside, Doctor?
A. Riverside, New Jersey.
Q. What is your profession?
A. Practice of medicine.
Q. How long have you been practicing?
A. Eight years in Riverside.

Mr. Keown: I will admit the doctor's qualifications.

Q. Doctor, do you remember the 10th day of March last?
A. Yes, sir.
Q. Did you receive a telephone message that night?
A. Yes, sir.
Q. What time?
A. About half-past seven.

Q. As a result of that message where did you go and what did you do?

A. Why, I had a patient in the office at the time and I finished up with that case. I was just about finishing up any way. It didn't take me but a few minutes.

By the Court:

Q. What did you? That is the question, what did you do?

A. Well, that is what I am trying to say.

Q. Did you go anywhere?

A. Yes, I did.

Q. Well, that is what he wants to find out.

A. I went down to the home of John Brunen on New Jersey Avenue, 508.

By Mr. Kelsey:

Q. Now did you find out who called you on the telephone?

A. I recognized Mrs. Brunen's voice.

Q. And what did she say to you?

A. She said something terrible or dreadful—an adjective, I don't know just what she used—had happened and would I come right away.

Q. You say you went down to the house. Where did you go, in the front?

A. Yes, sir.

Q. Who did you see?

A. Mrs. Brunen and another gentleman who I did not know.

Q. Did you afterwards find out who it was?

A. Yes.

Q. Who was it?

A. Well, I found Sheetz was the last name.

Q. Sheetz?

A. Mr. Sheetz.

Q. Well, what did you do then?

A. I walked through into the kitchen and took in the situation I found there.

Q. Just tell his Honor and the jury what you saw and what you found at that place.

A. Well, I found the kitchen empty with the exception of Mr. Brunen's body. He was in a chair right near a window, bleeding rather freely at the time from a wound on the left side of his head.

Q. What part of his head, Doctor? Can you show? Show the jury and his Honor.

A. Yes, on the left, just posterior to the ear and slightly above it (indicating), a wound about three and a half by one and a half inches.

Q. Where was the body?

A. In a chair.

Q. And how was it bleeding? What was the position of the body?

A. Well, more or less erect, with the exception of the head and shoulder, which were forward just a little, about like this. (Illustrating.)

Q. Where was the window as compared with the position of the body?

A. To his left.

Q. Did you notice the window?

A. Oh, yes.

Q. Describe. Tell his Honor and the jury.

A. Well, I didn't exactly—first I didn't realize just what it was, but I looked naturally at the wound and I saw the powder marks around it, and I happened to notice the window and looked at it. I don't know why, but I did, and I saw the hole in the glass down at the edge of the window pane.

Q. Whose body was it?

A. John Brunen's.

Q. Did you know John Brunen?

A. I had been introduced to him, met him, yes. I was their family physician for a time.

Q. Did you identify the body as being that of John Brunen?

A. Absolutely, yes.

Q. You mentioned the body; was he dead?

A. He was.

Q. And what was the cause of death, Doctor?

A. Hemorrhage and shock.

Q. Due to what?

A. Gunshot wound.

Q. Due to a gunshot wound, did I understand you to say?

A. Yes, sir.

Q. What did you do then, Doctor?

A. Well, I went in to see Mrs. Brunen, that was in the next room, and told her that I would have to report to, as I thought, my superior, the coroner, and that is what I did.

Q. Is that all the conversation you had with Mrs. Brunen at that time?

A. I had very little conversation with her then. She asked me if he was dead; I told her yes.

Q. Was anything said how it happened, how the shooting took place?

A. Yes, a little bit later, not right that minute.

Q. When was that, Doctor?

A. Well, after I had phoned the coroner.

Q. Well, that is what I want to know. Now follow right along; what took place at the various stages there?

A. Well, she said she heard a report of a gun, and she was in the bathroom, I believe, at the time. She came downstairs and she thought it was outside. She opened the door and looked out and saw two men running and jump into a car and go off. And

she walked back in the back part of the house, in the kitchen door, and she saw the condition.

Q. Do you know what time you got to the house?

A. As I was going to say, I looked at my watch just as I was leaving. I received a phone call and it wasn't over two or three minutes from the time I got the call, I grabbed my emergency bag, and as I was going out my office door I pulled out my watch and it was just twenty-five minutes of seven exactly, I am positive of that, by my watch.

Q. When you left your house?

A. I just called upstairs to my wife.

Q. Twenty-five minutes of ——

A. Twenty-five minutes of eight; pardon me. I called up to my wife and told her I was going out on a hurry call and didn't know when I would be back. I told the patients in the waiting room that possibly I would not be back. And I went out, and my garage is right adjacent to my property, right on the property, within twenty-five or thirty feet of the back door, and I got in the car, I had no trouble starting it, and I exceeded the speed limit in getting down there, I know. I went direct.

Q. Now, Doctor, when you arrived at the house did you see any car?

A. I did not.

Q. Did you see anybody around there on the outside of the house?

A. No, I did not.

Q. Did you go by Stecher's property?

A. Which Stecher?

Q. William Stecher, sheriff Stecher.

A. Yes, sir.

Q. Did you notice that property, whether it was lighted up or not?

A. I can't recall.

Q. Do you know whether the Brunen house was lighted up?

A. Yes, there were lights in the hallway, and the room back of it and the kitchen.

Q. One in the hallway, the front hallway?

A. Yes, sir.

Q. And who was present in the Brunen property? Was there any one else present excepting Mrs. Brunen and this man Sheetz when you got there?

A. No, sir; not to my knowledge.

Q. Did you notice the Walters house?

A. No, I didn't.

Q. Now were you there when the coroner arrived?

A. Yes, sir.

Q. How long did you stay after the coroner?

A. After what?

Q. After the coroner came.

A. I was there till half-past twelve or one o'clock.

Q. Did you do anything for Mrs. Brunen after the coroner came, at her request, regarding the body of John Brunen?

A. At her request?

Q. Yes.

A. Why, yes, I did.

Q. Now what did you do?

A. I went through his pockets to take out the money on his person.

Q. How much money did you take out?

A. As near as I can remember around—about $137 and I think a little change.

Q. Was the money bloody?

A. I don't remember whether it was or not.

Q. State what pocket it was taken from, the pants pocket?

A. Well, I think the change was in the pants pocket, and I don't remember exactly what pocket the other was in.

Q. Do you remember the denomination of the bills or any of them?

A. I think there was two fifty dollar bills, and the others, of course the others were smaller; I don't remember exactly.

Q. What did you do with the money?

A. I gave it to Mrs. Brunen.

Q. Did you make a post-mortem, Doctor?

A. I did, yes, sir.

Q. Did you make a report at the time? Did you make a report of your ——

A. Of the post-mortem?

Q. Yes.

A. Yes, you have the report there. That is a copy of it.

Q. Is that the one you made at the time?

A. No, that is not the one I made at the time. That is a copy.

Q. Was this made at the time, Doctor?

A. Not that, no.

Q. Now what was the post-mortem, Doctor, that you made? What was the result of it? Just tell his Honor and the jury.

A. You mean the full procedure?

Q. Yes.

By the Court:

Q. What did you find at the post-mortem, that is all.

A. Well, I found a wound ——

Q. How long after did you make the post-mortem, the same evening?

A. No, the morning about ten o'clock.

Q. Where?

A. In the kitchen of his home.

Q. Anybody present? Any other doctor there?

A. No.

Q. Now just state what you discovered at the post-mortem.

A. Well, there were no marks of any violence or injury on any part of the body except the head and on the left-hand side, just posterior and a little above the ear was a large gaping wound about three and a half by one and a half inches, with about five or six small round wounds around the edge of this wound, the large wound, and three lacerations, comparatively fresh lacerations, of the ear, of the left ear, and a number of powder burns, a great number of powder burns, on the left-hand side of his head. And I made an incision from the uppermost point of the large wound up over the vertex of the skull, just a little beyond the median line, and pulled the flaps back, and that showed up a number of complete fractures of the skull. The fractures were radiating out from the main wound in the skull, which was of course under the main wound of the flesh and on the scalp proper. I did not have to saw the cranium off, as we usually do, or to saw through the bones. The fractures were so complete and so numerous that I could lift up a big section of bone and expose the cranial cavity. And the brain was in quite a severe state of laceration. It was a veritable hash, you might say.

Q. Did you find out what caused all this?

A. Yes, I did a little bit later.

Q. By your examination?

A. I removed the brain and found several pieces of lead and of course a number of splinters of bone that had been driven in no doubt with the charge of lead. The lead had gone right through the brain, and I think about fifteen or twenty of them ——

Q. Shot?

A. Well, they were flattened pieces of lead as I saw them.

By Mr. Kelsey:

Q. Doctor, I show you a package here marked "shot" and I ask you what that is.

A. Yes, they are the—I think they are the same that I took out.

Q. Are they the shot that you took out?

A. I think they are the same that I took out. They look about the same.

Q. What size shot are they, Doctor, if you know?

A. Why, I should say they would correspond to the ordinary BB shot. Most of them were right over the other side of the skull, had gone right through the brain and torn it asunder, and some of them were adherent. I had to pick them off the inner plate of the skull on the right-hand side. There were two or three smaller pieces of the brain tissue. After taking out the brain I went through it thoroughly, to see if I could find the wadding. I had been requested to see if I could find any wadding, but I couldn't. I found nothing but the shot and the pieces of bone.

Q. Who did you deliver the shot to?

A. Why, to our local officer in town, who was to take them to Ellis Parker.

Q. Your local officer, you say?

A. Yes.

Q. Who, Mr. John Voshell?

A. Yes, sir.

By the Court:

Q. Was there anything to indicate in what direction the wound was made from?

A. Yes, most of the lacerated portion of the brain was above the level of the main wound, and these pieces of lead that I found adherent to the skull,

the inner plate of the skull, were decidedly above the level of the entrance wound.

Q. Was it an upward or a downward course?

A. Oh, an upward course.

By Mr. Kelsey:

Q. Who was present, Doctor, at the time you made the post-mortem.

A. Well, there were two or three people there, I just don't remember. Nobody helped me. Nobody paid really any attention to what I was doing except Mrs. Harry Mohr, she helped me in a minor way.

Mr. Keown: I think I have no cross-examination.

By the Court:

Q. The wound that you discovered, did you form an opinion as to whether or not it was the efficient cause of death?

A. Absolutely, yes, sir.

Elwood W. Belton, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Where do you live, Mr. Belton?

A. Moorestown, New Jersey.

Q. Are you one of the coroners of the county?

A. Yes, sir.

Q. Do you recall the night of March 10th last?

A. Yes, sir.

Q. As a result of that call did you go to John Brunen's home that night?

A. I did, sir.

Q. And what time did you get there, coroner, if you know?

A. I judge it was about quarter or ten minutes of eight, somewhere in that neighborhood.

Q. You are an undertaker too, aren't you?

A. Yes, sir.

Q. Who was at the house when you got there?

A. Well, when I arrived to the house I rang the bell and Mr. Maul came to the door.

Q. And who was in the house?

A. Mrs. Brunen and her daughter.

Q. Who else?

A. I don't just recall.

Q. Dr. Maul there?

A. Oh, yes, he was there.

Q. What did you do after going in the house?

A. Well, the doctor said to me, he said, "Mr. Belton," he says, "we have had a murder here." I says, "We have."

Q. Was that said in the presence of Mrs. Brunen?

A. No, it was not said in the presence of Mrs. Brunen.

Q. Well, you can't say anything except in the presence, any conversation except in the presence of Harry Mohr or Doris Brunen. Where did you go after you went in the house? What part of the house did you go to?

A. Went back and examined the body, back in the kitchen.

Q. The body of whom?

A. The body of John Brunen.

Q. Did you know John Brunen in his lifetime?

A. I was not personally acquainted with him.

Q. Did you know him?

A. Yes, I knew him.
Q. Was that John Brunen's body?
A. Yes.

The Court: You have proven that. You don't have to prove it again.

Q. What was the position of the body when you saw it?
A. Well, the body, if you will allow me, your Honor, sat in a chair alongside of a window. The window was on this side. He held a paper in his hand like this (illustrating) and of course there was blood, everything that came from this wound, all down over his clothes and laid on the floor.
Q. And the body was about in the position that you say your body was in?
A. Well, about, about like this, as near as I could tell. (Illustrating.)
Q. Was he dead?
A. Oh, yes.
Q. Did you notice the window?
A. Yes, the window—the curtain was pulled down.
Q. Just how. Pull that curtain down.

(Witness illustrates with curtain.)

A. The curtain was pulled down about like that and then there was also a hole in the window where some one had shot through the window. I judge it was about that ——

By the Court:

Q. Well, there was a hole in the window?
A. Yes.

Q. That is all you can testify to. Was it below or above the curtain?

A. No, just a little below the curtain.

Q. There was a hole?

A. Yes, sir.

By Mr. Kelsey:

Q. What kind of a night was it, Mr. Belton?

A. Well, I think it was kind of clear, if I remember rightly.

Q. Do you remember?

A. Not exactly.

Q. You don't remember?

A. No.

Q. Did you have any conversation with Mrs. Brunen?

A. Not till after I went out and came in, and Mrs. Brunen was in the sitting room, if I remember rightly. Dr. Maul, he introduced me to the widow and I said to Mrs. Brunen, "Have you any idea who did this?" She says, "I haven't any, Mr. Belton." She said, "When I heard the shot," she said, "I was up in the bathroom."

Q. Was that all?

A. Yes, sir.

Q. Anything said about money or clothes?

Mr. Keown: I think the question is leading.

The Court: It is leading. You don't want to lead.

By the Court:

Q. Was anything else said?

A. No, sir.

By Mr. Kelsey:

Q. Did you see Dr. Maul around the body of John Brunen or near his body?

The Court: Well, now, Mr. Kelsey, you have got proof, at least prima facie, that money was taken. Now there is no necessity of using up time by corroborating that statement until it is denied.

Q. Did you see any dog there in the house?
A. No, sir; I didn't.
Q. Were you there while Mr. Parker was there?
A. Yes, I was there when Mr. Parker was there, when I came back the second time. I went home and came back again.
Q. Oh, you were back the second time?
A. Yes, sir.
Q. Well, now, what you have stated occurred the first time you were there; is that right?
A. Yes, sir.
Q. Now the second time you were around who was in the house, or what time was it?
A. Well, it was about in the neighborhood of ten or a quarter after eight, somewhere in that neighborhood, probably twenty minutes after.
Q. Who was in the house then?
A. Dr. Maul and Mrs. Brunen and her daughter, and I think when I got back there then the officer there of Riverside was there.
Q. Mr. Voshell?
A. Yes. Also when I got there Mr. Parker was there.
Q. What took place then?
A. Well, I took care of the body.
Q. After Mr. Parker had arrived?
A. Yes, sir.

Q. What did you do with the body then?

A. Washed it, fixed it for the night, and I left there.

Q. Did you take the clothes off?

A. Yes, sir.

Q. What did you do with the clothes?

A. Put them in the kitchen.

Q. What was done with the clothes afterwards, do you know?

A. I don't know.

Cross-examination.

By Mr. Keown:

Q. Mr. Belton, if I understand you correctly, you say that the body was apparently in the same position that it had been shot, with the paper still in his hand, when you arrived there?

A. Paper still in his hand; yes, sir.

Q. The paper still in his hand?

A. Yes, sir; the same as I showed you a few minutes ago, about like this.

Q. And it had all the appearance as if no one had touched the body?

A. No.

Q. Now how large was this hole in the window?

A. Well, as near as I can describe to you it was about that size (indicating).

Q. And it was a clear hole?

A. Yes, the glass was a little shattered, kind of broken up above it, you know, a little bit.

Q. How far above the hole was it shattered?

A. Oh, I suppose about that far. (Indicating.)

Q. None of the glass out with the exception of the glass at the hole, was there?

A. No.

Q. Was the body bleeding when you arrived there?

A. No, sir; all the blood I could see that was within that body was practically out of him. He bled so fiercely that it was all over the floor. I cleaned the floor all up. It was an awful looking mess, in a plain way of speaking.

Q. Approximately how long were you there your first visit?

A. How long?

Q. Yes.

A. Probably fifteen or twenty minutes, somewhere along there. I didn't just take particular notice about how long it was. I don't keep myself acquainted with it, because I knew I was to take care of the body and I knew that Mr. Parker had been notified, and of course I excused myself and went home and got my paraphernalia and came back and looked after it.

Q. What time was it when you returned?

A. Well, it must have been fifteen or twenty minutes after eight anyhow; fifteen minutes and maybe a little bit later.

Q. Now, Mr. Belton, would it be possible for you to go from Riverside to your home in Mount Holly and back again within fifteen or twenty minutes?

A. No, Moorestown.

Q. Pardon me.

A. Well, I could take a short-cut coming around back.

Q. Did you take a short-cut that night?

A. I might not have done it in that time, I wouldn't say what time, can't tell.

Q. When you say fifteen or twenty minutes after the hour, do you mean or eight or nine o'clock when you returned?

A. It might have been twenty minutes after,

twenty-five minutes after eight, somewhere along there.

Q. I understand you to say you arrived at the Brunen home about twenty minutes to eight?

A. No, I didn't, not at the home. 7.45 when I arrived there.

Q. Well, 7.45?

A. When I arrived there.

Q. Now assuming that you stayed there fifteen minutes, that would be eight o'clock, would it not?

A. Yes, probably.

Q. Now, then, would it be possible for you to go from Riverside to Moorestown and back in twenty minutes?

A. Well, you can go quite a ways in twenty minutes, Mr. Keown, in a machine.

Q. Well, can you do that run and back in twenty minutes and get your paraphernalia and everything?

A. Well, I didn't just get myself acquainted with that, you know. Of course I don't know just the time exactly, how long it took me, but I thought probably in that neighborhood.

Q. Now when you returned the second time who was in the house?

A. Who was in the house?

Q. Yes, please.

A. Mrs. Brunen was still there and the daughter, and if I remember rightly I think it was the mother.

Q. This is the second time?

A. Yes, sir.

Q. Any one else?

A. And Mr. Parker was still there, and also the officer from Riverside.

Q. Was Harry Mohr there, the defendant?

A. No, sir; I didn't see Mr. Mohr till the next

day. I judge it was about ten o'clock, probably, somewhere along there, eleven o'clock.

Q. You say that you didn't see Mr. Mohr on that night?

A. No, sir; I didn't.

Q. Did you hear any one phone to him that night?

A. Yes, I heard the daughter call up for Uncle Harry, I think she called him.

Q. And about what time was that?

A. Oh, I wouldn't say, for I don't know. I couldn't say.

Q. Was that in your first visit or your second visit?

A. That was my second visit.

Q. And your memory is not clear on weather conditions on the night in question?

A. Not quite; no, sir.

Q. Well, have you ever even stopped to think what the weather conditions were?

A. I thought it was kind of clear, I wouldn't say for——

Q. When did you charge your mind with that fact, today for the first time?

A. When did I charge it?

Q. Yes.

A. No, sir.

Q. When did you charge your mind with the weather conditions on that night?

A. When did I? Well, this was some time ago. Of course I tried to think this thing up as near as I possibly could, what happened.

Q. Well, about how long ago was it that you first charged your mind with the fact as to whether it was clear or cloudy, raining or snowing?

A. Well, some time ago, Mr. Keown.

Q. How long ago?

A. I don't know just—probably a couple months ago, probably, maybe, somewhere along there.

Q. In other words, four or five months after the tragedy it was before you charged your mind with the weather conditions that night; is that right?

A. Four or five months ago?

Q. Yes.

A. No, not quite that long.

Q. Well, four or five months after the tragedy it was before you charged your mind with the weather conditions on that night, was it not?

A. I don't think so.

Q. I understood you correctly to answer my questions that in your opinion the body was in this position when you arrived there that it must have been when he was shot; it had all the appearance of not having been touched?

A. Oh, yes. Nobody had touched it.

By the Court:

Q. Let me ask you a question. Do you know whether the body was cold?

A. Oh, yes, I felt it. It was very cold.

Q. The body was very cold?

A. Yes, very cool. Of course, your Honor, I put my hand on his head, like this, and felt of his pulse.

Q. Felt of his pulse?

A. Yes. It was very cool.

By Mr. Kelsey:

Q. You said you heard the daughter call up on the phone?

A. Yes, sir.

Q. Who did she call?

A. Called Mr. Harry Mohr.

Q. What did she say, do you remember?
A. I was going through as I heard this, out into the other room.

(Adjourned till December 12, 1922, at 9.30 A. M.)

Mt. Holly, N. J., December 12, 1922.

(Trial of the cause resumed at 9.30 A. M.)

JOHN J. ALBERTSON, affirmed for the State.

Direct examination.

By Mr. Kelsey:

Q. Mr. Albertson, where do you reside?
A. Magnolia, New Jersey.
Q. Is that in Camden County?
A. Yes, sir.
Q. Have you any official position in Camden County?
A. I have.
Q. What is it?
A. County engineer.
Q. Did you prepare a map of the roads of Camden County?
A. I did.
Q. I show you a map, Mr. Albertson, a blueprint. I ask you what that map is.
A. That is a map of Camden County.
Q. Will you explain it to the jury?

The Court: Mr. Keown, do you require all that?

Mr. Keown: At this time I have no objection to this blueprint being offered as a copy of the map that Mr. Albertson prepared for the City of Camden. I object to the map being offered at this time or being offered for identification or displayed on

the ground that it contains marks that Mr. Albertson has not placed upon it.

The Court: Those will have to be removed?

Mr. Keown: Yes.

The Court: If they are removed you will admit it?

Mr. Keown: Yes.

The Court: Those marks will have to be removed as indicated on the copy, and then Mr. Keown has no objection to the map being offered in evidence. Now, as to the other map, do you object to that going in evidence?

Mr. Keown: No, I thought that was taken care of yesterday.

The Court: No, I simply let them use that as illustrative.

Mr. Keown: I have no objection.

The Court: They will both go in evidence, but before they are admitted it must appear that those marks have been removed.

Mr. Kelsey: We have another map without the marks on them down in Mr. Wills' office, and we can substitute that map for this one.

Mr. Keown: That is what I would like to have. Can it be taken off the board now?

The Court: Yes, let it be taken off.

CHARLES M. POWELL, called.

Mr. Keown: Now, if your Honor please, I wish at this time to object to Charles M. Powell testifying in this case on the ground that he is incompetent. The defense contends that he is incompetent by reason of the fact that he is insane and was at the time of the commission of the alleged crime; that he has been insane during the time which he was confined in the Burlington County prison at Mount Holly, and that he is at the present time insane and he is not possessed of such understanding that he can retain in memory and accurately narrate the events, if any, of which he was a witness, and that he does not and cannot comprehend the sanctity and obligation of an oath. As I understand the law to be, your Honor has the privilege of examining a party offering himself as a witness, and that it is the duty of your Honor to make such examination. I understand further that I have the right to produce witnesses to testify in regard to his insanity, and at this time request the Court to examine the person offering himself as a witness in this case, and that the Court grant me the privilege of also examining him. I also request the further privilege of submitting testimony to your Honor as to the insanity of this witness, and respectfully request the Court to hear this testimony before ruling on this question.

The Court: Well, I have to judge as to his competency. It is for me, like any other witness that you might object to as being incompetent. The question is for the Court, is it not?

Mr. Keown: Yes.

The Court: Well, if that is so where do you find any authority that it is necessary for me to hear outside testimony, extraneous testimony? What case have you?

Mr. Keown: If your Honor please, I have no New Jersey authority on it where objection is made to a witness testifying on the ground of incompetency. It is unquestionably the duty of the Court to make such examination as would satisfy him and therefore rule on the subject accordingly. It may be shown by examination of the witness, by my examination.

The Court: By examination of the witness himself. I will examine this witness and see whether he is mentally competent. It would be a very drastic rule which would exclude a person from being a witness who is sane, merely because at one time or another he was insane. I don't know that you can find any case that sustains such a proposition. It doesn't make any difference whether he was insane two months ago or six months ago. That may be a matter of defense. I don't know whether you can show that. I don't rule now upon the admissibility of such testimony until it is offered, but it may be that you can show it, that at a certain time he was in a deranged state of mind. The only question before me is whether the man understands the nature of the oath, and whether he has sufficient mind to testify. He is responsible to the law if he testifies falsely. To that extent I am going to examine him.

Mr. Kelsey: He hasn't been sworn yet, has he?

By the Court:

Q. Mr. Powell, where do you live?
A. Indianapolis.
Q. Where?
A. Indianapolis.
Q. Speak out. You can sit down in this chair. Were you born there?
A. Yes, sir.
Q. How old are you?
A. Thirty-one.
Q. Did you attend school?
A. Yes, sir.
Q. In Indiana?
A. Yes, sir.
Q. How long?
A. Went through common school.
Q. Common school, grammar school?
A. Yes, sir.
Q. Go through high school?
A. No, sir.
Q. Do you belong to any religious denomination?
A. No, sir.
Q. What is your family belief?
A. Well, Presbyterians.
Q. Presbyterians? When did you come to New Jersey?
A. 1921, in the spring.
Q. And during—prior to that time did you live in Indiana?
A. No, sir.
Q. Where did you live?
A. My home is in Indiana, but I have been in the show business for around fourteen or fifteen years.
Q. What show?

A. Different shows.
Q. As what?
A. Well, I had concessions, and in different capacities.
Q. Were you financially interested in them?
A. No, sir.
Q. Had contracts with them?
A. No, sir.
Q. Well what, a sort of utility man?
A. Well, I held several different positions. I have had concessions.
Q. I don't know what you mean by concessions. What do you mean by concessions?
A. Wheels that you turn around and win dolls or anything.
Q. Gambling instruments, had control of them?
A. No, sir, I just had for myself one——
Q. And up to what time were you engaged in active business?
A. Well, I have been in the show business practically fourteen or fifteen years.
Q. Up until what time?
A. 1921.
Q. What month?
A. Until I was arrested.
Q. You had been engaged in active business, had you?
A. Yes, sir.
Q. And you understand the nature of an oath?
A. Yes, sir.
Q. You have a belief in the Supreme Being?
A. Yes, sir.
Q. And believe in a future existence?
A. Yes, sir.
Q. And you know there is a law which punishes perjury?

A. Yes, sir.
Q. And you know what perjury is?
A. Yes, sir.

The Court: Well, sir, do you want to examine?

Mr. Keown: Yes, may I?

The Court: I will let you ask him questions on that.

By Mr. Keown:

Q. Is your physical and mental condition today the same as it has been since you have been incarcerated in the Burlington County prison?
A. I couldn't answer that question.
Q. Why not?
A. I don't know.
Q. How about your physical condition?
A. I am better than I was.
Q. How about your mental condition?
A. My mental condition is all right.
Q. Beg pardon?
A. My mental condition is all right.
Q. Has it always been all right while you have been incarcerated in the Burlington County prison?
A. I don't know.
Q. What was your mental condition on the night of the tragedy?

The Prosecutor: I think that is incompetent.

The Court: I think you are right. You are now asking him something about a matter for which he is not on trial and which he is not bound to answer. I sustain the objection.

Q. Do you recall your condition after you were arrested, in the county jail, your mental condition?

A. Yes.

Q. Do you recall upon any occasion acting other than a sane man?

A. I don't know.

Q. Have you attempted to take your life?

Mr. Davis: I object.

The Court: I think that is objectionable. The question is whether this man is competent now to testify. On his cross-examination, when he is a witness, you may go probably into some of these matters that you are trying to go into now.

Mr. Keown: Well, I won't press my examination any further now, then, sir.

The Court: I think you will agree with me, Mr. Keown, so far as the witness has gone now that he shows mental capacity to testify as a witness. I now decide upon the examination that was made that the witness is competent to testify.

Mr. Keown: Then your Honor at this time refuses to allow me to introduce witness to test his sanity?

The Court: To test his sanity, merely to show that he was insane at some other time? I want to know what you want me to do.

Mr. Keown: Yes, during the period that he has been incarcerated.

The Court: That has nothing to do with this

case. If the testimony becomes competent to show a condition of mind when these transactions that you refer to took place and they have a relevancy to the case, I will rule on it then. But at present I feel, from my examination of this witness, that he is competent to testify.

(Whereupon the defendant, by his counsel, prays a bill of exceptions, which is hereby allowed and sealed accordingly.)

SAMUEL KALISCH,
Judge. (Seal)

Mr. Kelsey: May it please the Court, may I interrupt just a moment? I have the map. I would like Mr. Keown to look at it.

Mr. Keown: I have no objection.

The Court: He takes your word for it. Have the other taken down and that put up in its place. This witness is now to be sworn.

(Witness sworn.)

Direct examination.

By Mr. Kelsey:

Q. Are you the Charles M. Powell mentioned in and one of the parties indicted for the murder of John Brunen?

A. Yes, sir.

Q. Do you appear here of your own free will and at your own request?

A. Yes, sir.

Q. Has any officer of the State of New Jersey

made any promise to you or offered you any inducement to testify in this case?

A. No, sir.

Q. Has any officer or any other person promised you any immunity from punishment if you do testify?

A. No, sir.

Q. How old are you?

A. Thirty-one.

Q. Are you married?

A. Yes, sir.

Q. When were you married?

A. In the spring of 1921.

Q. What is your wife's name?

A. Marie Powell.

Q. Do you know these defendants, Harry C. Mohr and Doris Brunen?

A. Yes, sir.

Q. Did you know John Brunen?

A. Yes, sir.

Q. How long have you known Harry C. Mohr?

A. Seven or eight years.

Q. And how long have you known Doris Brunen?

A. The same length of time.

Q. How long had you known John Brunen?

A. I knew him before I knew Mrs. Brunen or Charles Mohr.

Q. Were you employed by John Brunen?

A. Yes, sir.

Q. When were you first employed by John Brunen?

A. I had some concession on seven or eight years ago, seven years ago, with Mr. Brunen.

Q. And how long had you worked for him at that time?

A. Well, I couldn't answer that question. Off

and on practically ever since he has had a show I have been around the show.

Q. Were you in the army?

A. Yes, sir.

Q. And when did you come out of the army?

A. June 1, 1921.

Q. Who did you work for then?

A. Or 1918.

Q. Who did you work for at that time, after you came out of the army?

A. After I came out of the army I joined Mr. Mohr's show.

Q. That is, Mr. Harry C. Mohr, one of the defendants?

A. Yes, sir.

Q. And how long did you work for him?

A. I was on the show until we closed in Chattanooga, Tennessee, in the winter time.

Q. What year?

A. 1918, I guess; 1918, I think.

Q. Were you later employed by either John Brunen or Harry C. Mohr?

A. Yes, sir.

Q. Who?

A. Harry C. Mohr.

Q. When did you again work for Harry C. Mohr?

A. In the spring of 1919.

Q. And how long did you continue in his employ at that time?

A. The whole season.

Q. What was the nature of your work for Harry C. Mohr?

Mr. Keown: Since 1918?

A. In the spring of 1919. I was promoter for a while.

By Mr. Kelsey:

Q. Explain to his Honor and the gentlemen of the jury what you mean by promoter.

A. A promoter is a man that goes in a town after the town is booked by the general agent and handles the contents, looks after the electric lights and looks after everything in general till the show comes in.

Q. How long did you work for Harry C. Mohr at that time?

A. I presume two months as promoter.

Q. And after that who were you employed by?

A. I was employed by Harry C. Mohr.

Q. Harry C. Mohr?

A. Yes, sir.

Q. And what were you doing?

A. I took the general agency.

Q. What do you mean by the general agency?

A. That is the man who books the towns, that is the agent that books the towns.

Q. And you continued as general agent then how long, Mr. Powell?

A. Until the finish of the season.

Q. And when was the finish of the season?

A. I think in September.

Q. In September, 1919?

A. Yes, sir; I think it was 1919 that year. I am pretty sure it was; 1919, in the fall of 1919, September.

Q. Were you later employed by either Harry C. Mohr or John Brunen after that?

A. Well, the following year I joined with Mr. Brunen.

Q. With Mr. Brunen?

A. Yes, sir; I think this was in the fall of 1921, when I closed with Mr. Mohr.

Q. And then you said following that you worked for John Brunen?

A. We closed and we went into St. Louis, Mr. Mohr and I did, and we worked around there for —we played some fairs with a couple shows and some concessions, until the fairs were all over. Then we went into St. Louis. Mr. Mohr he came east to Philadelphia and I stayed in St. Louis.

Q. Now, Mr. Powell, continue on from that time. Tell his Honor the Judge and the jury what you did, who you worked for, from that point. Tell your story from that point on.

A. In the spring of 1921 I joined the Mighty Doris and Ferari Shows.

Q. May I ask at that time who were you employed by?

A. I came on and worked a while for Mr.—later I worked a while then with Mr. Mohr, a percentage wheel, and stayed with the show all summer, until the fall, when we came into the Maryland State Fair, Timonion. At Timonion Mr. Coleman, the general agent, came to me at the beginning of the week and asked me if I would not go over and handle Danville, Pennsylvania, for him, for Mr. Brunen, for the second week following Timonion. I told him yes, I would, but I would not leave until the big day was over at the State Fair. In between that time Mr. Brunen and Mr. Perrell, who had a thousand dollars' worth of concessions on the Brunen show, had a little trouble. Mr. Perrell, he said that he would leave the show, so he came to me with a proposition and asked me if I would not go ahead with him and take block parties, and he would use his concessions to put up a free attraction and work for churches, under the auspices of churches, block parties. He told me that we could make four or five or six hun-

dred dollars a week apiece and he would furnish everything if I would go with him.

By the Court:

Q. Who was that?
A. Mr. Paul Perrell.

The Court: What have we got to do with that? Just confine yourself to what you did leading up to what occurred later on.

A. That is where I left the show.

The Court: You left the show? Well, right after you left the show.

A. I left the show with him, I went into Reading Fair. His paraphernalia was tied up in Timonion and they couldn't get his paraphernalia listed, so I went up to Reading, played one week in Reading Fair. I left the Brunen show at Timonion.

By Mr. Kelsey:

Q. What time was that?
A. That was September 5th to 10th, the Timonion Fair was.

By the Court:

Q. What year?
A. 1921.
Q. Go ahead.
A. From Reading Mr. Perrel went south with the Reuben Cherry shows and I went into Newark, New Jersey, went to work for the James Bell Company,

promoting indoor bazaars and fairs. I went into Wilkes-Barre and closed a bazaar under the auspices of the Junior Order of United American Mechanics.

By Mr. Kelsey:

Q. When was that?

A. They closed the bazaar for the week of November 1st to the 7th.

Q. And you left Timonion, you say, in September?

A. September 5th to 10th. I left the 10th of September. I later extended that bazaar until the 5th to the 11th of November. In between the time I received a letter from my sister telling me that some—

The Court: Never mind what she told you. Go on and say what you did; only what you did, not what somebody else told you, only one of these defendants.

Q. As a result of that message that you received from your sister, what did you do?

A. There was a telegram in this letter from Harry C. Mohr, asking if they knew where he could locate me. In the meantime I saw in the "Billboard" of October 29, 1921, a letter advertised for me. I sent for the letter——

Q. Now, wait a moment. I show you a copy of the "Billboard," which purports to be "A weekly theatrical digest and review of the show world," so stated on the front page, and on page 112, among a list of letters, I ask you, under the name of Charles M. Powell, if that is your name and where you saw the letter which you refer to.

A. Yes, sir.

Mr. Kelsey: I offer the copy of the "Billboard" for identification and ask that it be marked.

(Copy marked Exhibit D for identification.)

Mr. Keown: What is the date?

Mr. Kelsey: October 29, 1921.

Q. Go on.

A. I received this letter and it was from Harry C. Mohr. In the letter he said, "Where can I get in touch with you? It is very important." Gave me a post office box in Riverside, New Jersey. I wrote him a letter to that box, I think November 1st. In answer to that letter I received a telegram.

Q. I show you a telegram dated November 2, 1922, Riverside, N. J.

The Court: Now, let him identify that telegram.

Q. And I ask you if that is the telegram that you received from Harry C. Mohr?

A. Yes, sir.

Q. Whose signature is it?

A. Harry C. Mohr's.

Q. Now, what does the telegram say?

A. The telegram reads:

"Charles M. Powell,
20 West Jackson Street,
Wilkes-Barre,

Have received letters and wire. Glad to hear from you. Letter will follow.

Harry C. Mohr."

Q. Did you live at 20 Jackson Street?

A. Yes, sir.

(Telegram offered and marked Exhibit E for identification.)

Mr. Keown: Apparently they can't be the telegrams he received. It is the office copy. Apparently it is the telegram that the man brought down yesterday.

The Witness: No, that isn't the original, no, sir.

The Prosecutor: I didn't mean that was the original.

The Court: Have you got the original?

Mr. Peacock: These are the originals offered in evidence yesterday.

The Court: Do you have any objection to the copy of the originals going in?

Mr. Keown: No objection to the copy of the original.

The Court: If he produces the original and shows that it is a copy of the original and convinces you that they are copies of the original?

Mr. Keown: I want the originals in.

The Prosecutor: This is the original from the files of the company.

The Court: If you will speak one at a time.

Mr. Keown: I don't want the witness to say this

is the telegram he received. I want it made clear to the jury.

The Court: As I understand it you agree that the copies of the originals may go in evidence after having introduced the originals?

Mr. Keown: Yes, sir, I have no objection to that. Of course, I will want to compare the copies with the originals.

The Court: There is no doubt about your right to do that.

By the Prosecutor:

Q. Are you familiar with the handwriting of Harry C. Mohr?

The Court: As I understand the admission, the original telegrams signed by Harry C. Mohr are admitted in evidence, but you have got to let counsel see the copies and we are going to use the copies in place of the originals. You don't require him to prove the handwriting of Harry C. Mohr?

Mr. Keown: No, sir, we will admit all of our telegrams.

The Prosecutor: I offer it.

The Witness: I wrote Mr. Mohr a letter, told him what I was doing in Wilkes-Barre, told him I had a bazaar and told him I had a side line of churches. I told him if he would come over I thought we could make ourselves a few thousand dollars in the winter time. He wired me he would be over a certain date,

I think on Thursday, I think the wire is there. I think you have the wire there.

The Court: Get the telegram.

By the Prosecutor: On the second day of November, Mr. Powell, when you received this telegram from Harry C. Mohr, did you send a telegram to him that day?

A. Did I receive a letter from him?

Q. Did you send him a telegram?

A. That same day in answer to his telegram?

Q. I don't know the answer. Did you send a telegram to him that day?

A. Yes, sir, I have sent several telegrams to him.

Q. I show you a telegram dated the same day, November 2, 1921, signed by Charles M. Powell and addressed to Harry C. Mohr, and I ask you if that telegram was sent by you to Harry C. Mohr?

A. Yes, sir.

Q. Read the telegram?

A. Harry C. Mohr, 508 New Jersey Avenue, Riverside. Received your letter Monday. Did you get it? Wire answer twenty West Jackson Street. Charles M. Powell.

(Telegrams marked Exhibits F and G for identification.)

Q. Now, did you receive a telegram from Harry C. Mohr in response to the telegram that has just been read?

A. I may have, I don't just remember.

Q. I show you a telegram dated November 5, 1921, addressed to Harry—dated Wilkes-Barre to Harry

C. Mohr and signed Charles M. Powell, and ask you if you sent that telegram.

Mr. Keown: The question was did you receive a telegram in answer to the telegram you sent Mr. Powell?

The Witness: Yes, sir, I sent this telegram. Read that telegram. Harry C. Mohr, 508 New Jersey Avenue, Riverside. Wire and letter received. My correct address is 20 West Jackson Street. The grand finale opens here. Impossible to get to Riverside until over—letter following.

The Prosecutor: I offer that.

The Court: They are all in evidence and you have got to give copies to Mr. Keown so that he can compare them with the originals.

The Prosecutor: I have copies made.

Mr. Peacock: I have a complete copy of the telegrams that I will hand to Mr. Keown.

(Telegram marked Exhibit H for identification.)

The Witness: This telegram——

Mr. Keown: I didn't get the question.

The Court: Put the question. I don't think there was any question put.

Q. Will you tell his Honor and the jury concerning that telegram?

The Court: What telegram?

The Prosecutor: The last one read which he has in his hand.

The Witness: This telegram was sent to tell him that the bazaar that I had in Wilkes-Barre, the James Bell Company opened that night and I couldn't get to Riverside until the bazaar was over.

The Court: You have said that.

Q. He had written to you?

The Court: You mustn't lead him. How came you to send that telegram?

The Witness: This was in answer to his telegram or his letter, wire and letter received. My correct address is 20 West Jackson Street. Grand finale opens tonight.

The Court: That answers the question.

Q. Go on, Mr. Powell, from there.
A. I presume a letter followed this, but I don't know what was in the letter.

The Court: Letter from whom?

The Witness: It says at the bottom letter following from me to him.

The Court: You were to write a letter and you don't know whether you did or not.

The Witness: No, sir, I don't know, or whether what was in the letter.

Q. Now, I show you a telegram dated November 12, 1921, addressed to Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, Pa., and signed Harry C. Mohr, and ask you if you received a telegram of which that is a copy?

A. Yes, sir.

Q. Or a copy of that telegram?

A. Yes, sir.

Q. Read the telegram.

A. "Charles M. Powell, 20 West Jackson Street, Wilkes-Barre. Your proposition looks good. Will see you either late Monday or some time Tuesday in Wilkes-Barre. Signed Harry C. Mohr."

Q. Will you explain that?

The Court: What is the proposition, what is meant?

The Witness: I wrote him in the letter in answer to this telegram I had a proposition, I had this contest.

The Court: You had some proposition?

The Witness: Yes, sir.

Q. Now, Mr. Powell, continue with your——

A. There may be a letter in between this last telegram, but I don't know. I received a wire from him some time later telling me he would be over a certain date. I don't know whether that wire is there or not.

The Court: Let us get along. What date was that?

The Witness: It would be after November 12th.

Q. I show you a telegram dated November 14, 1921, to Charles M. Powell, 20 East Jackson Street, Wilkes-Barre, Pennsylvania, signed Harry C. Mohr, and ask you if that is a copy of the telegram you received?

A. Yes, sir.

Q. Read it.

A. "Charles M. Powell, 20 West Jackson Street. Meet me Pennsylvania Station leaving Pottstown 5.19, Harry C. Mohr."

The Court: These telegrams are all in by consent.

Q. Continue with your story, Mr. Powell.

A. I think I met that train. I don't know whether there is another telegram in between that or not. I met the train, met Mr. Mohr. We went over to a restaurant and had a bite to eat. After we had been seated in the restaurant a while, Mr. Mohr told me about some trouble his sister and that Hazel Brunen were having with Mr. Brunen, that Hazel had run away and married a man by the name of Parkinson and that John was mad over it and that he was going over after her and his sister, Mrs. Brunen, was afraid he might hurt Hazel and went over herself to where Hazel was to protect Hazel and keep John from arming her, that he had Mr. Parkinson arrested, the young fellow married Hazel Brunen.

Mr. Keown: When you said "he" who did you mean?

The Witness: Harry C. Mohr. Mr. Brunen had Mr. Parkinson arrested, that's what I understood. He brought back Mrs. Brunen and Hazel Brunen

with him and he told me about the trouble they were having at home between Mr. Brunen and his sister Miss Brunen and that his mother had very bad heart trouble, and he was afraid in the excitement of the trouble between his sister and Mr. Brunen that his mother may drop dead and several things on that line that he was afraid also that maybe his sister might, in one of her mad spells harm John herself —and cause herself to be locked up.

Mr. Keown: Now, if your Honor please, just so your Honor will recall the conversation we had about the admissibility of evidence against one and not against the other, does your Honor wish, when such testimony comes in, to instruct the jury that the testimony might be binding on Harry Mohr and in view of the fact that it was hearsay it would not be binding upon Mrs. Brunen.

The Court: Nothing until the combination is shown.

Mr. Keown: My question is whether you will instruct the jury.

The Court: At the present time there is nothing to show any combination between these defendants and this witness, so that the statement of one in reference to the acts or of what the other said would not be admissible or binding upon that person, so anything Harry Mohr said to this witness wouldn't be binding upon Mrs. Brunen, anything he said about his sister, in the absence of the sister, would not be binding upon Mrs. Brunen until some combination is shown between these three, some agreement or understanding in regard to the event that happened, that

is, the death of Brunen. When that is established, it is shown there was a combination between the defendants here, then the act of one, as long as that combination lasted, would be the act of the others. They are bound by what the other does. You understand that.

Mr. Keown: I understand that. I was just wondering whether the jurors' attention should be called.

The Court: I should certainly instruct the jury that whatever Mr. Mohr said that Mrs. Brunen said or anything he said which related to Mrs. Brunen couldn't bind her.

(Previous testimony repeated.)

Q. Right after that, Mr. Powell.

A. And I believe he said to me that she might take her own life, she was so worried. At the end of this conversation—him and I were pals for ever since we knew each other, and he said, "You are the best friend I have got and the only one I can trust. Isn't there any way that you can think of that we can get rid of John?" That is the first he ever mentioned to me since I knew him of anything like that. I discouraged him on that.

By the Court:

Q. What did you say?

A. I don't just remember what I did say, but I discouraged him and tried to interest him in this proposition that I had and told him if we could get five or six churches there around Wilkes-Barre where we could make $4,000 or $5,000 apiece ourselves that way through the winter. We got up from

the table and went down to my house and stayed there I presume two hours, and we talked, and he left that same night for Pottstown, and had his car, his Ford, over in Pottstown. In a couple days I believe I received a wire from him. I believe the wire read—I told him to bring some punch boards, to look in Philadelphia and find a certain make of punch-board, and if he could find that make to wire me and let me know and to bring some over with him when he came back.

By Mr. Kelsey:

Q. I show you a telegram dated November 16, 1921, addressed to Charles M. Powell and signed Harry C. Mohr, and ask you if that is a copy of the telegram received by you.

A. Yes, sir.

Q. Read the telegram.

A. "Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, Pa.

Can furnish any quantity of boards, numbers from 1 to 20, total fourteen-fifty (meaning $14.50) each board costs one hundred and fifty per thousand. Advise me if this is O. K. by return wire. Rush answer Riverside, N. J. Harry C. Mohr."

Mr. Kelsey: I offer that telegram.

Mr. Keown: May I see that, Mr. Prosecutor? Maybe we can agree on it.

(Examines telegram.)

Q. Go on, Mr. Powell.

A. I think the next day or two I received another telegram from him telling me he was sending his

wife over, that he sent his wife over and that he would follow the next day to Riverside from Philadelphia.

Q. I show you a telegram dated November 19, 1921. Addressed to Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, Pa., signed Harry C. Mohr, and ask you if that is a copy of the telegram you received.

A. Yes, sir.

Q. Read the telegram.

(Previous telegram marked Exhibit K for identification.)

A. "Charles M. Powell,
20 West Jackson Street,
Wilkes-Barre, Pa.

Bessie will arrive Pennsylvania station ten o'clock at night. Meet her. I am leaving Sunday for Wilkes-Barre.

Harry C. Mohr."

By the Court:

Q. Who was Bessie?

A. Mrs. Mohr, his wife.

Mr. Keown: When Powell read the telegram it did not agree with my memorandum that the State has furnished me. When I compared the telegram with the memorandum it did agree, and I was wondering whether I misunderstood what Mr. Powell said, or whether he had misread the telegram. Can we go back and have that telegram read?

(Telegram repeated.)

(Telegram marked Exhibit L for identification.)

The Witness: His wife came over Sunday evening and told me that he was following the next morning. He arrived the next morning. I think there is a telegram there on that.

By Mr. Kelsey:

Q. I show you a telegram dated November 20, 1921, addressed Charles M. Powell, signed Harry, and ask you if that is a copy of the telegram received by you.

A. Yes, sir.

Q. Read the telegram, please?

A. It is from Philadelphia.

Charles M. Powell,
20 West Jackson Street,
Wilkes-Barre, Pa.

Meet me at the Pennsylvania station. Will arrive ten P. M.

Harry."

(Telegram marked Exhibit M for identification.)

Q. Go on.

A. I met the train and Mr. Mohr stayed there for five days in Wilkes-Barre with me. We were trying to get some churches for having this contest. And there was the same thing talked about, about trying to figure the best way to get rid of Mr. Brunen. At the end of five days he received a wire from his sister.

Q. Tell the Court and jury what Harry Mohr said and all he said at that time, as near as you can remember.

A. Well, I can't remember just exactly what he said, but it was relative to doing away with Mr.

Brunen, the best way that could be figured. And at the end of five days——

Q. Where were you? What happened? Tell us.

A. Well, every day we would leave Wilkes-Barre and go to the surrounding towns, trying to get some church to have this contest on under.

Q. And what did he say? Tell us as near as you can remember the various times.

A. Well, his mind was back home with his sister and mother; and he never ceased from talking about the trouble at home and what John might do while he was away.

Q. What did he say?

A. He was trying to figure the best way to get rid of John.

Q. Well, use his words as near as you can.

A. Well, I just can't remember.

By the Court:

Q. Well, don't give your impression, but tell what he said if you can.

A. There was no way that he said at that time, that he figured of trying to get rid of John, but he was just figuring the best way. But it was figured at the end to use a pistol, a revolver.

By Mr. Kelsey:

Q. Well, how? What did he say, Mr. Powell? That is what we want to know; not by anybody else, not by what you say, but the Court wants to know and the jury wants to know the exact language, what he told you; not how he figured, but the details of the figuring itself.

A. Well, the best I can remember, it was just on those lines. I can't remember just everything he

said but every day it was the same thing over and over, to figure the best way he could to get John, the easiest to get Mr. Brunen, the easiest way.

Q. Now, let me tell you right here. You say he figured the best way. Now, what did he say in his figuring? What did he say?

A. He wanted to use a revolver.

Q. How?

A. At that time I had not been to Riverside and I had not been in Philadelphia. I hadn't left Wilkes-Barre. He got a letter at that time. He took me, when I went to Philadelphia, he took me out to his house and the barn——

Mr. Keown: If your Honor please, I don't think his answer is responsive. The question is what did he now do at Wilkes-Barre. The answer is that he was taken to Riverside.

Mr. Kelsey: I think I am endeavoring in every way——

The Court: Let him answer the question. Of course you can't object to the fact that the answer is not responsive. That is for the State to do.

Mr. Keown: I realize that. I will withdraw my objection.

The Court: But I don't think we ought to interlard the testimony of this witness with matters that are not directly connected with it. You had better finish what you have just spoken.

Q. Now, Mr. Powell, tell us all that Harry Mohr said about getting rid of John Brunen.

A. Well, he was there five days and I couldn't say just what he did say.

Q. Tell us all that you remember he said in the language that he said it, as near as you can remember.

A. Well, just as I said, the only way that he had in his mind was to shoot him with a pistol at that time, and that is the best answer I can give; because I didn't agree or neither one of us had agreed, I hadn't even in my mind to do anything like that at that time.

Q. Now go on.

A. He stayed there five days and at the end of five days he received a wire from his sister—I think the wire is there—to come home at once, or something like that.

Q. Did you see the wire?

A. Yes, sir.

Q. I show you a telegram dated 11-25—that is, November 25—"Mr. Harry C. Mohr, Post Office box 482, Wilkes-Barre, Pennsylvania," signed "Dottie," and I ask you if that is a copy of the telegram you say?

A. Yes, sir.

The Court: Of course, this is not a telegram between Mohr——

Mr. Keown: If your Honor please, I think it fair to the Court and the jury that all telegrams that have passed between these parties should be brought to the Court and jury's attention. No objection to it at all, as long as I may have the same privilege.

A. I saw one like this, something like that, "Come in at once." I thought it was "Come home at once."

Q. "Come in at once?"
A. Yes.

Mr. Kelsey: I offer the telegram in evidence.

(Telegram marked Exhibit S3.)

The Court: All the telegrams are in evidence on the part of the State. Counsel have so agreed.

A. That evening Mr. Mohr and myself went to a long distance telephone booth across from the Wilkes-Barre station and he called his sister up. I don't know what the conversation was, because he was in the booth, but he came out and said, "There is trouble home and I am going back to Riverside tonight." The next morning—he was there five days—the next day I received a telegram from him to come at once, to meet him in Philadelphia, and he wired me $20.

Q. Now, I show you a telegram dated November 30th, 1921, addressed to Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, Pa., signed Harry C. Mohr, and ask you if that is a copy of the telegram received by you that you refer to.

A. Yes, "Come at once. Will pay expenses. Wire when you leave, Riverside, Burlington County.

Harry C. Mohr."

(Telegram offered in evidence and marked Exhibit S4.)

Q. I show you what purports to be a Western Union money transfer application and money order attached: "Pay to the order of Charles M. Powell twenty dollars," with the application attached addressed to Charles M. Powell, 20 West Jackson

Street, Wilkes-Barre, Pennsylvania, signed by Harry C. Mohr, Riverside, N. J., and ask you if that is the money order and the application attached that you have reference to and received?

A. Yes, sir.

Q. I ask you also if that is your signature, Charles M. Powell, on the back?

A. Yes, sir.

The Court: What is the date?

Mr. Kelsey: November 30th, the same date as the telegram.

Q. Go on, Mr. Powell.

A. I wired him a telegram, I think it is there, telling him I would arrive at Philadelphia the next morning.

Q. I show you a telegram dated November 30, 1921, Harry C. Mohr, B. Co., Riverside, N. J., and ask you if that is the telegram, copy of the telegram sent by you?

A. Yes, sir.

Q. Read the telegram.

A. "Harry C. Mohr, Burlington County, Riverside, N. J. Meet me station Philadelphia Thursday morning. Leave here 2.50. Answer at once. Charles M. Powell."

By Mr. Keown:

Q. Isn't there something after 2.50?

A. There is something, but I can't make out what it is. "A. M., 2.50 A. M." I don't think that is A. M. though. Let me see it once more. (Examines paper.) Yes, I left Wilkes-Barre, "Leave here 2.50 A. M. Answer at once." Leaving Wilkes-Baree 2.50

A. M. I met him at the station—I think my train was late and I don't think I saw him until that evening. I sent a message, I think, to his home in Riverside from the Philadelphia and Reading station.

By Mr. Kelsey:

Q. In response to that telegram did you receive one——

A. I probably did. I don't just remember.

Q. I show you a telegram dated November 30, 1921, addressed to Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, Pa., signed Harry, and ask you, did you receive the telegram of which that is a copy.

A. Yes, sir.

Q. Read it, please.

A. "Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, Pa.

Will meet you Thursday morning at station.

Harry."

Q. Go on.

A. My train was late. Mr. Mohr had to go to Williamstown, I understood later, and he didn't meet the train, he couldn't meet the train. So I sent a message out to his house at Riverside and told him when he came home to come to the station, that I was there.

Q. Now, I show you a telegram dated 12-1, 12th month, 1st, 1921, addressed to Harry C. Mohr, Riverside, N. J., signed "Charles," and ask you if that is a copy of the telegram referred to by you.

A. Yes, sir.

Q. Read it, please?

A. "Harry C. Mohr, Riverside, N. J." This was sent from Philadelphia. "Meet me as soon as pos-

sible Philadelphia & Reading station." He met me that afternoon and we went over to a restaurant and had something to eat, and it was the same proposition.

By the Court:

Q. Well, you say the same proposition. Say what he said, if he said anything.

A. It was the same proposition.

Q. That doesn't answer the question.

A. To find out the best way to get John Brunen.

By Mr. Kelsey:

Q. What was said, Mr. Powell?

A. Well, he just wanted to use a pistol at that same time in the restaurant, wanted to shoot him with a pistol. And he asked me to stay in Philadelphia that night to a hotel, and he wanted to take me out home, to his home, to show me how easy it would be to shoot John as he pulled in his garage with his machine.

Q. Did you stay in Philadelphia that night?

A. Yes, sir.

Q. Where did you stay?

A. Stayed at a theatrical hotel on Race Street.

Q. I show you what purports to be a hotel directory, register, and I show you on a page with the corner turned down the name of Charles M. Powell, Wilkes-Barre, Pa. L. 24, and ask you if that is your signature.

A. Yes, sir.

Q. What is the date?

A. December 1, Thursday.

Mr. Kelsey: I offer the register for identification.

(Register marked Exhibit N for identification.)

A. He took me to the hotel and told me that he will meet me the next morning at ten o'clock. He came to the hotel in his car and got me, took me into Riverside and showed me how easy it would be to shoot John with a pistol as he pulled his car in the garage, while his engine was still going, and that the noise of the engine would overcome the sound of the pistol.

Q. Where were you when he showed you this?

A. In Riverside, at his home.

Q. Where in Riverside?

A. In the garage.

Q. Whose garage?

A. Mr. Brunen's.

Q. Go on.

A. We went in the garage with his automobile, in Mr. Mohr's machine. Anyway there was nothing decided on and I left him that afternoon in Camden and I went back to Wilkes-Barre. He told me to send Bessie in; that is, his wife. She was still living in Wilkes-Barre and he told me that he was not coming back to Wilkes-Barre any more. So I sent his wife in to Philadelphia on Monday morning. I think two days after that I received another wire from him telling me to come at once.

Q. I show you what purports to be a telegram, dated December 5, 1921, addressed to Wilkes-Barre, Pa.

A. It was the other telegram, the last telegram, that should be this one.

Mr. Keown: If your Honor please, if it would save any time while they are hunting that telegram I will admit that this is a copy of it and the stenographer can put it in the minutes. The telegram Mr.

Kelsey is looking for is dated December 5, 1921.

"Harry C. Mohr,
Riverside, N. J.
Meet me Reading Terminal tonight.
Charles."

Is that the one you are looking for?

The Witness: No, there is one to me before that.

Mr. Kelsey: That seems to be absent.

The Witness: No, it is here with the money order. That telegram didn't come with the money order.

The Court: Go on. You can find this telegram later.

Q. I ask you if that is the telegram.

(Telegram shown witness.)

A. No, sir. The telegram says, "Come at once. Will pay all expenses." There is one with that money order.

The Court: Have you got such a copy?

Mr. Keown: No, sir.

The Witness: You read that copy once.

Mr. Kelsey: On November 30th?

The Witness: No, sir; this would be December 4th.

The Court: Well, you will have to go to something else. We can't delay.

Q. Go on.

A. I received a telegram coming from him, telling me to come at once, he would pay all expenses, to meet him at the Philadelphia & Reading station. I went; I met him at the Philadelphia station the next morning, and it was the same proposition.

Q. What do you mean by the same proposition?

A. He wanted to get Mr. Brunen that evening some way, either at his house or some way before he got home. And he still wanted to use a revolver. I left Mr. Mohr at about eleven o'clock that evening and I went right back to Wilkes-Barre. He told me, "Can't you come over two or three or four days the next time and stay that long?" I told him no, on account of my wife, that I wouldn't leave her in Wilkes-Barre alone and that I couldn't come. And I left him and went back to Wilkes-Barre. About two days after that I received a wire from him, or received a letter, I presume; and I answered that letter and told him that I couldn't come over that long, and that the reason was I didn't have the money and I wouldn't leave my wife there. So I received a wire from him that same day that he received my letter telling me he was wiring $50 that afternoon.

Q. Now, I show you a telegram dated December 13, 1921, addressed to Charles M. Powell, 20 Jackson Street, Wilkes-Barre, Pa., signed "Harry" and ask you if that is the telegram you have reference to.

A. Yes, sir.

Q. Read the telegram.

A. "Charles M. Powell,
20 West Jackson Street,
Wilkes-Barre, Pa.
Sending fifty. Wire when you will arrive. Will

arrange for a room. Wire postbox, Riverside, N. J. Harry."

Q. Mr. Powell, I show you what purports to be a Western Union money transfer paid to Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, amount $50, signed by Harry C. Mohr, box 383, Riverside, New Jersey, and attached to it a money order dated December 13, 1921, "Pay to the order of Charles M. Powell, $50. Transfer at Philadelphia, Pennsylvania," endorsed by Charles M. Powell, and attached to that a notice addressed to Charles M. Powell, 20 West Jackson Street, "Please call at our office corner Public Square and 9th Main Street, for sum of money which we have been ordered by telegraph to pay you; satisfactory evidence of identity will be required. If not called for in 72 hours under our arrangements with remitter, order will be cancelled," and ask if that is the money order you received?

A. Yes, sir.

The Court: The date?

The Prosecutor: December 13, 1921.

Q. And is that your signature, Charles M. Powell?
A. Yes, sir.

Mr. Keown: Are you sure that is dated December 13, the copy you gave me is December 5th. May I ask the Prosecutor at this time if he will give me copies of all that he has put in evidence?

The Prosecutor: I will.

Q. Now, Mr. Powell, proceed.
A. I arrived—I left Philadelphia the following

morning—I left Wilkes-Barre the following morning and took my wife and baby with me, left everything in my home in Wilkes-Barre and just took a suitcase because I intended staying only two or three days. He met me at the Philadelphia & Reading station in the morning.

Q. Who met you?

A. Harry C. Mohr, and took my wife and baby and himself to Camden to where he had a couple of light housekeeping rooms for me at 45 Cooper Street, to a family named Earnest. He paid the room rent.

Q. Who paid the room rent?

A. Harry Mohr.

Q. Who did he pay it to?

A. Paid it to Mrs. Earnest.

Q. Who was present when he paid it?

The Court: Let him continue. You break in his story. Let him continue his statement without interruption.

A. Then in the afternoon he took me out in his automobile and talked over the same proposition.

The Court: Tell us what you talked over.

The Witness: Talked over the best way to get Mr. Brunen. I stayed there until, see, finally he decided to use a shotgun, and on the 23rd of December him and I went together to Philadelphia, and he gave me $15. I went in a pawn shop and bought a double-barreled shotgun for $13.50.

Q. I show you a shotgun and ask you if that is the shotgun that you purchased?

A. Yes, sir.

Q. Where did you purchase it?

A. At Berkowitz's.

Q. Where?

A. On 9th Street.

Q. What city?

A. Philadelphia. I brought the gun out, got a receipt, gave Mr. Mohr the receipt and the change, and he put the gun in the back end of his car. He drove me to 1800 Market Street, and gave me $15 more. I went in, bought a single-barreled shotgun for $8.50, came out of the pawn shop, named Bradley's, 1800 Market Street. I brought that out, gave him the receipt, and he put that in the back end of his car. He didn't know whether whether I could shoot a shotgun, so he took me out on the River Road, and we bought some shells, ten shells, and we both tried the guns out. Then he knew a place along on the road leading to Williamstown, where Mr. Brunen would come back and forth going to Riverside, the winter quarters, showed me a place along the bridge where we could stay and wait for him to pass by in his car and shoot him as he passed by, but there was nothing developed over that and at Christmas time he had—they had a shooting.

Q. Right at that time, and along the road there by the bridge?

A. Yes, sir.

Q. How did you go out there?

A. Went in his automobile.

Q. Where did you go?

A. Parked the automobile over in the woods, along another lane two squares away and walked to the Browning Road and there waited for him.

Q. What road where you parked your car in the woods, what road was that, do you know?

A. No, sir, the road leading to Williamstown, I think is the Browning Road.

Q. Was it on the road to Williamstown?
A. It was back in the woods up a lane.
Q. How many times did you go there?
A. Four or five times. On Christmas they had a little shooting scrape out at the Brunen home where Mrs. Brunen shot at Mr. Brunen six times.

Mr. Keown: Do you know?

The Court: You object to that?

Mr. Peacock: He is testifying to what Mohr told him.

The Court: That wouldn't be evidence.

The Prosecutor: We can connect this matter at this particular time. I didn't understand him to say Mohr told him. I want to be perfectly fair.

The Court: No, he didn't say anything about it. You must not speak anything that is not within your own knowledge. It is rather dangerous to admit testimony in advance unless there is further proof here of the combination, as I stated before.

Q. What conversation did you have with Harry Mohr? What did he tell you?

Mr. Keown: The time ought to be fixed now.

Q. At or about the time stated?
A. About what?
Q. At or about Christmas time.
A. Christmas Day.
Q. What was said?

A. Mr. Mohr came down to my house Christmas evening around eight or nine o'clock and told me they had trouble down at the house.

The Court: There is where I suppose Mr. Keown objects. He may make the general statement there was trouble and that is all, but not tell the particulars about it.

The Prosecutor: At this time, may it please the Court, I feel perfectly safe in saying we can connect it later on, all that Mr. Powell is about to relate. We will connect it. I don't think there is any danger at all. I think I am safe in saying at this particular time——

The Court: Is it competent testimony?

The Prosecutor: It is competent testimony.

The Court: Is it competent testimony until all acts which were done before the combination, would that be competent testimony before that?

The Prosecutor: Yes, your Honor.

The Court: Is any person who enters into a conspiracy later than the time when the conspiracy was formed, to be affected by what has gone on beforehand, was said by any of the conspirators, because then they are not acting as agents of the other? I am not sure about that. My own impression has always been you couldn't prove acts done before the statements made before the conspiracy, while the person who enters into a conspiracy that has already been formed is responsible for all the acts that oc-

cur, cannot be affected by statements made by one of the co-conspirators. I am not clear on that subject.

The Prosecutor: It is not offered for that purpose, and I am perfectly willing at this time that the witness may say he was told that an occurrence occurred at this particular time, then come back to it afterwards.

The Court: That is what I am trying to get, from what I have said. He may say Mr. Mohr said there was trouble and not go into the particulars. They may come in later. It likely will.

Q. Now go on, Mr. Powell. You said that he was at your house Christmas night.

A. Yes, sir.

Q. You said he told you about an occurrence that had occurred at John Brunen's home?

A. Yes, sir.

Q. Now, what else did he say?

A. Well, he just said they had some trouble out there.

Q. Not about the trouble, but tell——

The Court: Without speaking about what occurred at the house.

A. He told me, "I will be down to see you in the morning." I think he was taking his mother to Riverside, or was going after her. I think she was in Philadelphia, one of the two, and I think that is what he told me, "I will see you tomorrow." He came to the house the next day. He was there practically every day from the time I arrived in

Wilkes-Barre, or Camden, till the day of the shooting.

Q. Now, what did he say to you the next day?

A. He told me about the trouble, all of it complete, and told me who was out to the house that evening and that they had Mr. Brunen at the police station until they got Mr. Mohr's testimony whether he held any grudge against Mr. Brunen over the trouble. Of course, he said he didn't at that time, and he was all the more anxious to get Mr. Brunen as quick as he possibly could, but to get him away from the house, that he was afraid on account of the trouble at the home they would figure it was an inside job. So it came until the 31st——

The Court: 31st of December?

The Witness: Of December, and I had two churches then in Wilkes-Barre that were still working at this contest, and I hadn't been able to get back to Wilkes-Barre to settle up because I had no money to get back. We closed the churches on Christmas Eve, on New Years's I intended to settle up for the churches with the boards, so I had no money to get back. Mr. Mohr gave me stock and die that he had bought at Berkowitz's pawn shop some time previous to that, and I had taken that stock and die back and got the $3.50 for the stock and die, and he gave me his revolver, his 38 Smith & Wesson, and I pledged that at 17th and Market Streets for $6.00. I took the money and went to Wilkes-Barre, the same evening, December 31st, and I sold out my interest there to a party for $100 and him to pay all expenses. I left Monday back for Philadelphia to Camden. This money didn't last very long, and I kept going down lower. Mr. Mohr kept giving

me a little money every day, paying my room rent for me and until he was made general agent of the show some time in January. He was sent by Mr. Brunen to Baltimore to try and get the Maryland State Fair at Timonion. He was gone for a couple or three days. The second day after he left Mrs. Brunen came to my house one day and asked me if I knew where I could locate Harry. I told her I thought he was in Baltimore. She told me that she didn't think he was there that day, but asked me if I knew any other towns he was supposed to go to, and I remembered something about Staunton, Virginia, and asked me if I could reach him with a telegram, and I told her I didn't know. So she didn't have very much money and gave me half a dollar, and asked me if that would send the telegram, and I told her if it didn't that I would pay the rest. She said tell Harry to come home at once and sign my name. I sent the telegram.

Q. I show you a telegram dated February 1, 1921, addressed to Harry C. Mohr, Staunton, Va.——

The Court: Don't you mean 1922?

The Prosecutor: 1921 it is dated.

Q. And I ask you if that is the telegram that you refer to? There is a stamp, it is a stamp.

A. This should be 1922, February 1, 1922.

Q. Is that the telegram you refer to?

A. Yes, sir.

Q. Just read it?

A. "Harry C. Mohr, Staunton, Virginia, Come home at once. Dot." I sent that telegram for Mrs. Brunen.

Mr. Keown: I have no objection to that telegram, but I would like to have a copy of it.

The Court: Yes. Well, that is in evidence.

Q. Continue; what was done after that? The conversation I want is with Mrs. Brunen, follow out the conversation you had with Mrs. Brunen at that time.

Mr. Keown: This telegram seems to be dated February 1, 1921.

The Court: He said 1922. I suppose that is an error. If you follow his story it was after the date he was to make some arrangements about some fair in Maryland.

Mr. Keown: I wanted your Honor to grant me an indulgence until I find out from my clients whether it was sent in 1921 or 1922.

The Court: All right.

Mr. Keown: The date seems to have been February 1, 1922.

The Court: Then it is agreed that is an error in the date and it is February 1, 1922.

Q. Now, what other conversation, if any, did you have with Mrs. Brunen at that time when she came to see you February 1st?

A. Just at that time my wife wasn't home. She was at the drug store getting some medicine, and before my wife returned she told me the trouble they were having at the Brunen home.

Q. What trouble?

A. Mr. Brunen was having trouble with her and cut up some of her clothes, some of her dresses or something, and that was the reason she wanted Harry to come back, she was afraid to stay at the house without her brother, Mr. Mohr.

Q. What else did she say?

A. She told me then that she wished someone would some night, while Mr. Brunen sat at the window, shoot him through the window.

Q. What else did she say?

A. At that time my wife came in. My wife had never saw Mrs. Brunen. I introduced them and she told her she came up to see the baby. Mrs. Brunen had never saw my baby at that time, and Mrs. Brunen said she wanted to get back early because no one knowed she was at my house. Nobody at her home had knowed it, and she wanted to get back to Riverside before Mr. Brunen came home and she was going on the street car. I sent the telegram to Staunton, Virginia, but the telegram was returned to me at 45 Cooper Street. Mr. Mohr didn't receive the telegram. When he came back Mrs. Brunen was gone. When Mr. Mohr came home I asked him if he received the telegram, if he was at Staunton, Virginia, and he told me no, he hadn't received the telegram. At that time he was more mad than ever, and he was wanting me to get Mr. Brunen as quick as possible before something happened that his sister might either kill herself or kill Mr. Brunen or by his mother having heart trouble, the excitement between Mr. Brunen and his wife might cause her to drop dead. It went on that way until he left for Chicago to the Sherman Hotel. They were holding a convention there, the fair association, and he was sent there by Mr. Brunen to

meet the fair secretaries and try to get contracts for the coming season for different fairs. The day he left he came to my house, left money to pay the room rent and gave me $7.50, asked me to go out to the house each night and see if I couldn't get him alone while he was in Chicago. He had a good alibi then, and it wouldn't suspicion, wouldn't throw on the family, but I never went to the house while he was gone. He came back, I think, the 22nd or 24th of February, and there was more trouble at the house when he came back and he had trouble with Mr. Brunen, I guess, while he was in Chicago, in correspondence.

Mr. Keown: I think that should be stricken out. He says, "I guess."

The Court: Yes, that is struck out. That will be stricken out.

Q. Did Harry Mohr show you a telegram he had received from John?

A. Yes.

Q. I show you a telegram dated February 22, 1922, addressed to Harry C. Mohr, Sherman Hotel, Chicago, Illinois, signed "John," and ask you if that is a telegram or a copy of a telegram that Harry Mohr showed you which you refer to?

A. Yes, sir.

Q. Read it, please?

A. "Harry C. Mohr,
Sherman Hotel,
Chicago, Ill.

Replying to your letter I will never take orders of anyone but the law. Will take advice of all sane men at all times. You imagine you are a big agent, that have never booked a town. My wires were ad-

vised as your letter proves. I know situation. If you want to quit all right. Never dictate to me. Men who have been a success cannot be slighted. Advise by wire. John."

Q. Now, what else did he say to you, Mr. Powell?

A. That was the day that he came back, the 24th, I think, of February. He came to my house. Mr. Brunen was using his coupe.

Mr. Keown: May I interrupt a moment? Where did I understand that that telegram came from? You say that was not the telegram that the official from the company produced?

Mr Kelsey: It was a telegram that the official produced.

(Further reply to Mr. Keown was made by Mr. Parker.)

Mr. Keown: I was assuming that these were telegrams that the man brought on from New York.

Mr. Peacock: This was produced by the Riverside Western Union agent. He was here also under subpoena.

The Court: Do you want him brought forward?

Mr. Keown: No, if it is the original telegram that he brought here. Your Honor will allow me to repeat the question, that if it is not the original—

The Court: Yes.

Mr. Kelsey: And I want to offer that, the same as the other telegrams.

Q. Now, Mr. Powell, proceed with what else Harry Mohr told you.

A. He came back from Philadelphia the 24th of February. Mr. Brunen had his coupe at Williamstown, winter quarters. He came to my house in Mr. Brunen's own car, called me downstairs and told me the trouble him and John had, showed me this wire; told me, "Let's get him this evening before John sees me." He didn't want to face him, after having this trouble around Chicago, in Chicago. But we didn't go to the house and he went out and faced Mr. Brunen. This went on from February 24th until March 10th, every day he was at my house. He was also working but he would be at my house sometime during the day, until March——

Q. While Mohr was in Chicago did you receive a letter from him?

A. Yes, sir.

Q. I show you a letter, dated Saturday, February 18, 1922, addressed, "My Dear Pal," and signed, "Harry T. Mohr," with an envelope attached, Hotel Sherman, Chicago, and ask you if that is the letter and the envelope that you received with the letter in it?

Mr. Keown: May I have the right to show that letter to my client and see whether it contains the same writing as it did when he sent it to Mr. Powell, before it is read?

Mr. Kelsey: May it please the Court, I would like to examine this.

The Court: Well, he has the right to show the letter to his client.

Q. Do you say that was the letter?

A. Yes, sir.
Q. The letter is typewritten, isn't it?
A. Yes, sir.

Mr. Keown: The letter seems to be as written. I have no objection to its offer in evidence.

Q. Read the letter.
A. "Saturday, February 18, 1922. My Dear Pal: Just a few words to let you know I arrived here O. K., after a long and tedious journey. Geo. Coleman met me at the station and escorted me to this hotel. Will know something tonight, if I am not mistaken, and will keep you posted. Well, I have got to get busy and meet up with some secretaries and will cut this for a time, with my best to you and Marie and baby. As ever, your pal, Harry C. Mohr. P. S. Above hotel will reach me while in Chicago."

Mr. Kelsey: I offer this in evidence.

(Letter marked S5.)

Q. Now, what understanding did you have with Harry C. Mohr while he was in Chicago concerning the killing of John Brunen?

By the Court:

Q. Did you have any understanding?
A. You mean correspondence between Chicago and Camden?

By Mr. Kelsey:

Q. Did you have any understanding with him before he went to Chicago?

A. Yes, sir; but before he left he gave me $15.00 and told me to—he paid my room rent, $7.50, and gave me $7.50 and told me to go out every night to the Brunen home and see if I couldn't get John while he was in Chicago.

The Court: He has told that, and he said he never went near there. Isn't that what you said?

The Witness: Yes.

Q. Were you to receive anything or any reward—

Mr. Keown: I think that question is leading, the form of the question is very leading.

The Court: It is leading.

Mr. Kelsey: I suppose it is in a way, and I will withdraw that question.

The Court: You must avoid it. Tell us what was said in regard to the matter by Mr. Mohr.

A. I was to get a thousand dollars the minute John was shot, whether he shot him or whether I shot him.

Q. Who made that promise?

A. Mr. Mohr.

Q. What Mr. Mohr do you mean, Harry C. Mohr, the defendant?

A. Harry C. Mohr; yes, sir.

Q. Now continue from the time, the day after, I think the last question was—the day that he arrived from Chicago. Continue on with your story.

A. When he arrived from Chicago I told him that, when he met me at my house and wanted to go out

and get John that evening before Mr. Brunen was seen, after he came back from Chicago. So it went on that way every day up until the night of the shooting, March 10th.

Q. Went on that way, what do you mean?

A. Every day he would be at my house, every night, want to go to some place, go out to Riverside, and to wait to try and get a chance to shoot Mr. Brunen.

Q. Did you go out?

A. No, he used to have—want me to go out and he would go down to where his wife was staying in Camden and take her to a picture show, and that just as soon as it happened, of course they would call him up where his wife was staying, and when he came back from the picture show he would have proof enough that he had nothing to do with this, and where his whereabouts was that night.

Q. Where were the guns?

A. One gun had broken, I presume a week after we bought the two of them.

Q. Which gun?

A. The small gun, the single-barreled shotgun. He told me that the stock part had broken, some part of it, from jolting up and down in the back end of his automobile, that he had disposed of it, threw it away some place; and he handed me the barrel and he took me over the bridge I think into Delanco and told me to throw it in the creek, and I threw it in the creek.

Q. Is that the gun that you refer to, I mean a part of the gun that you refer to, that you purchased in a pawn shop?

(Gun shown witness.)

A. It looks just like it; yes, sir.

Q. Is that the barrel that you threw away?

A. Yes, sir; that is the way it was, looks just like it was. I threw it over the bridge going between Riverside and Delanco. He took me off the car and I just took the barrel and threw it over and got back in his car at the other end of the bridge.

Q. Where did the gun go?

A. Fell on the ice. The stock part, he did something with it. I don't know what he did, I never saw it. I never saw the stock of the gun after that.

Mr. Keown: Is that exhibit to be marked for identification?

Mr. Kelsey: I am going to offer them both. I cannot offer them at this time.

Mr. Keown: Don't you think they had better be marked at this time for identification?

Mr. Kelsey: I will have them marked for identification.

(Guns marked Exhibits O and P for identification, the barrel being marked O and the double-barreled gun P.)

Q. What conversation did you have or what did you say or what did Mr. Mohr say to you at the time you threw the gun on the ice?

Mr. Keown: I think we ought to find out which gun it was.

The Court: Well, he said this barrel, the barrel of the gun, and the stock, he didn't know what became of that.

A. This was around the 1st of January.

Q. Did you say anything to him when you threw it away?

A. Yes, I came back and told him I thought that it had lit on the ice.

Q. What did he say?

A. He said well, that wouldn't make any difference.

Q. Now go on with your story. Now this is the ist of January, you say. Now, Mr. Powell, tell us in detail what transpired between you and Harry C. Mohr and any conversations that you had up to the time of March 10th; that is, previous to the day of the alleged murder of John Brunen.

A. I am past now the 24th of February.

Q. All right. Now go on from that.

A. Well, the conversations was just the same, figuring every night to go out there to Riverside and try some way to get Mr. Brunen while he would sit at the window.

Q. Did you go?

A. As I said, when he would take his wife to the show, expect me to go out; I never went. I never went out by myself.

Q. Well, tell us when you did go who went with you.

A. Mr. Mohr went with me every time I went out.

Q. When you would go through the day?

A. Through the evening, in the evening after dark.

Q. After dark, you say?

A. Yes. There were two trains, one at 15 and one at 17. One went to Riverside and one to Camden; passed the Brunen home 7.15 and 7.17, I think. We were to get him on either one of those two trains.

Q. Was there any particular reason why you were to get him on those two trains?

A. So that the two trains would cover up the noise of the shotgun.

Q. How would they cover up the noise of the shotgun?

A. By going by the house.

Q. And the noise?

A. The noise of the train passing the house.

Q. Where were the guns? Where was this double-barreled gun kept?

A. There was only one gun left after around the 1st of January, and that was the double-barrel, and it was kept in the garage, upstairs in the loft.

Q. Who put it in the garage?

A. Harry Mohr.

Q. How did you know where the gun was?

A. I had been up in the top of the barn with him.

Q. Now tell us what he said if anything to you on these occasions when you were up in the garage.

A. He kept the gun oiled every day, he would keep the gun oiled so that it would not rust.

Q. Who did that?

A. Harry Mohr.

Q. Did you see him?

A. No, but I knew the gun was oiled, so it would not get rusty. There was a rag laying right by the gun.

Q. Where was the gun kept?

A. Right at the top of the steps, the landing, so as you got to the top landing you could reach your hand over and get the gun behind some bags and boards.

Q. Go on.

A. I think the last week every night for three or four nights he and I went to the Brunen home to-

gether, parked the car the other side of Cambridge station, at a little town there, I don't know what it is—a few stores there. We walked up to the Brunen home. And two nights before the shooting we went there, he tried the back door; he couldn't locate Mr. Brunen but he went around the house and I stayed back of the barn. He went to the back door to see if he could get in.

By the Court:

Q. Who went to the back door?

A. Mr. Harry Mohr. He couldn't get in. We got in the car, we went back to this little place the other side of Cambridge station, we got in the car and we went back to Camden. I don't know whether he had any appointments that evening with some organizations or not relative to the coming year, coming season, for the Brunen show. The next night we went there also, the night before the shooting, but we came away again. That night I went with him to 5600 Spruce Street with his car while he went to a meeting. I think it was the Veterinaries of the Foreign War. We arrived there around nine o'clock. I stayed in the car for half an hour or three-quarters of an hour and waited for him to come back from Philadelphia. The next night I met him at the post office at the same time, between 6.00 and 6.15. He went to the cigar store and bought a cigar across from the post office, came back, we got in the car and started back for Riverside. We passed a policeman. We went out around the policeman at 26th Street and Federal, and we took the road leading into Burlington Pike. We followed that out.

By Mr. Kelsey:

Q. When he went by, around the policeman, what did he say to you, if anything at that time?

A. He told me that he had signalled this policeman as he was going in and he didn't want him to see him coming back. We went to Riverside—he took the Burlington Pike going towards Palmyra, but when we got to Palmyra on the Burlington Pike we went one mile further to Riverton, turned to our left and went into Riverton, so that we would not have to pass through Palmyra or Riverton, and went right to the Brunen home.

Q. You went right to the Brunen home?

A. Yes, drove straight to the Brunen home.

Q. What do you mean to the home, how close to the house?

A. To Cambridge station.

Q. Now what did you do when you got there?

A. When we left the post office he had a bottle of whiskey, white whiskey. It was not quite half a pint. He gave me that and told me to drink that and warm myself up, "Warm yourself up." He told me as we were going out—this was the last night—that he had no money and I had no money and that John was going to New York that evening or the next morning on some business, either relative to some trouble that he had with some people there, that he would not be back for three or four days and that John had to be gotten that night, and whatever I done, to be sure and get him, not miss him, even if I had to pull both barrels. He said, "If you don't get him, if you miss him, he will have us all arrested, you too." I got out of the car at Cambridge station. He said, "I will be here when you come back. Be sure and get him on one of these two trains." I went to the Brunen home ——

Q. Was there anything said relative to the conditions at the house or how things would be at the house at the time?

(Objected to as leading.)

The Court: No, that is very leading. Why don't you let him go on and tell his story, then you can ask him matters that fit in. Go on and tell your story as you began.

A. I went to the Brunen home and went in the loft and got the gun. I waited out in the back; the blinds were to be lowered just at a certain angle, so that there would be no light showing out into the back yard, only just enough to see Mr. Brunen at the window.

Q. Who said that?

A. Harry Mohr. He told me that Mr. Brunen would be sitting at the window if they could get him there; whatever I did, be sure and get him and not miss him, even if I had to pull both barrels. I went there and got the gun and the first train passed and I let it pass. There was a dog in the yard. Mrs. Brunen came to the side door, opened the side door and called the dog in. What she did with the dog I couldn't see. She immediately left the kitchen and the train came and I ran up to the window and pulled the trigger and turned around and ran.

Q. You pulled the trigger on what?

A. A shotgun.

Q. Which shotgun?

A. There was only one, the double-barrel one.

Q. This one? (Gun shown witness.)

A. Yes.

Q. Who was at the window?

A. John Brunen.

Q. Where was John Brunen in the window?

A. Sitting at the window reading a paper.

Q. Where did you shoot John Brunen, do you know?

A. I only saw about his head sticking up from the window. You could just about see his head.

Q. How was the curtain?

A. The curtains were also about this degree from the bottom. (Indicating.)

Q. Was the curtain in the condition as Harry Mohr said it would be?

A. Yes, sir.

Mr. Keown: There is no evidence in the case that Harry Mohr said the curtain would be in a certain condition.

The Court: Yes, there is evidence that the curtain would be a certain way. He did testify.

Mr. Keown: I didn't catch that.

A. Immediately after I shot I turned and ran.

Q. Now you said when you shot you turned and ran?

A. Yes, sir.

Q. Now which way did you go?

A. I ran out in back of the barn, through the hedge, and I started to take the gun apart. I dropped a part of it and the two shells.

Q. I show you the shells, Mr. Powell, and ask you if they are the shells.

Mr. Keown: Is there any way by which this witness can identify those shells?

A. Those are the color of the shells. They were black.

Q. What part of the gun did you drop?

A. The piece that catches the two together.

Q. This. (Indicating.)

A. Yes, sir.

Mr. Kelsey: I offer the shells.

Mr. Keown: I object to the shells.

Mr. Kelsey: I offer them for identification.

(Shells marked Exhibit Q for identification.)

Q. Now go on, Mr. Powell.

A. I ran through the field to Cambridge station. There was where Mr. Mohr was to be with his car.

Q. How did you know?

A. He told me. That is where I left him. When I got there a street car was going and I waited till it crossed. There was another automobile standing there and I don't remember whether it left or whether he stayed there. But he flashed his lights and I heard his engine and I ran and jumped in the car. He opened the door for me and I got in the car. He asked me, "Did you get him?" I says, "I don't know." He said, "My God! If you didn't get him we will all be arrested." And I was very excited and out of breath. He told me to look out and see if anything was coming. He had his tail-light disconnected, told me to keep my nerve, that everything was all right. He drove me straight down to Riverton till we came this side of Riverton, we crossed over the railroad track and went out around Riverton station and got on the road leading into Burlington Pike, straight down the Burlington Pike until we came to the bridge where we stopped

the car, we got out and he threw the barrel of the double-barreled shotgun in the creek and I threw the butt end. He connected his tail-light up and he got in the car and we came back straight into Camden. We circulated around, got over on the street car line going into—over on the Federal Street car line and came into Camden that way. When we got to Tenth and Federal Street we went up to Tenth and Cooper, we turned to our right and went up Cooper Street. He was taking me to my home as close as possible. As we was near my home he asked me if I thought I was steady enough to drive his Ford car on the ferry-boat, and he would get out and pay his way through, that he didn't want to be seen in this car, as there might be some one on the ferry that would recognize him. I told him I though I could. I drove the car on the ferry, he got out right at the ferry and paid his way through, he got on the same boat I did. I drove the car on the boat, he got in the car after the car got on the boat, and I came right back on the next boat and he went straight to Dr. Poulson's—he had an appointment with him. He had an appointment with him that evening relative to the American Legion. Dr. Poulson was Post Commander of the American Legion of that district.

Q. How was he dressed that night?

A. I just can't remember, but I think he had a dark suit on.

Q. What kind of a hat did he have on?

A. He wore a white cap. I threw that cap in the river as we crossed over on the ferry. He had his hat in the car. He put his hat on.

Q. How did you come to throw it in the river?

A. He told me to.

Q. What kind of a car was it?

A. Coupe, Ford.

Q. Now from this time, Mr. Powell, I want you to continue from your last statement up to the time of your arrest, just what took place.

A. The following morning he told me, when he left me he gave me ——

Q. Who told you?

A. Harry Mohr. When I left him at the ferry he said, "I will be at your house the first thing in the morning;" and I believe he gave me forty cents. He says, "I will be down the first thing in the morning and give you some money." He came to my house and I was at the grocery. He told my wife about the shooting and John was dead and told her he wanted to see me. When I came back I saw Mr. Mohr and he gave me $50, told me that was some of the money that was on his person that night.

Q. What was that money, what denomination?

A. A $50 bill. I didn't see Mr. Mohr any more until Monday evening around twelve or one o'clock in the morning, he came to my house and Mr. Earnest or Mrs. Earnest left him in. At that time he came to my room, and when I went into the kitchen the day before the funeral he gave me two more $50 bills. The next day was the funeral. I didn't see Mr. Mohr until Saturday.

Q. What did he say to you when he gave you the two $50 bills?

A. He told me that he and his sister, and the family, I guess had been to Philadelphia buying mourning clothes.

Q. Was anything said about the funeral?

A. The next day would be the funeral at two o'clock, I think. And I asked him if he thought I should go out and he said no, he thought best not to. So I sent Mr. Brunen a spray of flowers.

Q. Who told you to send the flowers?

(Objected to.)

The Court: No, you are suggesting as if somebody did. He hasn't said anybody.

Q. How did you come to send the flowers?

A. Well, I asked him if I had better send flowers; he said, "Yes, send him a wreath of flowers, but not to go to the funeral;" that Mr. Parker would be there with men looking over everybody. I didn't see Mr. Mohr any more until the following Saturday, when he sent his wife Bessie to my house to tell me that he was at ——.

Mr. Keown: If your Honor please, this witness certainly does not know that Harry sent some one there.

The Court: No, that is not competent. That is excluded. The objection is sustained.

Q. Did Bessie Mohr come to see you?

A. She came to my house on Saturday evening.

The Court: Don't say what she said.

A. She told me ——

The Court: Never mind.

Q. After she saw you what did you do as a result of what she told you?

A. I went to the Broadway Railroad Station, on Broadway Street, in Camden, and met Harry in the telephone booth in the station. We went out, got in his car and drove out a piece and he gave me another fifty dollar bill.

Q. What conversation did you have with him at that time?

A. He told me that they were suspicioning him but that my name had never been mentioned, and that no one had ever mentioned my name. The next time I met Harry, the next time I met Mr. Mohr, I was awfully worried and he told me to go over to Philadelphia and handle a contest and promotions over there with the veterans of the foreign war post, for they were going to open the season under that auspice—anything to keep my mind from thinking about this Brunen trouble. So he told me he would give me $25, told me to meet him at the Hotel Windsor at three o'clock that afternon. Mr. Benham, Harry Benham, who was also a promoter of the show, Mr. Mohr and myself went to the restaurant and there we decided that Mr. Benham would handle Camden for him and I would take Philadelphia. The next money he gave me was on April 4th. He pledged a diamond stone of John's in a pawnshop for $200, I think—something, I don't know how much it was—and he gave me $15.

Q. What pawnshop, do you know?

A. 18th and Bradley Street, I think.

Mr. Keown: Was this witness with him when that was done?

The Witness: I met him in front of this pawnshop at nine o'clock in the morning.

Mr. Keown: You went with him?

The Witness: No, sir; I had an appointment with him there at nine o'clock in the morning to meet him.

Mr. Keown: Then I move that that be stricken out.

The Court: He says he met him at the pawnshop that morning.

Mr. Keown: But he says he didn't go in the pawnshop.

The Court: Well, so far what took place in the pawnshop would not be evidence.

Mr. Keown: Then that part about the diamond ring being pawned will be stricken from the record?

The Court: Well, unless he told him. I don't know where he got the information from. Where did you get your information?

The Witness: Mr. Mohr told me to meet him at this pawnshop that next morning.

The Court: Had he said anything about going to pawn anything there?

A. He was going to pledge one of these stones.

By Mr. Kelsey:

Q. Go on, Mr. Powell.

A. He gave me $15. This was the 4th of April. Ont the 6th of April I was arrested.

Q. How many times, Mr. Powell, were you in Riverside with Harry Mohr, if you know?

A. I presume twenty-five or thirty times.

Q. Were you in Riverside before Harry Mohr took you there at any time?

A. I was on the show and the show played Riverside in the spring of 1921, under the firemen. I was on the show at that time.

Q. Did John Brunen live there at that time?

A. At that time, yes. That was the first time I was ever in Riverside.

Q. Did you meet anybody in Riverside while you were there, I mean with Harry Mohr?

A. He introduced me to several people there.

Q. Do you recall who he introduced you to?

A. He introduced me to Mr. Grant, the gasoline man.

Q. And what was the occasion, do you remember anything that occurred at that time he introduced you?

A. He only introduced me to Mr. Grant and told me that Mr. Grant had just went east. That was all that was said.

Q. How many times were you with Harry Mohr when you saw Mr. Grant?

A. How many times? I saw Mr. Grant many times, but I believe he only saw me three or four times.

Q. How was that?

A. Why Harry would leave me out of the car when he would go there to get gasoline, so that nobody wouldn't see me in Riverside, see him and I together.

Q. What did he say relative to it?

A. He didn't want to be seen with me in Riverside.

Q. Did he introduce you to any one else?

A. He introduced me to the chief also.

Q. When was that?

A. Right after Christmas.

Q. What did he say at that time?

A. Well, he introduced me to Mr. Voshell, and I

went over to the police station and he showed me where they were supposed to have held John after the trouble, where he was supposed to be taken after the trouble at Riverside, on Christmas Eve.

Q. Who else did he introduce you to?

A. He introduced me to the railroad detective there, Mr. Wood.

Q. What did he say to Mr. Wood?

A. He introduced me as Mr. Brown.

Q. Now Mr. Powell, was there anything after he introduced you to Mr. Brown, was there anything else?

A. We were walking down the road and I was just going to catch a street car to go back in Camden. He had taken me out in his automobile but wasn't going to drive me back and I was going down on a street car, and as we were walking down he told me, "Here comes Mr. Wood, the railroad detective." And he stopped and spoke to me and he acquainted me with Mr. Wood as Mr. Brown, and the car came around the bend and I had to run to get to one of the crossings so I could get the car back into Camden.

Q. Did you go on the car, both of you?

A. No, sir; he went home and I went to Camden. He was in Riverside.

Q. How far were you from the Brunen home when you met Wood?

A. Oh, I presume three blocks, three squares.

Q. Now what was this, daytime or night?

A. Night.

Q. Did he introduce you to any one else?

A. Those three is all I remember.

Q. Did he introduce you to any one in Camden?

A. He introduced me to Detective Smith and his partner in Camden one night.

Q. Now what did he say when he introduced you, relative to this Detective Smith in Camden?

A. The two detectives were standing at the post office on Sunday evening talking, and he called Mr. Smith over and his partner came over and he introduced me to them, that was all. Mr. Smith stood there and talked to him for a while and his partner went back on the corner. I think they were looking for something that night.

Q. Now, Mr. Powell, were you at Williamstown?

A. Yes, sir.

Q. Were you introduced to any one in Williamstown by Harry Mohr?

A. Yes, sir.

Q. Who was it, do you remember?

A. I think that he was a rental agent who sells insurance, to insure cars, accidental insurance—Mr. Zimmerman.

Q. What were you doing in Williamstown, Mr. Powell?

A. I just went out with him just for a ride, because he would come to my house every day and get me. If he had to go to Williamstown he would ask me to come out with him.

Q. Did you see anyone on your way from Williamstown that you knew?

A. No, sir.

Mr. Keown: I think the time ought to be fixed. I don't see what materiality it could have.

The Court: I don't see either.

Q. Now, Mr. Powell, the time that Mrs. Brunen was at your house was anything said by you to Harry Mohr or Harry Mohr to you relative to her visit to your place?

A. He told me many times that no one knew anything about this outside of him and I, and I used to often quiz him on it that his sister knew about it. So after Mrs. Brunen's visit to my house I was sure then that she knew about this shooting coming off.

Mr. Keown: Now if your Honor please, that is certainly a conclusion.

The Court: It is stricken out.

Mr. Kelsey: I think so too. I don't think it is fair.

The Court: The testimony should be disregarded, stricken out.

Q. What did you say to Harry Mohr or Harry Mohr say to you after Mrs. ——

A. After Mrs. Brunen came to my house then he told me, he said, "Yes, Charlie, I don't want to tell you ——"

The Court: Not what he told you about his sister, unless it was said in her presence.

A. There was never anything said in her presence, only what Mr. Mohr told me.

The Court: Well, then, that is all. That testimony is not competent, in my judgment, at the present time. You will have to lay a foundation for it and there has been no foundation laid for it yet that I can recollect the testimony.

Q. Now at any time when you were at the Brunen

home on the occasions that you have mentioned at night with Harry Mohr did you see Doris Brunen previous to the time of the murder?

A. No, sir; they used to ——

The Court: You have answered the question.

Recess till 1.30 P. M.

———

AFTERNOON SESSION.

CHARLES M. POWELL, recalled.

By the Prosecutor:

Q. Mr. Powell, where was the restaurant in Wilkes-Barre where you said the first time he mentioned anything about killing John Brunen?

A. Across the street from the Readington Hotel.

Q. Did you see anyone in the restaurant that you knew?

A. I didn't at that time.

Q. Do you know Larry Doyle?

A. Yes, sir.

Q. It was there I understood you to say that Harry Mohr told you about Hazel running away?

A. Yes, sir.

Q. And about Mrs. Brunen going away?

A. Yes, sir.

Q. What did he say further than you have told on the stand, whatever conversation if any that you had with him?

Mr. Keown: Now, if your Honor please, I don't think that is fair, for the Prosecutor to go back and

go over all this testimony. The witness has testified to this morning after this recess.

Mr. Peacock: The Prosecutor is not going over testimony. It is omitted questions pertinent to the issue.

The Court: I will take it, go ahead, answer the question.

A. At that time he told me when Mr. Brunen went to Jersey City where I believe he located Hazel and Mrs. Brunen that he brought them back and he mentioned something about Dr. Ward, Dr. Ward had been in the show. Further than that I don't know anything about it except John told somebody after that Mrs. Brunen went away with $500 of his money.

Q. When was the first time that you saw the revolver that you spoke of as pawning it belonging to Harry Mohr?

A. In Camden.

Q. Where did you see it?

A. He had it in his automobile.

Q. When was that?

A. It was when I went to Camden.

Q. After you moved from Wilkes-Barre and went to Camden, you mean, to live?

A. I don't know whether it was the first time I went to Camden to meet him or whether it was when I went there to live.

Q. Do you know where Taylor station is?

A. Yes, sir.

Q. Have you been at Taylor's station?

A. Yes, sir, passed there many a time coming to Riverside.

Q. Who was you with?

A. Harry Mohr.

Q. Do you remember anything that was said between you and Harry Mohr, any conversation you had at Taylor's station?

A. Yes, we had a conversation one time he thought of a way of killing John on a train as it passed Taylor's station, to see where he sat in the train at Camden, to beat the train to Taylor's station, watch there and shoot him as he passed through Taylor's station.

Q. How was he to know that he was on the train?

A. To watch, for me to go in in Camden at the ferry, see what coach he sat in, whereabouts he sat, get in his machine and drive to Taylor's station and catch him at Taylor's station as he passed Taylor's station.

Q. Was there any other way to find whether he was on a train or not?

A. No, sir, only to find that out before the train left Camden.

Q. Did John Brunen go in his automobile sometimes that you know of?

A. Sometimes he used the street car, sometimes he used his car, sometimes he used the train, that's the way Mr. Mohr told it to me.

Q. How was you to know or how was he to know whether he went on the train or in the automobile?

A. He was to call up his home and ask if John—

Q. Call up whose home?

A. His home.

Q. Harry Mohr's home?

A. Yes, sir, he lived with Mr. Brunen all the time. Call up the home and see if he came down town in his machine or how he came down.

Q. Who was to let him know?

A. His sister.

Q. Whose sister?
A. Mrs. Brunen.

Mr. Keown: I don't think that is material. There is no connection.

The Prosecutor: It will be connected later.

The Court: If they don't connect it I will strike it out.

Q. What sister?
A. Mrs. Brunen.
Q. John Brunen's wife, Doris Brunen, this defendant?
A. Yes, sir.
Q. What was said about shooting John Brunen on the train?
A. Well, that was just spoke of and he told me there "We can beat the train there, we will go out there now;" and he took me out that evening after dark and we got out of the car, waited for the train to come by and I wouldn't have anything to do with that, I was afraid it would harm somebody else in the train, and that ended it.
Q. Well, what was said, if anything, by him when you told him you were afraid of harming anybody else?
A. He said he was a good shot and didn't think he would miss him.
Q. Where did Bessie Mohr, Harry Mohr's wife, stay in Wilkes-Barre?
A. Mrs. Jenkins', 128 N. Main Street.
Q. Where did she stay when Harry came home?
A. Same place.
Q. You brought her home?
A. No, sir. When I came back from Philadel-

phia, Mr. Mohr told me to send his wife into Philadelphia and she left on Monday for Philadelphia.

Q. When was the first place and when was it that Harry Mohr offered you any money to kill John Brunen?

A. In Wilkes-Barre.

Q. When was that and where?

A. When he was there with the punch boards, with the churches, we were trying to get some churches we had this contest with me.

Q. What did he say to you?

A. He said Mr. Brunen had around $3800 in the bank and the minute this came off half of it was mine.

Mr. Keown: I think this was covered this morning.

Mr. Peacock: I think the witness said this morning he didn't remember just what the words were.

The Court: Well, he does remember now.

Q. Do you know Mattie or Mamie Mohr?

A. No, sir, I hadn't seen his sister but once or twice that I know of.

Q. You stated that you were at Riverside with Harry Mohr in his car the two previous nights to the night of the murder. Where did Harry Mohr leave his car those nights?

A. The night of the shooting he never left his car as far as I know of. He waited at Cambridge station where he was to meet me.

Q. How about the night before?

A. The night before his car was parked around between the squares, I believe, the other side of Cambridge station, some little place where there are

two stores in front of a house, and we went up to the Brunen home.

Q. The two nights previous to the same place?

A. Yes, sir.

Q. How near was that to Cambridge station?

A. The Brunen home?

Q. No, where he parked his car.

A. From Cambridge station, well, two squares.

Q. About two squares from Cambridge station?

A. Yes, sir.

Q. In what direction, toward the Brunen home?

A. Toward Camden.

Q. Where did you get in the car on the night of the murder after you had shot John Brunen?

A. At Cambridge station.

Q. Did you see another machine there at the time?

A. Yes, sir, I saw, I thought it was his car.

Q. What say?

A. I thought it was his car, and I started out to it, and a street car was coming along and I went back until the street car passed, and when the street car passed, this car had gone, and he flashed his light and I went out and got in his car.

Q. What kind of car did he have?

A. Ford coupe.

Q. What kind was the other car?

A. I don't remember, I think it was a Ford, it might have been a sedan.

Q. See anybody walking?

A. No, sir.

Q. Now, the night of the murder when you were driving up with Harry Mohr, what was said by Harry Mohr to you relative as to how the act was to be done by you, the shooting was to be done? What I mean, in addition to what you have already testified to.

A. He told me that he would have time enough

to get back to Camden before the alarm was given, that Mrs. Brunen would faint and not report it for fifteen or twenty minutes.

Mr. Keown: I ask that it be stricken out at this time, if the Court please.

The Court: Are you going to connect it up?

The Prosecutor: Yes.

The Court: If it isn't connected up counsel may move to strike out all this testimony.

(Answer repeated.)

Q. What else did he tell you?

A. I don't remember after the shooting just about what did happen, only that we went back to Camden and I drove the car in the ferry for him.

Q. I mean before the shooting when you and he were coming up from the time you left the post office in Camden?

A. We passed 26th and Federal Street. There was an officer there and we went out around him.

Q. I think you have already testified to that.

A. We went right straight to the Brunen home and he let me out at Cambridge station. We didn't get to the Brunen home at Riverside. He let me out at Cambridge station.

Q. Now, what other arrangements, Mr. Powell, if any did Mohr tell you would be made at the Brunen home?

Mr. Keown: If your Honor please, I don't think the State at this time should bring this evidence in. It gets to the jury and I know your Honor will en-

deavor to strike it out if it is not connected up. The unfair advantage is if this is introduced at this time, when my right to cross-examine this witness is given me, I must cross-examine on it, then if it is not connected up it is all the more time taken up and the jury has heard all the evidence that may not be material to this issue. The witness is in custody. He will be here. If this evidence is introduced it will be a very easy matter on the part of the State to bring this evidence and I think in fairness to the defendant it should not be offered at this time.

The Court: It is the duty of the prosecution to introduce all its testimony on the main case, especially those facts made the basis of the charge against the defendant, and you would have cause to complain if the prosecution did not do so. If that branch of the case which refers to Mrs. Brunen is not supported by testimony which they say will connect Mrs. Brunen with the statements to be made, why, then the jury would have to disregard it, and it couldn't affect her at all. I would have to take care of it and see that it did not affect her.

(Question repeated.)

A. He told me the blinds would be lowered at an angle so not much light would reach the back yard, and Mr. Brunen would be at the table at the window and that the dog would be in the cellar, and everything would be arranged like that, and wouldn't have nothing to worry about.

Q. Was anything said about who would be at the house?

A. That Mrs. Mohr, that is, Mr. Mohr's mother, and Hazel were to go to the picture show.

Q. Who was to be at the house itself?

A. The way I understood it, Mrs. Brunen was to go to the picture show with the two of them, that Mr. Brunen came home and she had to stay with him.

Q. Was anything said the night before or the two nights before relative to any arrangements?

A. All three of them went to the picture show.

Q. All three of them went, but what was the arrangement?

A. The same arrangement.

Q. Well, who told you that?

A. Harry Mohr.

Q. Now you said that you were at the Brunen home, that is, the two previous nights?

A. Yes, sir.

Q. Did you see any of them at the Brunen home?

A. No, sir.

Q. Where was the dog?

A. I don't know. I was behind the barn and Mr. Mohr went up and tried the kitchen door from the porch, I was behind the barn.

Q. Did you see the dog?

A. No, sir.

Q. Now, was you there before and did you see Mrs. Brunen before that time?

A. Any time?

Q. Yes, at any time?

A. Yes, sir.

Q. How many times did you see her?

A. I saw Mrs. Brunen many a time out there.

Q. Daytime or night?

A. Daytime and night too.

Q. Where were you when you saw her?

A. In the barn.

Q. Who were you with when you were in the barn?

A. I was taken in the barn in the coupe, closed car, by Harry Mohr.

Q. Did you see her while going into the barn or after going into the barn?

A. After going into the barn.

Q. Do you know whether she saw you or not?

A. No, sir.

Q. You don't know whether she saw you?

A. No, sir.

Q. What kind of a car did you have on this occasion that you went there?

A. Coupe car.

Q. The same car?

A. Yes, Mr. Mohr's coupe.

Q. Did you see her at any time when you went by the house with the coupe?

A. No, sir.

Q. Well, did you see her while you were going into the barn or before going into the barn?

A. No, sir; he would just drive me in the barn and pull the door closed and he would go to the house.

Q. He would stay in the house?

A. He would stay in the house and I would stay in the barn.

Q. What direction would you go into the Brunen home in the car?

A. They had a driveway alongside the Brunen home that led right into the barn.

Q. You went in the driveway?

A. Yes, sir.

Q. How many times did you go in this driveway?

A. I don't know, sir.

Q. Right near the house is the driveway, right close to the house?

A. Yes, right side of the house in the yard.

Q. That is the way you would go in each time?

A. That I would go in the barn with him in the car, going in the car.

Q. Do you know Jules Kresge?

A. I was introduced to him in the spring of 1921. I don't know that I know him.

Q. Was his name mentioned at any time in your conversation with Harry Mohr?

Mr. Keown: If your Honor please, I certainly cannot see any connection between Jules Kresge and the case. That certainly is absolutely immaterial to the issue.

The Court: I don't know what they are going to prove. I can't tell now. It can't hurt you. It doesn't seem to have any bearing now.

Mr. Keown: Not if the answer is yes or no, but I am just anticipating the witness ——

The Court: Yes, the witness must answer yes or no.

Mr. Kelsey: I just asked him if he knew Jules Kresge or his name was mentioned.

A. I was introduced to him in the fall of 1921. I don't know as I would know him now if I should see him.

The Court: That is an answer.

Q. Was his name mentioned in any conversation that you had with Harry Mohr?

Mr. Keown: I think the witness can answer that yes or no, so we can pass upon the next question.

A. Yes.

Q. What was that conversation?

(Objected to.)

Q. The night of the murder.

The Court: I don't know what he is going to say. I will strike it out.

A. That is a mistake on my part. It was a day or two after the murder.

Q. A day or two after the murder?

A. Yes.

Q. What was said at that time by Harry Mohr to you?

Mr. Keown: Does your Honor think that is material and binding upon the defendant or binding upon Jules Kresge?

The Court: Well, I don't know. It may be against Harry Mohr himself, I don't know. I must hear what the answer is; I can't tell. What did he say?

A. All he said was on the alibi that he had, to tell where he was at at the time of the shooting, and that he had met Mr. Kresge and that he had met him later than he had really met him, and that he told Mr. Kresge that he was out with somebody else, that he didn't want a certain party to know it, and to tell that he was there to see him at that time. I don' care to mention those parties' names unless I have to.

Q. He told you who he had met?

A. Yes.

Q. Who he was with?
A. Yes, sir.
Q. Mr. Powell, I think if he told you the name, I wish you would tell us who he told you he was with, who he told Kresge.

Mr. Keown: Now if your Honor please, that certainly is not part of the res gestae. The state only has to prove the commission of a crime. If this is part of the defense it is not properly to be met after the defense has put in their case by rebuttal, it is not certainly part of the State's case.

The Court: I don't think it is either.

Mr. Kelsey: I may be wrong in the matter.

The Court: You may recall this man and contradict him or find out.

Mr. Kelsey: I don't know. I am not anticipating.

The Court: There is some evidence. When Mr. Mohr gets upon the stand, if he chooses to do so, and makes his statement, you can find out where he was and you may ascertain what you are now trying to ascertain from this witness directly, from the witness which he produces or from himself.

Mr. Kelsey: Yes, but on the other hand, suppose they do not offer him. Now that it is in the main case I am showing by this witness that an alibi, is a fake defense by one of the defendants' witnesses, by this witness, and stating exactly what happened, what was to be done, what he was to say. Now of course I am not anticipating the defense. I don't know whether ——

Mr. Keown: I suppose the Prosecutor has our statement, and certainly what our defense is, and we have given them to him and he is anticipating it at this time.

The Court: I don't think it is at all incumbent upon the State to anticipate the defense. You can get in all that testimony afterwards. I am not going to have the time of the Court taken up with an exploration into a matter that is not before the Court yet.

Q. You stated this morning, Mr. Powell, that Harry Mohr told you that John Brunen was going to New York, that is the next morning, the morning of the 11th, and he must be killed that night. Did he tell you what he was going to New York for?

A. Yes, he did.

Q. Now tell us what he told you.

A. He told me he was going to New York to pick up one of the Freedman boys, whom Mr. Brunen had accused of holding up Mrs. Brunen about two years ago and taking her diamonds from her.

Q. Did you have a conversation with Harry Mohr after the murder relative to an interview that Harry Mohr had with Mr. Parker as to any information that he had given to Mr. Parker?

Mr. Keown: Now, if your Honor please, that is objectionable on the same ground.

The Court: I am going to rule that out. I am not going to let you go into this. It is not a part of your main case. You have only got to put in your main case.

Mr. Kelsey: I think this is, your Honor.

The Court: In what way?

Mr. Kelsey: The question might seem to be very broad, but it has no connection in the way in which your Honor sees it, and I think you will be perfectly satisfied with Mr. Powell's answer. I want to be perfectly fair in the matter and if there is any likelihood of any testimony on the lines that your Honor suggests, to withdraw this question, but I know it is not. This is part of the main case and I think your Honor will see the relevancy of the question and the propriety of the question at this time.

Mr. Keown: How does the Prosecutor know what the witness answer is going to be? I think it is just a set of questions that the Prosecutor has prepared here to bring out a certain answer, and it is certainly not a part of the State's case and I don't think your Honor should allow the witness to answer the question.

(Question repeated.)

The Court: He can answer that question yes or no, that is all he can do.

A. Yes, sir.

Q. Did Mr. Mohr tell you of the names of certain persons he gave Mr. ——

Mr. Keown: I can see right now that the question is leading. The Prosecutor is going to do the testifying.

The Court: I don't know whether it is or not. It is not what you see, it is what I see in regard to that. You may object when the question is put and

then I will rule on it, but the question has not been put. Put your question and don't answer it.

Q. Did Mr. Mohr tell you the names of certain persons that he gave Mr. Parker who had had trouble with John Brunen and who were likely ones and which they would arrest for killing John Brunen?

The Court: Don't answer that question. I overrule that.

Q. Now, Mr. Powell, the morning or two after the murder or just before the funeral, when Harry Mohr gave you the $100 or two $50 bills, what did he tell you to do? I mean in relation to what you have testified to this morning. What else did he tell you if anything?

A. I don't believe he told me anything when he gave me the two $50 bills.

Q. How much money altogether had Harry Mohr given you?

Mr. Keown: I think that question ought to be tied in for a certain purpose and covering a certain period.

Mr. Kelsey: All right. I am perfectly willing in that case.

(Question repeated.)

Q. That is, say from the time he first met you in Wilkes-Barre up until the time you were arrested.

A. Around $500 or $600.

Q. What else did he give you if anything?

A. That is all.

Q. Did he give you anything else except money?
A. No, not from Wilkes-Barre.
Q. No, I mean from the first time he met you in Wilkes-Barre, when he spoke to you in the restaurant there, from that time up till the time when you were arrested.
A. He gave me around $500 and $600, and that is all.
Q. Now, Mr. Powell, do you recall a conversation that you had or any conversation that you had with Harry Mohr while you were working for John Brunen on a show?

Mr. Keown: I think the time ought to be fixed.

Mr. Kelsey: All right. I will try to fix the time.

The Witness: Is that last year?

Mr. Kelsey: Yes.

Mr. Keown: When?

Mr. Kelsey: I will fix the time.

A. There was only one trouble that I knew of.
Q. That was Salamanca Fair, wasn't it?

Mr. Keown: The Prosecutor has just exactly told the witness what to say.

The Court: The better way for you is to object to the question. Mr. Prosecutor, put your question and then if you have anything to say object to it.

Mr. Keown: I object to it on the ground that it

is leading, that the Prosecutor suggested the word "Salamanca" in his question.

Mr. Peacock: He asked for the time to be set. He set the time and place Salamanca Fair.

The Court: I don't know that that was so. When was it?

Mr. Kelsey: It was last year.

The Court: When last year? You want to get at the date, don't you?

Mr. Keown: Certainly.

The Court: When was that fair?

The Witness: I don't know just exactly, but I think in July.

Q. What happened there? Just tell us.

A. It was not a fair, it was a still date, under a committee. It was not no fair. There was some trouble one night at the show. Mr. Mohr and I had a couple of concessions on and we had a couple men working for us. Mr. Brunen didn't want one of these men to stay around the show, so he didn't allow this one boy to ride the train, but the boy rode the train away over in to the next town and when he saw him there Mr. Brunen was very mad, and of course run him off the lot. That evening I walked on the lot and I met Mr. Mohr and he came down to me. He said, "I just had an argument with John. He told me that if he saw you on the lot he would hit you in the nose." I looked up the midway and I saw Mr. Brunen coming, he said, "Here he comes."

So I stood there and Mr. Mohr walked away around the crowd. Mr. Brunen walked up to me and never said a word, and walked right on back up the midway. Then Mr. Mohr came right back to me again and said, "Did he say anything?" and I said, "No, he never said a word." He said, "I just had some more trouble with him." He said, "He run off the other boy." So we walked down by our concession. The boy was standing here and Mr. Brunen came up and he said to this other man who was working for us "Get off the lot. I will hit you in the nose. Get off right away." Then of course this boy went and that made me pretty mad and I said to Mr. Mohr, "I will quit myself. I am done myself." And so Harry said, "If you quit I quit." So we both quit and we went to town. We ran into—the general agent came in that evening, and Mr. Mohr talked to him and the general agent—his name was George Coleman. And this kept on for three or four days, I guess, and one day I met Mrs. Brunen on the bridge. She asked me if I wouldn't stay on the show; if I didn't stay Harry wouldn't stay, that she was afraid to stay on the show with John by himself, Mr. Brunen by himself, and she needed her brother there. So I told her yes, I would go back with the show. I went again with Coleman back to work. Mr. Coleman, the general agent, came to me and told me that John had sent him to me to find out if I would come over and take charge of Newcastle, Pennsylvania, from that, from the second week of Salamanca. We left the next day for Newcastle and didn't see them any more until the show arrived in Newcastle. That is all the trouble that I ever knew of on the show.

Q. Now, Mr. Powell, what did Harry Mohr tell you he was going to do after the murder of John Brunen?

The Court: Well, that assumes. You make up your questions that way. You may ask the witness whether Mr. Mohr had said anything to him as to what Mr. Mohr was going to do after the murder. You must find out, but not assume that he did tell him anything.

Mr. Kelsey: He has already testified.

The Court: Well, I know. Then if he testified why ask him again?

By the Court:

Q. Was anything said to you by Mr. Mohr as to what he, Mr. Mohr, was going to do after the killing of John Brunen?

A. Only that he was going to be manager of the show. Well, one week before the shooting he told me that he would give me $75 a week and a percentage wheel on the show after it happened. But I told him I didn't want to go on the show on account of my wife. She was not in very good condition and I was not going with the show. So that proposition never materialized; I never intended to go out on the show.

Q. What arrangements if any were made by Mr. Mohr with you after you arrived in Philadelphia after the murder as to his movements, as to Mohr's movements?

Mr. Keown: I object to that, on the ground that any conversation that took place between these parties after the murder would tie Mr. Mohr up with a conspiracy to commit the murder.

The Court: No, it does not. That is right; but

he may show the conduct of the defendant, of the accused, as to the witness here himself who had committed a homicide.

Mr. Keown: If it is for that purpose it may be proper.

The Court: That is what I guess it is for.

Mr. Kelsey: That is the purpose.

(Question repeated.)

A. The same evening?
Q. Yes, the same evening.
A. That is after the shooting?
Q. Yes.
A. He was to go to Dr. Poulson's, he had an appointment with Dr. Poulson about a lot that they were trying to get.

The Court: Don't go into so many little details but just tell us what he did.

A. Those were the only movements that he told me, only just where he had to go, that he had this appointment, and he went right to Dr. Poulson's house as soon as he left me at the Camden Ferry.
Q. Was there any arrangement made between you and Harry Mohr in the event that you were arrested?
A. Yes, sir.
Q. What did he say to you in case you were arrested?
A. Well, he had arranged with my wife to draw my salary all the time I was in jail.
Q. Anything further?

A. No, sir; only for me to tell her to see him and she could get my salary every week from the show as long as I was in jail.

Q. About the diamonds that were pawned, you stated that you were over at the pawnshop. In any conversation with Harry Mohr at that time did he tell you whose diamonds they were?

A. They belonged to Mr. Brunen.

Q. To Mr. Brunen?

A. Yes, they were his diamonds.

Q. What were they, do you know?

A. It was a stud and a ring.

Q. Had you seen them before?

A. Yes, sir.

Q. Where did you see them?

A. John used to wear them all the time.

Q. Well, what kind of a stud was it?

A. A diamond stud for a tie.

Q. A diamond stud for a tie?

A. For a tie, and the shirt, and a diamond ring that was on his finger.

Cross-examination.

By Mr. Keown:

Q. When were you arrested?

A. April 6th.

Q. Where were you arrested?

A. In Camden.

Q. And where in Camden?

A. In front of my house.

Q. Where had you been on the evening that you were arrested?

A. I was at a meeting of the Veterans of the Foreign War in Philadelphia.

Q. With whom were you employed at that time?

A. Harry Mohr.

Q. I thought I understood you to say on your direct examination that Harry Mohr offered you a job with the show for $75 a week and that you refused to work because you said you didn't want to work on account of your wife's condition. Did you say that?

A. That was to travel with the show.

Q. What were you doing with the show in the meantime after the shooting?

A. I was so worried that Mr. Mohr came over and told me to go over and take charge of Philadelphia for him, and I said "All right, just until the show opens in Philadelphia and closes and then I am through."

Q. What were your wages to be for the work that you did in Philadelphia?

A. There wasn't any wages set upon.

Q. How much money did you receive for the services that you rendered in Philadelphia?

A. I was only working about four or five days until I was arrested.

Q. Who employed you?

A. Harry Mohr.

Q. Did you have a conversation with Harry Pentum concerning your employment with him?

A. Yes, sir.

Q. Wasn't Harry Pentum the man that employed you?

A. No, Harry Mohr was the man that employed me.

Q. Who actually told you to go to work Harry Mohr or Harry Pentum?

A. I had this boy, I went there ——

Q. Answer the question, please. Who actually told you to go to work, Harry Mohr or Harry Pentum?

A. Well, Pentum says ——

Q. What did Harry Pentum says about going to work?

A. It was only to fool Harry Pentum, told me that Harry Pentum, outside the place—Mr. Mohr and Pentum and myself went over to a restaurant and we had something to eat, in the conversation—

The Court: Answer the question that counsel puts to you. He didn't ask you where you went to. He asked you what he said, wasn't it?

Mr. Keown: Yes, sir.

A. In the restaurant Pentum wanted to handle Philadelphia and wanted me to handle Camden.

Q. Can't you answer what Pentum said about your employment with the show?

A. I think that he did say something about $30 a week.

Q. And you were to receive a salary?

A. Yes.

Q. And Pentum fixed the salary?

A. No, Mr. Mohr fixed it.

Q. What did Pentum say if anything about the salary?

A. Your questions is all right but they don't fit in what Mr. Mohr—the understanding Mr. Mohr and I had.

Q. Never mind that. Just answer my questions.

A. What was your question?

(Question repeated.)

Q. What did Pentum say if anything about a salary?

A. Well, he didn't say anything that I know of. I just went to work.

Q. What excuse can you give for going to work for $30 a week when Harry Mohr had offered you a job for $75 a week?

A. Well, the $75 a week was to go along with the show. That was to be a contract, as soon as John was shot. But I didn't want to go out on the road, to travel on the road with my wife. My wife was not in condition to take on the road and I wouldn't leave her and that is the reason that I told him I didn't want to go out on the road. This $30 a week, but I don't remember very well whether we ever even came to an understanding as to salary or not, because his salary was not worrying me and wasn't worrying Mr. Mohr. I just went to work because he wanted me to quit me worrying so much after this shooting. I wanted something to take my mind off of it.

Q. How long after this shooting was it before you went to work?

A. I don't know.

Q. Figure up in your mind and tell me.

A. I suppose two weeks, three weeks after.

Q. Wasn't it longer than that?

A. I couldn't even say. I don't remember the days.

Q. How long after the shooting was it before you were arrested?

A. The shooting was on March 10th. I was arrested the 6th day of April.

Q. That would be less than a month?

A. Yes.

Q. How many days were you working after the shooting before you were arrested?

A. I don't remember.

Q. I want you to tell me how many days you were working the week before you were arrested?

A. I can't remember.

Q. Can't you stop and think?

A. I said four or five days. You asked me again and now I don't remember whether it was over that or not.

Q. Did you get paid for the four or five days' work?

A. Yes, sir.

Q. Who paid you?

A. Mr. Mohr.

Q. When?

A. Gave it to my wife.

Q. Did he pay you anything?

A. No, I wasn't working for the wages, I was only working for something to take my mind off.

Q. I understand that you have said that, but I am asking if he gave you any money.

A. Yes.

Q. How much did he give you for working?

A. The morning he pledged his diamonds he gave me $15.

Q. Was that while you were working with the Brunen show after the murder?

A. Yes, sir.

Q. What occasion would he have to give you $15 then? You had plenty of money, hadn't you?

A. No, sir.

Q. What had you done with this $500 or $600 that you say that Harry Mohr had given you?

A. He didn't give it to me all at once, he gave it to me paying room rent and sending me $50 and $25 and $20 more.

Q. When was the last of that prior to the day when the rings were pawned that he had given you money?

A. He gave me $25 the day I went to work for him.

Q. That was two or three days after he had given you the $15?

A. Yes, he gave it on the day I went to work.

Q. What had you done with the $25 to give you $15 two or three days later?

A. I had to live, had a wife and baby.

Q. And that $25 was exhausted for your wife and baby in those two or three days?

A. Well, it was exhausted some way.

Q. Any particular reason why there should be a particular sum of $15 which was given to you on that particular day?

A. Yes, he said that he pledged this diamond, that his sister had some money, that they couldn't get any money, that the estate was tied up and they couldn't get any money.

Q. Was that any reason for giving you $15?

A. Only that I needed money.

Q. You really needed money and that is the reason he gave you that?

A. Yes.

Q. You say three or four days after that that he gave you $25 which you had spent. Now when last had he given you money before the $25?

A. He gave me $50.

Q. When was that with relation to the time that he gave you $25?

A. Well, all of this money he gave me between the time I was arrested and the time of the shooting.

Q. I am just speaking of the $50, prior to the time he gave you $25, how long was it before?

A. I think a week or a little over; a week anyway.

Q. And you had consumed that $50 during that week?

A. Yes.

Q. When had he prior to that given you another payment?

A. He gave me $100, two $50 bills.

Q. And when did he give you that?

A. The morning of the murder, about twelve or one o'clock at night, on Monday night, before the funeral.

Q. When did he give you the other one?

A. The morning after the shooting.

Q. And there was still another one?

A. There was $50 he gave me, he sent his wife up to my house.

Q. How much money did he give you from the date of the murder up until the time you was arrested, taken in the order in which he gave them to you?

A. Up until the time I was arrested.

Q. The first one?

A. $50. The next morning, Saturday morning.

Q. That would have been March the 11th?

A. Yes, sir.

Q. When the next one?

A. Monday evening he gave me ——

Q. What date would that have been ?

A. Monday would be the 13th.

Q. On the 13th he gave you another $50?

A. He gave me $100.

Q. When did he give you some more?

A. The week following that.

Q. That would be on the 20th?

A. Yes, sir, I don't know what date, he gave me $50.

Q. It was a week later you would say it was on the 20th?

A. Yes, sir.

Q. How much that time?

A. $50.
Q. When did he next give you money?
A. He gave me $25.
Q. When was that?
A. That was after the $50.
Q. What date?
A. I don't know, sir.
Q. Approximately what date, how many days after he had given you the $50?
A. I couldn't say that.
Q. Can you approximate it for us?
A. Yes, but I may make it wrong.
Q. Are you sure of these other dates?
A. No, you said the 20th. I am sure on the 13th and 11th, but you said the 20th. It may have been a week later than the 20th.
Q. It may have been two weeks between?
A. Yes, maybe.
Q. We won't hold you to that.
A. Then the following week he gave me another $50 the following Saturday night.
Q. He gave you $50, $100 and $50 and the following week $50?
A. No, no, $25, this was, in the middle of the week then he gave me $50.
Q. What date was it he gave you the $25?
A. I couldn't say.
Q. Don't you remember when you went to work with the show?
A. It would be on his books.
Q. I am asking you to tell us.
A. The date wasn't worrying me. The shooting of Mr. Brunen is all that is worrying me.
Q. Isn't it material as to when you went to work for the show?
A. No, sir.
Q. Do you remember when you were arrested?

A. Yes.

Q. Do you remember how many days you worked for the show?

A. Four or five or six days.

Q. Can't you tell me?

A. About a week before I was arrested.

Q. Can't you tell us what date it was?

A. If you had a calendar.

Q. It is not a hard matter to figure that up. You know the number of days you worked for the show, to figure that out?

A. I don't know what day I went to work.

Q. Assuming it was four days?

A. It was longer than that, five or six days.

Q. Assuming it was six days, what date of the month would it be on?

A. It would be on the first of April, then I was arrested the 6th.

Q. You say that is about when it was that you got the money?

A. The $25 around that day.

Q. How long after you were in jail was it before you told anybody that you had anything to do with the tragedy?

A. The day I made the statement.

Q. When did you make that statement?

A. I think it was April 28th.

Q. Was that a voluntary statement?

A. Yes, sir.

Q. Had you been asked to make statements up until the time; during the time of your confinement and the time you did make a statement?

A. No, sir.

Q. You had not even been asked to tell anything about it?

A. No, sir.

Q. You had not been quizzed by the authorities?

A. Oh, yes, sir.
Q. Had they not asked you?
A. Yes, sir.
Q. What did the authorities ask you that led you to make the statement?
A. They asked me if I knew anything about it when I was arrested.
Q. What did you say on the night you were arrested?
A. I told them I knew nothing about it.
Q. When next after that was it that they asked you some more questions?
A. They never asked me again until I called for Mr. Parker and made a statement.
Q. And then you voluntarily made the statement?
A. Yes, sir.
Q. What was the condition you were in in jail from the time you were arrested until you made your statement?
A. Well, I don't know.
Q. Why don't you know?
A. I am no doctor.
Q. Did you have a doctor?
A. No, sir.
Q. A doctor did not attend you?
A. No, sir.
Q. Can't you tell us how you felt and how you acted? You certainly can tell us whether you were well or were not, can't you?
A. Yes, I wasn't very well.
Q. What was the trouble with you?
A. Well, this was on my mind.
Q. Did you ask for a physician?
A. No, sir.
Q. Did you need a physician?
A. I didn't ask for any, I don't think I needed any.

Q. Did the sheriff and others see you and see your condition?

A. There was no condition about it.

Q. You were not raving?

A. No, sir.

Q. You were not barking like a dog?

A. I was never crazy.

Q. I didn't ask you that. I am asking you if you were barking like a dog.

A. I would have to be crazy if I would.

Q. I am asking you if you were ever barking like a dog while in your cell?

A. No, sir.

Q. Did you ever do any other things that would seem as foolish to you as that?

A. I don't know.

Q. You don't know whether you did or not?

A. No.

Q. Did you attempt to commit suicide while you were in prison after you made your confession?

A. Well, do I have to answer these questions? Are there no objections to this?

The Prosecutor: I would answer them.

Mr. Davis: I would answer them and would so advise you as your counsel.

The Witness: I don't care to answer them. I don't care to answer them kind of questions.

The Court: Why not?

The Witness: It may lead up to something because I am in no condition now that I don't care to answer those questions, but I never barked like

a dog, but I have been in bad condition ever since I have been in, and I have had doctors, but I never barked like no dog. I heard those remarks, though, by Mr. Mohr, that he made those remarks about me.

The Court: The question is nothing more than about your symptoms.

The Witness: I was in a bad condition and I am yet.

Q. Will you answer the question I asked you? Did you attempt to commit suicide while in jail?
A. I bumped my head.
Q. Intentionally?
A. Yes, sir.
Q. For the purpose of committing suicide?
A. No, sir.
Q. Just tell us how you bumped your head.
A. I just bumped it.
Q. Can't you tell us what you did to bump your head?
A. The same as anyone else would do.
Q. Was it an accident?
A. No.
Q. Anyone who would intentionally bump their head would have a reason for it?
A. Yes, sir.
Q. What was your reason for bumping your head?
A. I guess it was the condition I was in.
Q. What was your thought what would happen?
A. I thought I would get to a hospital or some place, that is the reason why I bumped my head.
Q. Why did you want to go to a hospital?
A. Well, I thought I needed to go to a hospital.
Q. Had you asked for doctors?

A. No, sir, never had.

Q. But you thought it would have been the best thing to ask for a doctor if your mental or physical condition warranted it instead of attempting to bump your head.

A. Yes, sir, I was scared in the jail that night.

Q. What of?

A. I don't know.

Q. What were you doing in jail that night?

A. I was in jail the same as anyone else was, a prisoner.

Q. There was nothing to be frightened about that night, was there?

A. I don't care to answer these questions here.

The Prosecutor: May it please the Court, I was just wondering whether if the purport, or whether the questions are proper. Here's a man I think perfectly willing to tell all about it, but why these questions ——

The Court: Here is a man who confesses that he killed a man, that he shot him, then he says that somebody else induced him to do it. Now counsel is trying to test his credibility.

Mr. Davis: But it seems to me, I representing this man, I have no desire to impede the progress of the trial in this case. It is my business to see to it that this man unburdens himself. It does not seem, however, to me that this is proper cross-examination.

Mr. Keown: I want to at this time object to any question by Mr. Davis.

The Court: I think it is proper cross-examination, so that ends it.

Mr. Davis: It might just as well be determined now whether or not I have a right to rise in the defense of my client on the stand.

The Court: You have a right if there is anything brought out which implicates him, anything that isn't pertinent to this case, I suppose you would have a right to speak. The question as to whether this is proper cross-examination, I doubt your propriety in making that objection. I think it is a proper cross-examination.

Mr. Davis: My thought was this. My right to make such objections is based upon this principle. While my client goes on the stand he is a competent witness to be cross-examined on any subject concerning which he has testified, but he is not a party to the matter, and the extent of permitting any other person to cross-examine him beyond the proper limits ——

The Court: He is an accomplice, and you can't get that out of this case. He confessed to the condition of his mind and therefore the greatest latitude is allowed to the cross-examination of an accomplice, and I propose to adhere to that rule. If he is asked something which is going to implicate him in the commission of a crime, I should think then you would have a right to object. He wouldn't be obliged to answer the question whether he has attempted to commit suicide. He is not bound to confess he is guilty of a crime, but no objection was made and I heard none.

Q. There wasn't anything to be frightened about that night, was there?

A. Well, I don't know.

Q. Why don't you know?
A. Those questions couldn't be answered here. They haven't anything to do with this case.

The Court: That is not for you to judge. You must answer the question. I have cautioned you once. Unless they are such as are objected to on the ground that you are going to incriminate yourself of some other offense that you are not charged with. So far, I see nothing in the question that you are not bound to answer. What is the question?

(Question repeated.)

The Court: I don't know how he can answer that.

Q. What was there to frighten you in jail?

Mr. Davis: That is objected to as purely hypothetical.

The Court: He can ask him what there was there to frighten. Answer the question.

A. I don't know.
Q. Was there anything there to frighten you?
A. I don't know.
Q. Why do you say you were frightened?

Mr. Peacock: I object to that. He has already said he didn't know.

Q. Was there anything unusual about the condition of the jail that night?

Mr. Peacock: I object to that question. He has closed that by saying he didn't know.

The Court: Go ahead.

Q. Have you ever been frightened on any other nights?

A. I didn't say I was frightened. I said I don't know.

Q. I understood you to say you were frightened on the night you made your confession.

Mr. Peacock: He didn't say any such thing.

The Court: One moment. I don't want any talk back between counsel. I will rule upon the question.

(Question repeated.)

Mr. Peacock: I object to that question because the witness hasn't testified to that at all.

The Court: Did you make any such statement?

The Witness: What is that, sir?

The Court: Counsel understood you to say you were frightened that night when you made your statement.

The Witness: No, sir, I said I don't know.

Q. Didn't you say earlier here that you were frightened on that night?

A. Yes, sir.

Q. Were you frightened on that night?

A. I must have been.

Q. You were frightened on the night you made your confession?

A. I must have been.

Q. Have you been frightened any other nights you were in jail?

A. No, sir.

Q. You were in the same mental and physical condition all the time you had been in jail up until this night you made your confession?

A. I don't know, I am no doctor.

Q. You can tell us how you felt?

A. You can feel bad and have headaches.

Q. Did you have headaches?

A. No.

Q. Was there any other complaint you had?

A. No.

Q. You certainly know whether you were all right?

A. Only the weight of this Brunen case.

The Court: State what it was, that affected your mental state.

The Witness: No, it just made me in a weak condition, that was all, I guess.

Q. In what respect do you mean you were in a weak condition?

A. I didn't feel good.

Q. In what respect?

A. All over.

Q. In your head?

A. No, all over.

Q. Well, head is part of you?

A. Yes, I said all over. It will take in my head.

Q. What seemed to be the trouble with your head?

A. There was nothing that I know of, only this working on my mind.

Q. Had this been growing all the time you had been in jail, or did it all come upon you ——

A. No, it had been growing on me.

Q. Had you asked the authorities while this was growing on you to get you medical attention?

A. No.

Q. Had you been interviewed by any of the officials concerning the murder during this period?

A. No, sir, I don't think so.

Q. Don't you know?

A. I don't think so, they may have come in and asked me two or three questions and went away.

Q. How many times were they in between the time you were arrested and had this breakdown and made the confession?

A. Two or three times.

Q. What did they ask you?

A. If I knew different people.

Q. And you kept denying to the authorities that you did?

A. Yes.

Q. Had you seen anyone while you were in jail except the authorities?

A. That's all.

Q. What other questions except the questions who you knew connected with the show did they ask you?

A. They didn't ask me any.

Q. Didn't the authorities tell you they suspected you of this murder?

A. No, sir.

Q. They never asked you whether you did it or not?

A. Yes.

Q. That would infer they suspected you?

A. Yes, until they investigated, that was all I was held for it as far as I knew.

Q. After you found out their investigation warranted them in holding you further, did they hold

any conversation with you as to what they found out?

A. No, sir.

Q. In other words, this statement you made was a statement in detail without any suggestion on the part of the Prosecutor or of any of his assistants?

A. Yes, sir.

Q. And is the statement you told the Prosecutor the same statement you are telling here today?

A. Yes, I think—I didn't tell the Prosecutor, I told Mr. Parker.

Q. Is what you say here today the same thing you told Mr. Parker on that night?

A. No, sir, there was a foundation for it.

Q. Why didn't you tell it to him all?

A. I did tell it to him all but I didn't say anything about Mrs. Brunen.

Q. Why didn't you?

A. Because I didn't care to, I wanted to keep her out of it if I could.

Q. You had a breakdown?

A. I didn't have any breakdown until I made the confession.

Q. What made you make the confession? I understood you to say it was your condition that made you make your statement.

Mr. Davis: He hasn't said that.

The Court: Go on.

Q. Isn't that so?

A. No, sir.

Q. What did make you make the confession?

A. I wanted to get it off my mind.

Q. Did you tell the truth that night?

A. Yes, that day I did.

Q. That day you did tell the truth?
A. Yes.
Q. And you didn't implicate Mrs. Brunen in it?
A. No.
Q. Why not, because it was the truth?
A. Because it was a lady.
Q. Wouldn't that have further annoyed you, to have made a confession which was supposed to have been the truth and to have concealed that?
A. No.
Q. Did it not worry you after you had made your confession and eliminated Mrs. Brunen from it?
A. No, sir.
Q. Your conscience was clear?
A. Well, no, my conscience wasn't clear, after Mr. Mohr was arrested, my conscience wasn't clear then.
Q. Why not?
A. Because he denied it.
Q. He denied what you had said?
A. Yes.
Q. If you had not said the truth naturally Mr. Mohr would deny it.
A. No, I told the truth only I didn't implicate his sister.
Q. How did you know Mr. Mohr denied your story?
A. He didn't make a statement.
Q. How did you know that?
A. I was told later.
Q. By whom?
A. I don't just remember.
Q. You can easily tell us approximately who it was. Was it Mr. Parker or Mr. Kelsey?
A. No, I never saw Mr. Kelsey.
Q. It must have been Mr. Parker?
A. I don't know, I think it was.
Q. Or Mr. Cain?

A. I think it was Mr. Parker.
Q. What did they tell you?

The Court: He didn't say "they," he said Mr. Parker.

Q. What did Mr. Parker tell you?
A. He just tell me they denied the statement.
Q. What made you change your statement?
A. No, I just changed the statement, I thought I wiil tell the truth.
Q. Had you another attack?
A. No.
Q. You were being entertained by Mr. Parker during that period, were you not?
A. In my cell?
Q. No, on the streets.
A. Never was.
Q. Do you mean to say you have never been on the streets of Mount Holly with Mr. Parker?
A. From about two months, no, I have, but I have been with the deputy sheriff.
Q. Before you made your confession implicating Mrs. Brunen?
A. No, sir.
Q. Had you not been out on automobile trips with Mr. Parker?
A. No, sir.
Q. Have you been in Atlantic City with Mr. Parker in his automobile?
A. No, sir.
Q. Have you been to Philadelphia with Mr. Parker in his automobile?
A. Yes, sir.
Q. Have you been riding in the automobile with Mr. Parker and Miss Hazel Brunen since your incarceration?

A. I have had a deputy sheriff with me, Mr. Cairborn.

(Question repeated.)

A. One time.

Q. Have you been to a restaurant here in Mount Holly eating at the same table with Miss Hazel Brunen?

A. One time.

Q. In the custody of the constable?

A. Deputy sheriff.

Q. Were you handcuffed?

A. No, sir.

Q. Are you allowed to walk around the streets of Mount Holly unhandcuffed?

A. I don't know.

Q. Have you been walking around the streets of Mount Holly unhandcuffed?

A. Yes, sir.

Q. Was that before or after you made your confession?

A. I was never on the streets before I made my statement.

Q. And it has been a whole lot nicer since you made your confession?

A. Not for me.

Q. You haven't been handcuffed?

A. I don't enjoy that.

Q. You haven't been tied up in your cell?

A. Yes, sir, five months I have.

Q. How much liberty have you had before and since that time?

A. None.

Q. Were you not allowed out in the court yard?

A. No, sir.

Q. Were you allowed any recreating out of your cell?

A. No, sir.

Q. It was only after you made the confession implicating Mrs. Brunen that you were afforded these liberties?

A. I think the doctor can explain that better than I can. It wasn't by telling the truth they got me liberty, it was the condition I was in.

Q. Had the condition gotten worse?

A. Yes, sir, it has never gotten any better.

Q. Did the doctor attend you right after the night you made the confession implicating Mr. Mohr?

A. Yes, sir.

Q. How long did he keep treating you?

A. I don't know.

Q. Yes, you do.

A. For four months, I presume.

Q. Is he treating you now?

A. No, sir.

Q. Did you have any medicine today?

A. No, sir.

Q. Any stimulant today?

A. No medicine of any kind for five months.

Q. What kind of treatment did the doctor give you?

A. I don't know.

Q. Were there any injuries to your body?

A. I don't know. He gave me medicine after I bumped my head.

Q. I was asking you whether you had any additional liberties after you made your confession implicating Mrs. Brunen. Did you or did you not?

A. No, sir.

Q. Were you allowed to go out in the yard before you made your confession implicating Mrs. Brunen?

A. No, sir.

Q. You have been allowed out in the yard since?

A. Yes, I have; not since then, though, not ever since then.

Q. Were you allowed the privilege of the yard before you made that confession implicating Mrs. Brunen?

A. For about three months.

Q. For about three months?

A. Yes.

Q. And you play cards sitting out here in the yard?

A. No, sir.

Q. You don't play cards out here in the yard of the jail?

A. No, sir.

Q. You have never played cards out there?

A. Yes, I have.

Q. Why did you say you didn't play cards?

A. You said don't you. I said that I don't.

Q. What do you mean by no you don't?

A. Well, I don't now.

Q. You don't now?

A. I haven't since only probably a week, after I came out in the yard.

Q. How many times have you been permitted to sit out there and play cards?

A. I was told to do something, anything to occupy my mind, by the sheriff.

Q. How many times have you been permitted to play cards?

A. Any time I wanted to.

Q. Any time you wanted to?

A. Yes, sir.

Q. Where do you play the cards?

A. In the kitchen.

Q. And how late at night do you stay there and play cards?

A. Around nine, nine-thirty.

Q. After the other prisoners are in bed?

A. No.

Q. After the other prisoners are locked up?

A. No, I was allowed out an hour or two in the evening.

Q. You were allowed out also in the daytime?

A. No, sir; only a few times in the daytime.

Q. How long would you be out in the yard?

A. In the evening?

Q. In the evenings, when you would play cards.

A. An hour or two.

Q. Did you choose to go out at night rather than in the daytime?

A. No, sir.

Q. Who chose it?

A. It wasn't me. I didn't ask.

Q. You played cards?

A. Yes, sir.

Q. How many times?

A. I don't know.

Q. Approximately.

A. I couldn't tell.

Q. With whom did you play?

A. Some of the boys.

Q. Other prisoners or trusties?

A. Prisoners.

Q. Were they not all trusties?

A. I don't know, sir.

Q. Were they not all given their liberty? None of those men were locked up in cells, were they?

A. I don't know.

Q. Now you do know, don't you?

A. No, sir.

Q. Didn't you see these men around all the time not in cells?

A. No, I think they locked them up around eight o'clock.

Q. Who would you play cards with around nine o'clock?

A. Boys in the kitchen.

Q. Then they were trusties, were they not?

A. I guess so.

Q. And all of the rest of the prisoners had been locked up for the night and you were permitted to stay there and play cards with the trusties?

A. With the guard.

Q. With the guards and the trusties that were loose, that were not even in their cells for night?

A. Yes, they were men in the prison. I don't know whether they were trusties or not.

Q. How many times were you taken from the jail on pleasure trips?

A. Never.

Q. Haven't you been in an automobile?

A. I never was out on what you call a pleasure trip.

Q. What was it?

A. Only for my health is all.

Q. Wasn't that pleasure? Did you go out in an automobile for your health?

A. No, sir.

Q. It was not for your health?

A. It was better than being confined.

Q. It was a whole lot more pleasant, wasn't it?

A. Better than being confined.

Q. How long would you be on these automobile trips? How long would they last?

A. I only would maybe be out an hour or two.

Q. It lasted that long?

A. Yes.

Q. Did you ever go on a fishing trip?

A. Never did.

Q. Ever go hunting?

A. Never did.

Q. Tramping through the woods?

A. Never did.

Q. When did you first meet John Brunen?

A. About nine years ago, eight or nine years ago, I knew Mr. Brunen.

Q. Why did you shoot John Brunen?

A. I don't know.

Q. Why don't you know?

A. Only on account of Mr. Mohr, that is all I know.

Q. Why do you say you don't know?

A. Well, you asked me why I shot him. I said only on account of Mr. Mohr.

Q. If some one would ask you to go kill a man would you do it?

A. No.

Q. Why did you do it in this particular instance?

A. Well, he kept after me for five months, that is the reason, I guess.

Q. If another man kept after you five months would you go and kill a man if he asked you to?

A. No, sir.

Q. Why did you go and kill Mr. Brunen if he wanted you to do this?

A. Well, he was supposed to be my best friend.

Q. Well, you certainly knew that he was not your best friend when he wanted you to commit a crime, didn't you?

A. No, sir.

Q. Didn't you have sense enough to realize that your best friend was getting you into a deep rut by asking you to commit murder?

A. Yes.

Q. Why didn't you do it?

A. I didn't really think that it would ever come off.

Q. You didn't even think that it would ever come off?

A. Didn't really think it would ever happen.

Q. Then why did it happen?

A. I don't know, only on this night.

Q. What reason can you give for losing so much self-control of yourself that you went and shot another man because another man wanted you to?

A. Only by being asked to by Mr. Mohr, kept after me all the time, telling about the trouble that he was having at home, killing his mother and his sister.

Q. They were not interesting to you, were they?

A. No.

Q. Why didn't you tell Harry Mohr to do it himself?

A. I wish he had done it himself.

Q. Why didn't you tell him to do it himself?

A. He was supposed to do it in the beginning.

Q. Then why did you do it?

A. Well, he broke the gun, he broke the first gun and sawed the butt of the other gun off, the double-barrel, so it would fit my arm, just to lead me to do it.

Q. Then there were arrangements made for you to do it?

A. Certainly.

Q. How long were these arrangements made for you to do it?

A. At the same time he got after me again that he was willing to do but just as long as the two of us did it it was all right.

Q. How long were arrangements made for you to commit this crime?

A. They never was.

Q. I thought you said the gun was sawed off to fit you?

A. It was.

Q. When was that done?

A. Right after the other gun was broke.

Q. Then you knew that Harry Mohr was not going to commit the murder but you were going to, didn't you?

A. No, that is what he told me.

Q. What did he tell you?

A. He told me he was going to saw it off so it would fit my arm, but he could do it just the same.

Q. Told you it would fit your arm?

A. Yes.

Q. Then you perhaps thought he was going to commit the murder?

A. Didn't make any difference which.

Q. Had there been any talk that perhaps you would do it?

A. Yes.

Q. How long before that?

A. He was supposed to know Mr. Brunen's car better than I did, and he knew Mr. Brunen a whole lot better than I did, and at the beginning he was to wait on ahead with a flashlight, and as the car came by he would flash the light three times, and as the car passed me I was to shoot into it.

Q. You didn't do that?

A. No, sir.

Q. On this night Harry Mohr was away from you about five or ten minutes before you committed this murder, wasn't he?

A. Yes, sir.

Q. After he met you on that night why didn't you fool him and go somewhere else instead of committing the murder?

A. I did, sir. I fooled him for five months.

Q. Why didn't you fool him that night?
A. He had me crazy.
Q. You were crazy?
A. No, I wouldn't say I was crazy.
Q. I thought you said he had you crazy?
A. He did.
Q. What do you mean by that?
A. By just talking to me.
Q. That made you crazy?
A. Yes, just putting it into my head.
Q. What do you mean by being crazy?
A. Well, I don't mean radically insane, but he had me—just worked into me so that I was just really crazy, that was all.
Q. You could have very easily, had you not been crazy, instead of going to the Brunen home and shooting, you could have gone there and said, "John Brunen, Harry Mohr sent me here to kill you and I am not going to do it," couldn't you? Why didn't you do that?
A. I could have done it.
Q. Why didn't you do that?
A. Because he was supposed to be my best friend.
Q. And you realized that your best friend was getting you into the worst thing that it was possible for you to do?
A. Yes.
Q. And didn't you have sense enough to realize that?
A. Not the way that he talked about Mr. Brunen.
Q. In other words, you thought that you were doing a terrible thing killing Mr. Brunen?
A. Well, I didn't know.
Q. Why didn't you know?
A. Well, I just don't know.
Q. You either killed him because you thought it

was right to kill him or you killed him because you knew it was wrong to kill him, didn't you?

A. Yes.

Q. Now why did you kill him?

A. I knew it was wrong, but the way he talked, he would lead you to believe that it was not.

Q. Well, you didn't believe that it was right, did you?

A. I knew it was not.

Q. You knew it was wrong?

A. Yes.

Q. And you knew it was wrong when you left the car, didn't you?

A. Yes.

Q. Why didn't you go and not do it and tell somebody about it?

A. Sir?

Q. Why didn't you then not do it and go and tell somebody that Harry Mohr had sent you to do it and you were not going to do it?

A. I wish I had now.

Q. Was it for the money that you killed him?

A. No. I don't know.

Q. Was that an incentive for you to do it?

A. He had me down to such a condition and with what he was telling me, that he had no money and I had no money, Mr. Brunen was going away, and there was no money out to the house, and he was going to New York the next day, and to be gone for two or three days, and how could he live or we live; he had no money, and it just had to be done.

Q. And you just followed his advice?

A. That is all.

Q. You knew a way of getting money without going and killing some man, did you not?

A. Yes, sir.

Q. You had always been a successful business man before?

A. Never had done anything like that.

Q. I say you had always been a successful business man before?

A. I wouldn't say that.

Q. You had always gotten along financially?

A. Yes.

Q. Always made a living?

A. Yes.

Q. Always knew how to make a nice living?

A. I had up until that time.

Q. And you knew that you didn't have to kill a man to make a living?

A. Yes.

Q. You knew if you went to work for somebody at the end of the week you would get your pay?

A. Yes.

Q. You knew when you went to work and killed some one you would be very uncertain that you would be paid for it?

A. Yes.

Q. But still you took a chance?

A. Yes.

Q. Was it for money?

A. I think it was.

Q. You needed money?

A. It wasn't any more the money than it was sympathy for his family.

Q. You a moment ago said that it was not that you thought you were doing a right?

A. I can change my mind. I know what is in my mind.

Q. Do you change your mind again now?

A. No, it was for the sympathy for the family and the condition I was in; the condition I was in

and what he was telling me, what was going on between his family.

Q. Then why did you kill John Brunen?

A. For those conditions.

Q. What conditions?

A. What I just explained to you.

Q. Was it because you realized you were doing wrong?

A. No, not because I realized I was doing wrong.

Q. You didn't realize that you were doing wrong?

A. Yes.

Q. Then it was because you realized that you were doing wrong, was it not?

A. No, sir.

Q. How long did it take you to walk from the car over to where John Brunen was in the window?

A. I say I knew I was doing wrong when I did it, but I never expected it to come off.

Q. You never expected it would come off?

A. No, sir; I had prolonged it from November to March 10th, and in another three weeks the show would have been on the road and it never would have happened.

Q. How long did it take you to walk from the place where Harry Mohr parked the car to where John Brunen was at the window?

A. Five minutes.

Q. Nobody was along there to keep sicking you on?

A. It was only a five minutes' walk.

Q. You can think a lot in five minutes, can't you?

A. Yes, I guess you can.

Q. Did you have the gun in your hand?

A. No.

Q. Did you run from Cambridge where the car was, over to the Brunen home?

A. No.

Q. Walk over?
A. Yes.
Q. Had plenty of time to think what you were going to do?
A. Five minutes.
Q. You were in your right mind when you were walking over there?
A. I don't know.
Q. Can't you remember?
A. No.
Q. Insane, were you?
A. No.
Q. After you got over there where did you go, into the garage?
A. Yes.
Q. Did you get the gun?
A. Yes.
Q. Where was the gun?
A. Upstairs in the hay-loft.
Q. Did you know where the gun was?
A. Yes.
Q. Had you put the gun there?
A. No.
Q. Had you ever seen it there?
A. Yes.
Q. Did you see who did put the gun there?
A. Yes.
Q. Had you ever seen the gun between the time it was put there and the night you went after it?
A. Yes.
Q. How many times?
A. Every time that Mr. Mohr saw it, I guess.
Q. How many times did you see the gun upstairs?
A. I don't know.
Q. Can't you give us some idea?
A. I was out there twenty-five or thirty times. I didn't see the gun every time.

Q. How many times did you see the gun when you were there?

A. I don't know.

Q. Approximately how many times?

A. I couldn't say.

Q. Four or five?

A. More than that.

Q. What occasion did you have to go look at the gun?

A. We would go up in the attic to keep the gun oiled so it wouldn't rust.

Q. What occasion did you have for looking at the gun?

A. Going up with him.

Q. I know, but what occasion would you have to go look at the gun?

A. I would go up with him.

Q. Why would you and he go up, just to look at the gun?

A. No, sometimes he would oil it when we were up there.

Q. Why would you oil the gun?

A. To keep it from rusting.

Q. Well, it wouldn't rust if you used it and got rid of it, would it?

A. No.

Q. Do you know anything about a gun?

A. No, sir.

Q. How often does a gun have to be oiled to keep it from rusting?

A. I couldn't say. I never owned a gun.

Q. How long was the gun up there in the attic?

A. From the first time that Mr. Mohr went to Baltimore to try to get the Timonian, Maryland, State Fair. When Mr. Mohr went to Baltimore he took the gun out of his car and placed it up in

the attic, on account of Mr. Brunen wanting to use his Ford coupe to go back and forth to Williamstown.

Q. Did you ever handle the gun while it was up in the attic?

A. Yes, sir.

Q. How many times?

A. Four or five times.

Q. When was it you shot that gun off before that night?

A. The day we bought the guns.

Q. Where was that?

A. On the River Road.

Q. Where on the River Road?

A. I don't know; along the River Road. There is a cement road, was not much travel on it.

Q. Who cleaned the gun out after you shot it along the River Road?

A. I don't know.

Q. Where did you clean it?

A. I don't think it was cleaned.

Q. You mean to say that the gun was shot off along the River Road and that same gun was being oiled to keep it from being rusty and it never had been cleaned?

A. These two guns, he shot one and I shot the other one.

Q. Which was the one you shot?

A. He had them together in his car and took them to Riverside. He kept them in his car all the time.

Q. Who cleaned the gun that you shot?

A. I don't know. The one I shot was a single barrel and he used the double-barrel. We broke the single-barrel and only had the double-barrel.

Q. Who loaded the double-barrel gun on the night of the murder?

A. The shells were in the gun.

Q. How do you know?

A. They were there.

Q. Did you look before you shot?

A. They must have been there, or they wouldn't have shot.

Q. That is not my question. I am asking you if you examined the gun before you shot it.

A. Yes, I looked to see if the shells were there.

Q. Then the shells were in there?

A. Yes.

Q. Where did you break the gun and look at it to see that it was loaded?

A. In the garage.

Q. Did you have a light?

A. No.

Q. Could you see in the dark?

A. Yes, sir.

Q. What part of the garage were you in when you examined the gun?

A. Just come out of the hay-loft.

Q. How long did it take you to examine the gun?

A. Just long enough to break it and see that the shells were there.

Q. Are you familiar with breaking a gun?

A. Never owned a gun in my life.

Q. Then it was hard for you to know how to break that gun?

A. No.

Q. You were familiar with breaking the gun?

A. Yes.

Q. And you examined that gun and found it was loaded?

A. Yes, only two shells were in there. There were only two shells. The other shells were in Mr. Mohr's car in a grip.

Q. When you came out of the garage did you go to the window?

A. No, I didn't go to the window.

Q. Where did you go?

A. Went to the side of the barn.

Q. What did you do on the side of the barn?

A. I was waiting for one of these trains to come.

Q. How long did you have to wait?

A. I don't know.

Q. Approximately.

A. Five minutes. There was a dog in the yard.

Q. Did you know the dog?

A. Yes.

Q. Did the dog know you?

A. No.

Q. Did the dog bother you?

A. Only barked.

Q. Did you speak to the dog?

A. No.

Q. Were you afraid of the dog?

A. Oh, I don't know. Sure, I would be afraid of him. I didn't know the dog. He belonged to Mrs. Brunen.

Q. When did the dog first notice you, before you went to the garage or afterwards?

A. He didn't notice me; he was just barking.

Q. The dog must have noticed you to bark at you?

A. He didn't come out where I was.

Q. Where was the dog in relation to where you were standing?

A. He was standing right by the kitchen porch.

Q. After the first train went by what did you do?

A. Mrs. Brunen came to the door, opened the door and called the dog in, put the dog some place, and went out of the kitchen.

Q. How do you know she went out of the kitchen?

A. I could see from where I was standing.

Q. Into the kitchen?

A. I was standing by the side of the barn, on the right-hand side of the barn, where I could look right into the window.

Q. And how many windows in the back of the house?

A. Two.

Q. Were curtains there on both windows?

A. Yes.

Q. You could see through?

A. Yes, sir.

Q. Were there lights in any other part of the house?

A. I don't know, sir. I never was around the house.

Q. Weren't you looking to see where Mrs. Brunen went?

A. No, she went right out of the room.

Q. Where did she go?

A. I don't know.

Q. Couldn't you see whether she went in the next room or not?

A. She went out of the room, went in the next room, but I don't know where she went after she went out of the kitchen.

Q. Was there a light in the dining room where she went?

A. I don't know.

Q. Couldn't you see from where you were looking whether there was a light in the second room or not?

A. I wasn't paying any attention to that.

Q. You mean to say you were only looking in the room where there was a light and you saw Mrs.

Brunen walk out of that room and don't know whether she walked in the darkness or light?

A. After she called the dog in she left the kitchen. Where she went I don't know.

Q. You could certainly see what room she went into?

A. She went into the room leading off the kitchen.

Q. Was that room lighted or in darkness?

A. I don't think it was. I am not sure. I don't know.

Q. Don't remember what, whether it was light or dark?

A. No, sir.

Q. Were there any lights in any other part of the house?

A. I don't know.

Q. Didn't you look?

A. No, there wasn't upstairs in the back, I know that.

Q. Weren't you anxious to know where she went?

A. No, I knowed she was going to leave the kitchen right away.

Q. What, if she had to walk back in the kitchen?

A. She wouldn't walk back.

Q. You knew she wouldn't walk back?

A. Yes.

Q. You didn't know whether she walked in a lighted room or a dark room?

A. No, sir.

Q. Were there any lights upstairs after she left?

A. No, not in the back part of the house. I wasn't around front.

Q. How long was it before the next train came along?

A. I don't know; three or four minutes, I guess.

Q. How long was there supposed to be between trains?

A. I think there was two or three minutes between trains.

Q. Do you know whether the trains went through on time or not?

A. I don't just remember. I think there was three or four minutes in between two trains.

Q. Which way did the early train go?

A. Went to Riverside.

Q. And the other train?

A. Went to Camden, toward Camden.

Q. And where was the train which was going toward Camden when you went over toward the window?

A. It was about in front of the house.

Q. Right in front of the house?

A. About in front of the house.

Q. And the train then kept on going?

A. Yes.

Q. Then you ran up to the window?

A. Yes.

Q. Why didn't you get up by the window before the train arrived at the Brunen home?

A. I don't know.

Q. That is where you were supposed to be, wasn't it?

A. Yes.

Q. Didn't I understand you to say that you were to shoot at the same time the train went by?

A. Yes.

Q. Did you hear the church bells ringing?

A. Yes, sir.

Q. They were ringing before or after you shot?

A. I don't even remember whether they were ringing at the same time, or I believe they were ringing at the same time of the shot, I am not sure.

Q. Wasn't that impressed upon you, to hear the church bells ringing when you were about to commit a murder?

A. Yes.

Q. Didn't that stop you?

A. I never thought about that.

Q. You never even considered the church bells ringing?

A. Yes.

Q. Is that so?

A. I just heard a bell ringing and after that I do remember now that there was bells ringing.

Q. There were church bells ringing?

A. It must have been church.

Q. And you shot while church bells were ringing?

A. I don't know. I shot when the train passed.

Q. Well, you heard the train?

A. I saw the train.

Q. And could you not hear the church bells at the same time?

A. I don't know whether they were then ringing at that time.

Q. You said you remembered hearing the church bells ring?

A. Before.

Q. Before what?

A. I don't know whether they were ringing at the same time that the train passed or not.

Q. Did you stand on the ground when you shot?

A. Yes.

Q. Did you take an aim?

A. No, just ran up in a crouching position and stood up and shot and turned around and ran.

Q. Why did you only shoot once?

A. I don't know.

Q. How many times were you supposed to shoot?

A. He told me to shoot twice, told me to pull both barrels but what I got him.

Q. Why didn't you shoot the other barrel?

A. I thought one was enough.

Q. You were following instructions, weren't you?

A. No, I wasn't.

Q. Well, up to that moment you had followed every instruction that had been given you, had you not?

A. Almost.

Q. What had you done that you had not been instructed to do?

A. Well, I said almost.

Q. Well, tell me why you say almost instead of all?

A. Well, I don't know.

Q. You don't remember anything you did with the exception of not shooting twice that you were told to do, do you?

A. I don't know.

Q. What do you mean by you don't know?

A. I don't know.

Q. You don't know or you don't remember? t

A. That is the best answer I can give you, I don't know.

Q. You don't know whether you were instructed or not? Why didn't Harry Mohr go with you over there?

A. Every time he came over nothing was ever done.

Q. He lost his nerve?

A. I don't think he ever intended anything to come off while he was there.

Q. And he had more effect upon you three or four blocks away than he did if right alongside of you?

A. Yes, he didn't want to be seen around the Brunen home.

Q. No, that is not my question. I am asking you if he had more effect upon you being three or four blocks away than he did being right alongside of you.

A. No.

Q. Did you ever have the gun out before about to shoot?

A. No, the gun has been out four or five times but never to shoot.

Q. What has it been out for?

A. That is, to be taken down while he was looking around to find Mr. Brunen.

Q. When was that?

A. Nights previous to that. I don't know just when. I was out there twenty-five or thirty times, I guess, twenty or twenty-five times, out with him to Riverside.

Q. You saw while you were getting the gun out of the garage hunting for John Brunen?

A. No, I didn't say I did.

Q. Isn't that what you said?

A. No, I didn't.

Q. What was it you said?

A. I said that the gun was out four or five times while he was around the house looking for John Brunen, while I had the gun alongside the barn, while he was out looking for John I would go up and in the attic and get the gun. He couldn't find John and we would put the gun back and go back.

Q. John Brunen was never home when you were out there on any occasion?

A. Yes, I guess he was.

Q. You have been in the Brunen home?

A. Yes.

Q. How long prior to the tragedy were you in the Brunen home?

A. I was in there one night.

Q. How long prior to the tragedy was it?
A. I don't know.
Q. Approximately?
A. I couldn't tell.
Q. Were you friendly with John Brunen?
A. Friends?
Q. Yes.
A. So far as I know I was.
Q. On speaking terms?
A. Yes.
Q. Did you have a conversation with John Brunen on the night that you were out prior to the tragedy?
A. No, he wasn't there.
Q. Weren't you out there one night that John Brunen was home prior to the tragedy?
A. Never was.
Q. What excuse did you have for going out to that house when John Brunen was not there?
A. Went with Harry.
Q. For what purpose?
A. For no purpose, only we went out for him some night and he wasn't home, so I went in the house with Mr. Mohr.
Q. What conversation did you have that night before you went to the house?
A. With who?
Q. With Harry.
A. Well, everything was the same thing.
Q. What?
A. It was always get John Brunen.
Q. Why would you go in the house to get him?
A. We didn't go in there to get him.
Q. Why did you go in the house?
A. Just went in with Mr. Mohr.
Q. Wouldn't that look suspicious, go into Brunen's house, a man you were going to murder?
A. No, I left before he came back.

Q. What would you have said if he had come home?

A. He wouldn't have said anything.

Q. Who wouldn't?

A. Mr. Brunen.

Q. Wouldn't have said anything?

A. No, as far as I know he was a good friend of mine.

Q. Had you ever had any misunderstanding with John Brunen?

A. Never had any personal.

Q. Did you testify for John Brunen in his murder trial?

A. Yes, sir.

Q. You testified on his behalf?

A. Yes, sir.

Q. You had no misunderstanding with him over that?

A. No.

Q. Did you see the shooting leading up to the case that you testified for?

A. That was six years ago when he was arrested for that.

Q. That doesn't answer the question.

A. What was the question?

Q. Did you see the shooting which led up to the testimony which you gave for Mr. Brunen?

Mr. Peacock: I object. The testimony of another crime in no way connected with this crime, four or five years ago, that this witness testified to, has no connection, not relevant to this case.

The Court: I suppose you want to show the relations between this witness and Mr. Brunen?

Mr. Peacock: If it is for that purpose I with-

draw my objection, just to show the relations between the witness and Mr. Brunen.

Mr. Keown: That is the purpose.

Q. Did you see the shooting at that time?
A. At Mount Carmel?
Q. Yes.
A. I was probably a little further than the first pole is from him when the man that he shot dropped dead.
Q. You were standing right on the ground?
A. I was on the lot, yes.
Q. Did you have any misunderstanding with Mr. Brunen about that?
A. I never did.
Q. Did you ever have any quarrels with Mr. Brunen?
A. Never did in my life.
Q. He chased you off the ground?
A. Never did.
Q. I thought you said you left him, in your direct testimony, that you and Harry and another boy, Coleman, left him?
A. There never was a word spoken to me by Mr. Brunen which would even show that he was mad at me.
Q. Did he ever chase you off the lot?
A. Never did.
Q. Ever complain about you being intoxicated on the lot?
A. I don't know whether he did or not. He never said anything to me.
Q. Were you ever intoxicated around the lots?
A. I don't know.
Q. Why not?
A. I don't know.

Q. You know what it is to be intoxicated?
A. No.
Q. You don't know?
A. Well, what is your views on it?
Q. Well, I am not on the witness stand.

The Court: Isn't that going a little too far?

Q. Were you intoxicated on the night you committed this murder of John Brunen?
A. No, I don't think I was intoxicated, unless if you get a drink of whiskey some say you are intoxicated, that you are not sober. I drank nearly half a pint of whiskey, white whiskey, and that don't make you drunk. I didn't know I was. I don't think I was intoxicated. But it warmed me up and made me a whole lot meaner than I would be if I really had nothing in me.
Q. Did you ever drink anything else but whiskey?
A. That is all.
Q. What time of night was it that you met Harry Mohr on the night of the tragedy?
A. I think around 6.15.
Q. Met him by appointment?
A. Yes, sir; at the post office.
Q. Where did you go?
A. He drove his car up and got out of his car and went across to the cigar store and got a cigar.
Q. Where was the cigar store?
A. Across the street from the post office.
Q. How did he drive his car if you met him in front of the post office and he went to get a cigar?
A. He didn't drive it.
Q. I misunderstood you. After you got the cigar where did you go?
A. I didn't get a cigar, he did.
Q. Did he give you one?

A. No, I smoked a cigarette.

Q. After you got in the car where did you go?

A. Turned around and went right to Riverside.

Q. By what road?

A. Out Federal Street to 26th, went around the policeman there at 26th Street.

Q. What do you mean by going around a policeman?

A. He didn't want to see him.

Q. I say what do you mean by going around him?

A. So he wouldn't see him.

Q. What do you mean by going around him?

A. Going around a policeman?

Q. Yes.

A. He didn't want the policeman to see him pass again going to Riverside. We had to pass by him going down into Camden.

Q. What do you mean by going around him?

A. I was in the car and so was Mr. Mohr.

Q. But I don't understand what you mean by going around him.

By the Court:

Q. What did you do to go around him? In what way did you go around him?

A. He got off a side street till he got around him, I don't know just what street.

By Mr. Keown:

Q. To evade him?

A. Yes.

Q. Now what street did you pull on?

A. I don't know. We ran right the street that goes to the Burlington Pike.

Q. I am speaking before you got to this traffic post. Where did you meet him then?

A. The first street this side of the traffic post.

Q. This side or the other side?

A. This side.

Q. Then where did you get to?

A. Went around him till we evaded him and then got around on that street again.

Q. Where did you detour?

A. I couldn't say.

Q. You were in the car?

A. That was not in my mind at the time, to figure just how he went.

Q. Get it in your mind today. What streets did you go on?

A. I might if you were in a car take you over that.

Q. Can't you tell us without being in a car and taken over?

A. No, he turned to his left and evaded the officer for a couple squares and got back in the street again.

Q. Do you know of any way by which you can turn up 25th Street?

A. I don't know whether it was 25th Street.

Q. Where was the traffic officer?

A. I think 26th Street, where he used to stand there.

Q. You say you turned to your left one street nearer Camden than the traffic officer was?

A. Yes. I knew where he was. I don't know.

Q. When you made that turn to your left how many blocks north did you go?

A. I don't know; just one, I guess. I don't know, but I know he evaded him.

Q. After you went that one block what direction did you detour?

A. We got out on the track that the Westfield car runs on. I don't know how he did but he did it.

Q. Did you follow the tracks?

A. Right out to the Burlington Pike.

Q. I mean before you got to the pike, the Burlington Pike.

A. Not as I know of.

Q. Where did you hit the trolley track after you pulled out on 25th Street?

A. I couldn't say.

Q. Can't you give us some idea of where it was?

A. No, I couldn't. I know he evaded him and got back on the street that the Westfield car runs on.

Q. You evaded him, and he did; what street were you driving on?

A. If I drove the car I could tell you better. He was driving and I don't know.

The Court: He says he doesn't know. Why persist?

Q. After you hit the Burlington Pike where did you go?

A. Right straight to Riverton. You ride down the Burlington Pike until you come to the Riverton Road, the road that leads into Riverton, and then you pull into Riverton, turn to your left, the road leads right into Riverton.

Q. Then what did you do after you got to Riverton?

A. Went right straight to Riverside, or stopped at Cambridge; that is about three squares, I presume, from the Brunen home.

Q. Did you drive through Riverton?

A. Not through; we evaded Riverton entirely, and Palmyra both.

Q. How could you get into Riverside without going through Riverton?

A. This road takes you to the extreme end of Riverton.

Q. Which extreme end?

A. The closest end to Riverside, and about one block from the railroad track, before you cross the railroad track, there is a street that turns to your right, runs two blocks up and turns to your left and goes right straight across the railroad track and evades them, Riverton and Palmyra.

Q. How is it that you remember all that so correctly and can't remember back at 26th and Market?

A. All right, if you want to know.

Q. I want you to tell me the road you went from 26th and Market and you couldn't tell me, and you remember this so accurately.

A. It was raining that night, that was the reason. There was water on the glass. I don't remember just how he went to get around this officer, but I know he turned around one square this side of 26th Street to evade the officer.

Q. You have told us you didn't know that. I ask you if you remember that it was raining and don't remember at 26th Street, how is it you remember so accurately out at Riverton?

A. Because when we drove there we went around Riverton.

Q. Well, you passed other roads and I am asking why you remember one and don't remember the other. Is there any reason for that?

A. No, I don't think so.

Q. Then, after you got to, this road from the Browning Road over to the Burlington Pike, over to Riverton, you bore to your right?

A. Burlington Road?

Q. Burlington Pike. You bore to your right?

A. About one square from the railroad track, before you come to the railroad station at Riverton, you turn to your left. There is a street leads to your left. You turn to your left and then go across the railroad track, and that evades Riverton and Palmyra.

Q. That is where you went?

A. Yes.

Q. You remember that very distinctly?

A. Yes.

Q. How you detoured around most of Riverton?

A. Yes, sir.

Q. Where did you park the car on the night of the tragedy?

A. I don't know where he parked it. He is supposed to stay in the car and to be right there.

Q. Where was the car when you got out of the car?

A. Cambridge station.

Q. Was the car parked there?

A. No, he was in the car.

Q. Was the car there when you got off?

A. The car was there by the station. He was in it when I came off.

Q. Then the car was parked there, wasn't it?

A. I don't know what he done between the time I was gone until I got back.

Q. But the car was there in the same place when you got back as when you left it?

A. The car was still creeping along when I got out of the car, just moving.

Q. Did you jump out of a moving car?

A. It wasn't moving fast, just bringing it to a stop.

Q. Why didn't you wait until the car stopped before you got out?

A. I couldn't answer that question.

Q. Were you in a hurry?

A. I don't know.

Q. In what way did you walk in going from the car to the Brunen home?

A. I went up the road, crossed over the railroad track and walked down the railroad track.

Q. How far down the railroad track?

A. To the Brunen home.

Q. In front of the Brunen home?

A. Yes.

Q. Were there any lights in front of the Brunen home when you arrived in front of the Brunen home?

A. I don't think so. I don't remember of even looking.

Q. You were curious to know who was going to be there, were you not?

A. No, I wasn't. I knew that John was there, because Mr. Mohr told me.

Q. You were curious to know who was there, weren't you?

A. No.

Q. You were curious to find out whether there was anybody standing on the front pavement, were you not?

A. No, I was on the road.

Q. When you crossed the railroad track in front of the Brunen home?

A. I didn't cross the railroad track in front of the Brunen home.

Q. I misunderstood you. Where did you cross it?

A. I went down the first square beyond the Brunen home and crossed it.

Q. Then you didn't get in front of the Brunen home?

A. I was in front of it, passed by it, but didn't turn into the Brunen home, I walked past it.

Q. You went further into Riverside past the Brunen home?

A. Yes.

Q. Why?

A. I don't know. I just went by that street where Mr. Mohr had showed me how to get into the back of it.

Q. You went about a block?

A. Yes.

Q. Do you know where Rancocas Avenue is?

A. No, I don't know any streets.

Q. This is supposed to be the Brunen home and here is New Jersey Avenue (indicating on map), and here is Rancocas Avenue; you went past Rancocas Avenue? I say you went up there past the Stecher house?

A. Yes.

Q. And around and came in the back?

A. Yes.

Q. Why didn't you get from the railroad crossing, which was right over to the rear of the garage?

A. Well, I knew this route better.

Q. The other road was the nearest road, wasn't it?

A. No, it was the farthest.

Q. The road you took was the farthest?

A. Yes.

Q. Did you get out in the rear between the garage and the house?

A. I came out on Rancocas Avenue, I guess, ran across Rancocas Avenue.

Q. How did you get on Rancocas Avenue, across lots or around streets?

A. No, I crossed the street. I came up on the back end of their lot, out through that alley there, not the way I came in, but the same alley I came

in. But I went out and I ran across Rancocas Avenue into another field.

Q. I am not taking you away, I am taking you to the garage. Tell us how you came to the garage. You passed Rancocas Avenue?

A. I came in, in around by the way of the church.

Q. Through the streets or through the lots?

A. There is no lot there, there is an alley there.

Q. An alleyway that brought you in on the Brunen lot?

A. Brought me into the back end of the Brunen lot.

Q. The back of the garage or between the garage and the house?

A. The back end of the lot. The garage does not set on the back end of the lot.

Q. Then you came around the side of the garage, which side?

A. The right side.

Q. That would be the side farthest from Rancocas Street?

A. Yes, sir.

Q. And then which way did you enter the garage?

A. From the right side.

Q. Is there an entrance at the right side or at the front?

A. The entrance is at the front, but I came around the right side and came in the door.

Q. Was the garage open?

A. Yes, sir.

Q. Now, you say that Harry Mohr had been after you to do this job for a long time. The first time, you say, was in Wilkes-Barre?

A. Yes, sir.

Q. What were you doing in Wilkes-Barre?

A. I was working for the James Bell Company.

He took me to Wilkes-Barre. I was working indoor bazaars and fairs, and when the bazaars closed I had a church there and had this contest on. Mr. Mohr came up and stayed five days.

Q. What brought Mr. Mohr up there?

A. Well, the letter and telegrams I showed you, that can explain it.

Q. What started the communications?

A. The letter which he sent to me through the Billboard, advertised in the Billboard for me.

Q. Did you get that letter?

A. Yes, sir.

Q. Have you the letter?

A. No, sir.

Q. What was in the letter?

A. The only thing was very few words, "Where can I get in touch with you? This is very important."

Q. Did you answer him?

A. Yes, sir.

Q. Where did you write to him, or did you wire him?

A. To Riverside.

Q. How did you do that, by wire or through the mail?

A. I wrote to him.

Q. What was the next thing that happened between you and Mr. Mohr?

A. When I wrote to him I told him what I was doing in Wilkes-Barre, but I didn't know really what he wanted with me. I thought he had some kind of proposition and I told him what I was doing. I had a very good side line, and if he came over I thought he and I could make some money through the winter, and I explained the proposition and I got a wire back from him.

Q. Why were you putting up a proposition to him

to go there if he had written to you to come down here?

A. He hadn't written me to come on. He had written through the Billboard, "Where can I get in touch with you? This is very important."

Q. He replied?

A. Yes.

Q. What was his reply to you?

A. I think his reply was my proposition looked good to him. You have the telegram there.

Q. I thought he submitted a proposition to you?

A. I didn't say he submitted any proposition to me, I said I didn't know what he wanted with me except maybe that he had a proposition that he wanted to submit to me, that was the reason he wanted to get in touch with me.

Q. What did he want? What do you think?

A. When I came down here is the beginning of my story. He didn't say. He wouldn't write nothing through the mail.

Q. Why did he say he wanted to get in touch with you?

A. That was the reason, the reason I told you, the beginning of the story in the restaurant in Wilkes-Barre.

Q. That was the first thing he wanted to see you about?

A. That was the beginning of this shooting.

Q. And you dismissed it from his mind by telling him you had a proposition there?

A. By showing it to him.

Q. Did he go into it?

A. Yes, he seemed to be very interested.

Q. And he took the other thought out of his mind about killing John Brunen?

A. At that time, yes.

Q. How long did you keep that thought out of his mind, about killing John Brunen?

A. He came back to Riverside and he sent me a wire Bessie was coming over. When he left me he left with the intention of coming back, then he sent me a wire and told me Bessie was coming over, and he would arrive the following day.

Q. What were the propositions?

A. We didn't have any, we didn't get any churches at all.

Q. I thought you said you had some?

A. I did, I had a church in Plymouth.

Q. What was the arrangement you made with him about continuing your proposition there?

A. If we had got five or six churches the profits we would divide equally.

Q. Who was to finance it?

A. Wasn't to be any. He said he had a little money, three or four hundred, I think he said, he would go back to Philadelphia and get this money and come back.

Q. And with that finance your proposition in Wilkes-Barre?

A. There wasn't any proposition. He didn't finance any, because we didn't get any churches. He spent some money.

Q. Did you spend any money?

A. I don't know, I guess I did.

Q. Where did you spend any money?

A. Same as anybody. Where would they spend any money?

Q. I mean for the promotion charges.

A. There wasn't any promotion.

Q. Did you have any punch boards, any silverware?

A. No silverware.

Q. Didn't you buy some silverware from Parr & Auerbach?

A. What, pay for it?

Q. And it wasn't delivered to Wilkes-Barre for your enterprise up there?

A. It may have been delivered, but it came C. O. D., and if it was it was returned.

Q. Was it returned?

A. Yes.

Q. Why did you say it wasn't paid for?

A. I don't understand your question. I thought maybe you meant Mr. Mohr financed something, but didn't get anything for it. He brought over with him 200 punch boards, and the other 800 were supposed to be shipped, but he went back before the 800 arrived. It was stopped. The only thing there was the 200 boards.

Q. Did you use them?

A. No.

Q. What happened to them?

A. We didn't get no church while he was there, and after he left I got another church.

Q. What happened to the punch boards?

A. I used them.

Q. Did you ever account to him for them?

A. No, he gave them to me.

Q. How much did they cost him?

A. I think he put up a deposit of $70 for the 1000 boards, and he still owed 80.

Q. That would be $150 he paid?

A. No, he didn't, he paid $70, and brought over the 200 boards.

Q. You used them?

A. Yes, sir.

Q. How long were you up there using them?

A. Until I left there.

Q. When was that?

A. Thirteenth of December, 14th of December.

Q. The 18th of December?

A. 14th.

Q. What happened between you and Harry?

A. He was only there five days.

Q. Didn't he stay all the time?

A. He only stayed five days, got a telegram from his sister to come home at once.

Q. Did he come home?

A. Yes, sir.

Q. How long was he away from Wilkes-Barre?

A. He never came back.

Q. Did you go on with the promotion?

A. Yes, there wasn't any promotions, I got another church after he left. I had one before he came, while I was there. We didn't get any churches at all. We had one prospect, that was all.

Q. After he came home did you wire to him and tell him you had another prospect that would do something?

A. No, sir.

Q. Never wrote and wired and asked him to send money to put over that other prospect?

A. Yes, sir.

Q. Sure of that?

A. Unless you have a letter or that telegram.

Q. What difference would it make?

A. Because I don't remember anything about it.

Q. If I did have a letter would you say it was true?

A. If it was sent by me.

Q. Can't you remember whether you ever wrote him or wired him?

A. The next day he wired me $20.

Q. Why did he wire you $20?

A. He brought a man over named Al. Collins, and this man was there. The man didn't have anything and he brought this man over from Pottstown. This man could go out and get a church.

Q. Didn't Mr. Collins get some churches?

A. No, he had a prospect.

Q. Didn't put them over?

A. No, he left the next day after Mr. Mohr left.

Q. How did Mr. Mohr come to send you that $20?

A. The same day he sent me the $20 the telegram came to come to Riverside at once. You got the telegram there.

Q. What prompted him to send the $20?

A. He sent it to me the next morning after he arrived in Philadelphia.

Q. Why would he send you the $20 if you hadn't written him or wired him?

A. He knew I didn't have any money when he left. I think he had to go to the bank after he got to Philadelphia, I am not sure.

Q. Wasn't there an arrangement he was to send you $20 when he arrived?

A. No, sir, only that he brought this man over, and this man had no money. He had a man named Al. Collins, from Pottstown.

Q. Has it been customary for you and Harry Mohr to communicate through telegrams for money back and forth independently of this correspondence you showed here?

A. No, I don't think so.

Q. Ever remember wiring to Harry as far back as 1921 for him to send you money?

A. Where to?

Q. Anywheres.

A. Tell me where from.

Q. Do you ever remember wiring him anywheres about sending you money as far back as July, 1921?

Mr. Peacock: Mr. Keown has the telegram, why don't he show it to him?

The Court: I can't control the method as long as it is proper.

Mr. Peacock: I object to the line of the examination, unless he shows the time and place.

The Court: I don't think it is anything more than business relations between these two men.

Mr. Keown: If that is your Honor's understanding, I am satisfied. The situation seems to be there have been telegrams brought here and not offered in evidence. May I have them, those other ones that have not been offered in evidence, the telegrams which would perhaps explain why the other ones came? They have not been offered in evidence, and I want to get them in and show it was the custom of these men to always exchange. The witness has said it was not the custom back and forth asking for money, and I am asking him if he didn't ever write to Harry Mohr to send him money and Mr. Peacock wanted me to fix the time and place and I fixed the time any place and anywhere.

The Court: What is your answer?

The Witness: Yes, I used to be agent for him when he had a show; I used to send him wires for money quite often. What he has in his hand I don't know. If he will tell me what it is I will tell him if I sent it.

Q. It was nothing unusual for you to write to

Harry Mohr about business relations and about sending money?

A. Yes, unless I understand what it is.

Q. Is that the way you got your money?

A. Yes.

Q. Isn't it possible you sent as many as a hundred telegrams to Harry Mohr?

A. Yes.

Q. Isn't it possible you would speak about financial matter and sending on deposits for fairs?

A. Well, I don't know.

Q. Did you ever wire to Harry Mohr about the birth of your child and ask him to send you carfare to go home?

A. No, sir. I wired him about the birth of my child, and I told him to wire three hundred and fifty deposit at Newcastle. That was a deposit for the show's benefit.

Q. The witness is shown a telegram dated Newcastle, Pa., dated July, 1921, and is asked if he recalls sending that telegram to Mr. Mohr.

Mr. Peacock: Objected to as not proper cross-examination.

The Prosecutor: I don't know the purpose, but I do realize there are seventy-five or eighty telegrams from various parties. Some of them or the most of them are not in this case at all, have no bearing whatever. Now, I am perfectly willing for him to go over the whole list and find anything connected with this case to use it, but what is the purport of Mr. Keown submitting all of the telegrams of business relations, that have nothing to do with the case?

The Court: He is trying to show all these tele-

grams were telegrams that grew out of business relations with the parties, and have nothing to do with anything else. If you have the telegrams put them in.

Mr. Keown: The trouble is, I haven't the telegrams. The witness under process of subpoena to be here has told me he has given all the telegrams to Mr. Parker. We will make the same arrangements with these as with the others. They are offered in evidence. Copies will be made and the copies used and put in evidence.

The Prosecutor: I ask those telegrams be confined to the ones between Charles Powell and Harry Mohr. There are some in there, parties that I don't know.

The Court: That is right, it should only be between the parties themselves.

Mr. Keown: Yes, I understand that. I understand the witness was to bring only telegrams between the parties. Have you got the original of that telegram, the one I am referring about now? Does your Honor rule this question of mine is proper?

The Court: What is the telegram about, what is the date?

Mr. Keown: July 29, 1921. Have you ruled on the question?

The Court: I will overrule it.

A. Yes, I sent this telegram.

Q. Will you please read it?

A. "Harry C. Mohr, Mighty Doris and Ferrari Shows. It is a girl. Just received a message, both doing fine. Tell to have plenty of American flags for next week. We will open the wheels Monday night. Charles M. Powell."

Q. What is the date of that telegram, Mr. Powell?

A. July 29, 1921.

Q. Now, on the same day did you wire him this message?

A. Yes, I did.

Q. Will you please read it?

A. "Harry C. Mohr, Mighty Doris and Ferrari shows. Wire me twenty dollars at once. Charles M. Powell." I was then connected with the Mighty Doris and Ferrari Shows as director.

Q. That was on the same day you sent the other telegram about your wife?

A. Yes, and this money had nothing to do with me whatever.

Q. Did you send that money to Mr. Mohr?

A. Yes, sir, I was agent for him then. "Harry C. Mohr, Ford Hotel. Just landed. Wire me some money. Charles M. Powell."

Q. And did you send him that one?

A. Yes, Newcastle, Pennsylvania, sent to "Harry C. Mohr, Manager, Mighty Doris and Ferrari shows. Money received, wire me $20. Send to the Newcastle Coleman in general station." That is John Coleman, one of the agents.

Q. Then it isn't unusual for you and Mr. Mohr to communicate through the Western Union for money?

A. No.

The Court: There isn't any question about that.

Mr. Peacock: I have just given Mr. Keown all the

other telegrams passed between Mr. Mohr and Mr. Powell.

Mr. Keown: We will take them up after Court adjourns.

Q. Now, Mr. Powell, when did you leave Wilkes-Barre to come to Camden?

A. 14th of December.

Q. And you brought your family with you?

A. Yes, I did.

Q. And you came here to stay?

A. No, sir, I only brought a suitcase, I just came to stay three or four days, two or three days.

Q. And why?

A. That was the understanding with Mr. Mohr, I only came to stay two or three days, and I had a three-room flat in Wilkes-Barre, and I still paid the rent. I didn't move out. All I just took a suitcase and my wife and baby and came to Camden to Philadelphia, and met Mr. Mohr. I intended to go back in two or three days.

Q. Now, on that trip did you not go to Carr & Auerbach's and order some stuff for Wilkes-Barre?

A. I think I did, yes, I think I ordered $22 worth.

Q. Isn't that the reason you came down to Camden?

A. No, sir.

Q. For what reason did you come to Camden?

A. I wouldn't bring my wife and baby to order stuff. I wouldn't leave her in Wilkes-Barre by herself.

Q. Why was there a week's rent paid for a house when you were only going to stay three days?

A. Well, Mr. Mohr paid the rent in Camden.

Q. You are sure you were only going to stay three days?

A. That was all I was supposed to stay.

Q. What were you supposed to do those three days?

A. I don't know, the same thing we finally ended up, to shoot John Brunen. I knew in my own mind I wasn't.

Q. Why did you come down to spend those three days with your wife and family?

A. I didn't spend them with my wife and family, I spent them with Mr. Mohr, and my wife at night

Q. The daytime you spent with Mr. Mohr?

A. Yes, sir.

Q. You were not supposed to do this job in the daytime?

A. At that time I had no idea it would ever come off.

Q. You know that you had a business engagement down here that time?

A. No, sir, I didn't.

Q. But you did inject some business in your trip to Camden?

A. Yes, I had a partner named Jack Condon, who was also sent from the James Bell Company into Wilkes-Barre, and when the bazaars closed I took him in on the second church I had, and he was in Wilkes-Barre when I left, so I sent $20 worth of silverware down for prizes that we needed for the church. The boards were sold the Sunday previous to that of my coming down, and I sent $22 worth of silverware for him to give out on the boards sold and returned to the church.

Q. Why did you not go home at the expiration of the three days?

A. I had no money.

Q. Why didn't you get some money from Mr. Mohr to go back home?

A. He didn't have it, he said.

Q. Did you ask him for some?

A. Yes.

Q. Why didn't you go out and do the job so you could get some money?

A. I didn't want to.

Q. Then you were in Camden refusing to do what he wanted you to do?

A. Refusing, what do you mean? We wasn't refusing. He didn't have any hooks on me or anything like that that I had to do just what he told me. All I acted under was the sympathy for his family and himself.

Q. Why didn't you do it?

A. I didn't want to do it, if I had I would never have lasted five months.

Q. Why didn't you go hunt for a job?

A. I had a couple of churches in Wilkes-Barre; I couldn't get carfare to get my own self back.

Q. Did you go on and take care of your job in Wilkes-Barre?

A. Yes.

Q. How did you get the money to return?

A. Mr. Mohr gave me his 38 Smith & Wesson and I put it in the pawn shop for $6.00 and he gave me the stock and die and I took it and got $3.50, and with that money I went back to Wilkes-Barre.

Q. Where did you get that stock and die?

A. Mr. Mohr bought it from Berkowitz.

Q. When did you buy it?

A. I don't remember, it must have been around the 17th or 18th of December.

Q. How long did you have the stock and die?

A. I don't know, up until the 31st of December.

Q. Were you with him when he bought it?

A. Yes, sir.

Q. What conversation did you have with the man when you bought the stock?

A. I didn't have any, he had.

Q. What conversation did he have?

A. He really had an understanding if he couldn't get those he would redeem the money, give him the money for the stock and die.

Q. You went to try and buy some dies?

A. He did.

Q. And you couldn't get any dies to fit the stock?

A. He did.

Q. But you couldn't find any dies to fit the stock?

A. He couldn't.

Q. And the result was Mr. Mohr sent you back with the stock and asked the pawnbroker to give the money back on the arrangement they had?

A. No, he didn't send me back for that purpose, but I was trying to get money to get back, and he gave me the stock and die and the revolver.

Q. Was it a stock and die or just a stock?

A. Stock and die.

Q. Where did the die come from?

A. On the stock when he got it.

Q. How much did you pay for it?

A. $3.50.

Q. How much did you get back for it?

A. $3.50.

Q. Did you take your family with you when you went back to Wilkes-Barre?

A. No, sir, I only had money to get myself back.

Q. What did you do after you arrived in Wilkes-Barre?

A. I sold my end out for $100 to my partner, and came back to Camden.

Q. What arrangement did you make for taking care of your wife and child?

A. When I left?

Q. When you left.

A. I think I left, I had a couple of dollars over carfare, left the money with her, and on Sunday as soon as I sold my part for $100 I wired her $5.00 until I got back Monday.

Q. How long were you up there?

A. I arrived there Sunday morning and left Monday morning, one day.

Q. When you got that $100, in view of the fact you had only come to Camden to do this job for Harry Mohr, why didn't you wire your wife money for her to come on and join you?

A. There were not any understandings in that.

Q. I understood you to say you only came down to stay for three days?

A. Yes.

Q. You had kept your furniture in Wilkes-Barre?

A. No furniture, we had a three-room apartment furnished, I just brought a suit-case.

Q. What did you leave that you didn't bring down?

A. Anything else you might have to wear or anything else, no furniture.

Q. My question is, after you received the $100 in Wilkes-Barre, you intending to stay in Wilkes-Barre, your wife and child being in Camden, why didn't you wire the money down for her to return to Wilkes-Barre instead of you coming down?

A. I didn't care.

Q. Why?

A. I don't know.

Q. What excuse can you give for coming back to Camden?

A. The only thing was Mr. Mohr and I were to get churches in Camden around Riverside, Palmyra, any place. He was to take me around in the car, and maybe I could get as many churches as we could get.

Q. That was the real reason why you came down to Camden?

A. No, it isn't.

Q. Isn't that the reason you came down?

A. No, it isn't. That is the only thing was to tell my wife and tell anyone else if they saw him and I together.

Q. What excuse can you give for coming back after you got the $100?

A. Where?

Q. To Wilkes-Barre, and taking your wife and child back?

A. I told you I sold my stock for $100. Why should I go back to Wilkes-Barre? Wasn't any churches, I might as well stay in Camden.

Q. And you decided to stay in Camden and work there?

A. Yes, that's it.

Q. It was a business proposition then, wasn't it?

A. No, it wasn't, it was only supposed to be a business proposition.

Q. You knew you couldn't live unless you had work to do?

A. Mr. Mohr was giving me money and paying my rent.

Q. You knew you had to get something to do to make an honest living?

A. Yes, I was making an honest living until I came to Camden.

Q. And you would continue to make an honest living if you hadn't sold your business and returned to Wilkes-Barre?

A. Yes, if I hadn't come to Camden.

Q. Now, were you doing any work at all from the time you came to Camden up until the day of the tragedy?

A. No, sir, I don't think so. Yes, I was, I went to work before the tragedy, at the Burglar Alarm Company.

Q. You were soliciting in Camden?

A. Yes.

Q. You really did have a business in Camden after you moved to Camden?

A. Yes.

Q. And you were not down there then only for the purpose of doing this job Mr. Mohr had you to do?

A. That was all I came down for.

Q. Were you making some money off of selling these burglar alarms?

A. Not much.

Q. Well, you made some money?

A. Yes, making some money. Every one you sell you make money.

Q. And you made money off of them?

A. Well, I sold, yes, quite a few of them, not many.

Q. Did you make any other applications for work while you were down here in Camden?

A. Yes, I did.

Q. How many places?

A. Made application to the Victor Talking Machine Company, which had an office a couple or three doors from where I lived.

Q. This Harry Mohr was not keeping on and paying your house rent during this period, was he?

A. Yes.

Q. What were you doing with the money that you made from your work?

A. I didn't make any.

Q. A while ago you said you were.

A. I said I worked three weeks for the Burglar Alarm Company.

Q. And you made money?

A. What do you call money?

Q. Well, whatever you call money.

A. Well, I don't call money what I made. That wasn't any money. It was just existing. It was just the same as what I was doing with the money Mr. Mohr was giving to me, I was just existing on it. He was paying my room rent and I was just existing on it and that was all I could have made with the burglar alarm, just exist.

Q. What did you make on them?

A. It wasn't just salary, it was commission. You would make $1.10 for each you would sell.

Q. How many did you sell?

A. If you sold ten you would make $11.

Q. How many did you sell?

A. I don't know.

Q. You can give this jury some idea of how many you sold in those three weeks?

A. Well, I don't know. I think I might have sold between two and three dozen burglar alarms.

Q. Did you only canvass in Camden?

A. No.

Q. Where else?

A. I canvassed in the outskirts of Camden. I don't know whether you call it Camden.

Q. Did you devote the biggest part of your time to canvassing?

A. Yes, I suppose three weeks.

Q. Where was Harry Mohr during those three weeks?

A. Coming to my house. I would meet him in the afternoon, or get up in the morning and go out and come home at noon, and he had probably been there and would be back at one or two o'clock.

Q. I thought you said you were spending your time canvassing then in the suburbs?

A. I was, but I would take the street car back for dinner.

Q. Always came home to eat your dinner?

A. Yes.

Q. You say you saw Harry at noon?

A. Might have seen him every noon; I always met him. Once every day I saw Mr. Mohr.

Q. How about evenings? Would you see him every evening?

A. Well, there was probably once every day that Mr. Mohr would come to my house, whether it was in the evening or morning or afternoon, he would be there sometime during the day.

Q. Talk to you in the presence of your wife?

A. No, sometimes he would honk his horn on the outside.

Q. Would you go out and talk to him?

A. Yes.

Q. What would you talk about?

A. Any conversation.

Q. Never talked about killing John Brunen then, did you?

A. Yes, that was the whole story. Everything that happened come to me.

Q. What answers did you give to Harry Mohr when he asked you about killing John Brunen?

A. Well, in my own home I never wanted to do it.

Q. Yes, but what did you say to him?

A. I tried to keep him from doing it, until he got me down in the condition where he had me, and finally that night came and I did it.

Q. Just what have you ever done to try to keep Harry Mohr from killing John Brunen?

A. Prolonged it five months.

Q. Prolonged it?

A. Yes. If I really had wanted to have shot him

it wouldn't have taken me five months to get my mind made up, if I really wanted to shoot him.

Q. My question is not what you did to prevent yourself from doing it, but I am asking you what you did to prevent Harry Mohr from doing it.

A. Well, I don't know what I done to prevent him from doing it.

Q. You didn't do anything, did you?

A. Because I didn't suppose he ever had any intention of doing it himself.

Q. But he told you all along that he did, didn't he?

A. Yes.

Q. Now, I am asking you what you did to prevent him from doing it.

A. I didn't do anything to prevent him from doing it.

Q. You just stood pat, so that he could do it if he wanted to?

A. Yes.

Q. Now, what did you say when he asked you to do it?

A. Well, he never really asked me to do it, but there was only one gun, and he would always stay some place and I would have to go on the other place.

Q. I thought you said during all these conversations he would always ask you to do it.

A. When did I say that?

Q. I misunderstood you if you didn't say it.

A. If he hadn't asked me to do it I wouldn't ever have done it.

Q. When was the first time that he asked you to kill John Brunen?

A. In Wilkes-Barre.

Q. And what reply did you give him?

A. There wasn't any reply.

Q. When was the next time that he asked you to kill John Brunen?

A. In Wilkes-Barre.

Q. And what reply did you give him?

A. There wasn't any reply. We were trying to get churches then for this test.

Q. When was the next time that he asked you to kill John Brunen?

A. In Philadelphia.

Q. Did you make any reply?

A. I don't know. He wanted me to shoot him with a pistol. He stayed at the hotel that night and told me in the morning he would drive me out to his home to see how easy it would be when he drove his car in the garage to shoot him with the engine running.

Q. Did he take you out there?

A. Yes.

Q. Why didn't you do it?

A. I didn't want to do it.

Q. What did you tell him?

A. I didn't want to do it.

Q. What did you tell Mr. Mohr?

A. Told him I didn't want to do it.

Q. Did that satisfy him?

A. It must have. He kept after me.

Q. What did he say before you left the Brunen property that day?

A. He says, "Well, when I get ready for you, wire for you, will you come back?" And I said, "Yes, I will."

Q. In other words, he was perfectly satisfied after he had taken you out and showed you how to do it and let you go on and do your own business; is that right?

A. Well, I don't know. I guess that is the only thing he could do.

Q. Well, he hadn't used any brutal force or anything like that?

A. He didn't stick no gun up.

Q. Didn't tell you you were yellow?

A. No, didn't put no gun up and demand me to do it.

Q. Didn't tell you you were having no nerve and were yellow?

A. No, he was working my sympathy for his family.

Q. When was it that Harry Mohr was in Chicago?

A. I don't know how long just it is.

Q. You must have thought on that. When was it?

A. I never paid any attention to the date.

Q. He was in Chicago while you were in Camden?

A. Yes.

Q. While you were working?

A. He was in Chicago, but I don't know the day. I know when he came back it was the 24th of February, so he wasn't up there over four days, I don't think. So he must have left there about the 19th or 20th of February.

Q. Did you know that he was going?

A. Yes, sir.

Q. Did you see him before he went?

A. Yes, sir.

Q. What conversation did you have with him before he went?

A. Well, he paid my room rent and gave me $7.50 and told me, "Now, you go out to the house tonight or go out tomorrow night, go out every night and see if you can get him before I get back, while I am in Chicago."

Q. How were you supposed to get him that time when he was away in Chicago?

A. How was I supposed to get him?

Q. Yes.

A. With a shotgun, if I got him at all.

Q. Had you bought a shotgun at that time?

A. The shotguns was bought the 23rd of December; two shotguns, both of them the 23rd of December.

Q. Why didn't you do it that week that Harry Mohr was away?

A. I didn't want to.

Q. What did you tell Harry Mohr when you had the conversation with him when he asked you to get him while Harry was away?

A. Well, he just told me to do it, that that was all there was to it.

Q. Did you tell him you were going to or were not going to?

A. I didn't tell him.

Q. And he went away?

A. Yes.

Q. To Chicago?

A. Yes, sir.

Q. Unconcerned as to whether it was going to be done or not?

A. I don't know whether he did or not.

Q. But as far as his conversation with you was concerned he appeared unconcerned?

A. No, he appeared to want me to go there, go to the house every night.

Q. What did he say to make you think that he appeared that way?

A. Well, he told me that while he was in Chicago at the Sherman Hotel if this would happen that he would take all suspicion.

Q. I mean when you told him that you were not going to do it, what did he say?

A. I didn't tell him I wasn't going to do it.

Q. Did you write him and tell him that you were going to do it?

A. No, I didn't. I didn't write him and tell anything.

Q. You didn't comment upon your feelings?

A. No, sir.

Q. As to whether you were or whether you were not?

A. No, he didn't know.

Q. Now, you saw him when he returned from Chicago?

A. Yes, sir.

Q. And where did you see him?

A. He came to my house.

Q. Before he returned to Riverside?

A. No, sir.

Q. When did you see him?

A. When he came to my house.

Q. What did he come out to your house for?

A. To see me.

Q. What did he say?

A. He was awful mad at John; he showed me this telegram that John had sent him from Riverside; told me, "Let's go out and get him tonight, before I run into him myself."

Q. When was it that Mrs. Brunen came down there?

A. She came there the time he went to Baltimore.

Q. When was that with relation to the Chicago affair?

A. I think it was February 1, 1922, when she came to my house.

Q. Before or after?

A. February 1, 1922, when she came to my house.

Q. How long was Harry gone in Riverside or Camden after he returned from the Chicago convention?

A. How long was Harry on in Riverside?

Q. Or Camden, yes.

A. I don't get that question.

Q. I will withdraw it. How long was Harry Mohr in Riverside or Camden after he returned from Chicago before he went to Baltimore?

A. He went to Baltimore first.

Q. When did he go to Baltimore?

A. It must have been the last of January or the first of February, because it was the first of February I sent the telegram for his sister to Staunton, Virginia.

Q. Did you know that Harry was going to Staunton, Virginia?

A. No, he had told me two or three towns, that he was going to Baltimore and from Baltimore he was supposed to go down and see some southern fair secretaries.

Q. And that was on business for the show?

A. Yes.

Q. Did he have any conversation with you as to the commission of this crime before he went to Baltimore?

A. It was always this crime from the beginning to the end of it.

Q. And what did he say on this occasion, where he left to go to Baltimore, as to what you were to do while he was gone?

A. Well, he wasn't to be gone but a couple of days.

Q. Did he make any arrangements with you?

A. I don't know. I don't remember whether he did or not.

Q. Didn't he want you to do it that time while he was away?

A. I don't remember. Yes, he did.

Q. What did he do? You don't remember, but you say yes, he did.

A. Well, for me to go out that night to the house, or the next night. He only figured to be gone a couple days, three days anyway, just long enough to get into Baltimore and go down to meet this southern fair secretary, I think from Bluefields, West Virginia. But I thought that he went to Staunton, Virginia. That is where I sent the telegram.

Q. You wired him from Mrs. Brunen's?

A. Yes, sir.

Q. And he immediately returned?

A. Yes, but he didn't get the telegram, but he returned just the same.

Q. And he came around and talked to you the following morning after you had sent him the telegram?

A. I don't know whether he did me or I did him. But I had the telegram because it came back to me, to my house, undelivered, uncalled for.

Adjourned till December 13, 1922, at 9.30 A. M.

Mount Holly, N. J., December 13, 1922.

Mr. Kelsey: May it please the Court, I would like to ask, in order to keep the record straight, that all the telegrams that were offered may be marked. I see some of them are marked and others are not marked.

The Court: Marked in evidence, you mean? They have all been admitted in evidence?

Mr. Keown: Yes.

The Court: They have all been offered in evidence.

Mr. Keown: And the understanding is that all telegrams that were not marked that we ran over last evening are also to be offered.

The Court: These telegrams, all of them, go in.

(Telegrams on the part of the State marked Exhibits S6 to S23, inclusive.)

Mr. Keown: Does your Honor think it would be advisable to have the telegrams read at this time?

The Court: Well, if you wish. Are there many?

Mr. Keown: Not so very many.

Mr. Peacock: Sixteen of them. The State does not desire to use those sixteen.

The Court: Then you read them on the part of

the defense and they go in as a part of the defense. Now, these that you have offered now, Mr. Keown, they are offered by the defense. They can be marked on the defense.

CHARLES M. POWELL, resumed.

Cross-examination.

By Mr. Keown:

Q. Mr. Powell, can you tell me today why you killed John Brunen?

A. Well, the only answer I have was on account of Mr. Mohr.

Q. Have you thought about this matter overnight?

A. No, sir.

Q. Haven't thought about it overnight?

A. I don't know what you are going to cross-examine me on.

Q. Well, I mean on this particular point.

A. No, sir.

Q. Haven't you thought about this matter overnight, why you killed him? Haven't you some answer for us today?

A. I have answered it just now.

Q. And that is still your answer?

A. Yes, sir.

Q. Just on account of Harry Mohr?

A. And his family.

Q. Now, on your direct examination you stated that you were here testifying of your own free will and at your own request. Now, when did you request anyone to permit you to come and testify?

Mr. Davis: If your Honor please, I assume full responsibility for this testimony. I represent this man. It was at my suggestion that he goes on the stand and tells his story.

The Court: Well, I suppose, Mr. Davis, he would have a right to ask. Let him state.

Mr. Davis: Yes, but I want it understood that it is with the approval and advice of counsel.

The Court: Of course, he has a right to examine him to find out.

Q. Go ahead and answer the question.
A. That is the reason.

The Court: Tell the reason.

A. My counsel asked me to go on the stand and defend myself and tell the story.

Q. My question was not why you went on the stand, but my question was when did you request the authorities to permit you to go on the stand and testify?

A. Only to defend myself. I don't know.

Q. No, but yesterday when you went on the stand the Prosecutor asked you a question whether you were on at your own request and your answer was yes. And I am asking you who requested the Prosecutor to put you on the stand and testify in this case?

A. I gave my attorney to understand that I would go; when I told him he said yes.

Q. Then when you answered the question yesterday you didn't answer it correctly; is that so?

A. I don't know what I said. What did I say?

Q. Did not the Prosecutor yesterday ask you, page 58, at the bottom, "Do you appear here on your own free will and at your own request," and was not your answer, "Yes, sir"?

A. Yes, sir.

Q. Now, can you tell me when you requested the Prosecutor to permit you to come here and testify?

A. Well, I couldn't say just when I did.

Q. You also testified, did you not, that no officer of the State of New Jersey had made any promises to you or offered you any inducement to testify in this case, did you not?

A. Yes, sir.

Q. Have you not on other occasions made statements that the authorities had promised you?

A. No, sir.

Q. Let me finish the question. May I read that question all over again? (Question repeated): That if you testified according to your statement that you had made that you would be given your liberty?

A. No, sir.

Mr. Peacock: That is objected to unless the time is stated and the person whom Mr. Powell is supposed to make those statements to.

The Court: That is rather a little too general, Mr. Keown, isn't it?

Mr. Keown: It may be, but if the question is answered as it has been answered that saves us from going through all of them. If the answer had been yes, I would probably have asked the question.

The Court: I will permit the question. What is your answer?

A. No, sir.

Q. Have you not made statements that you would be out after Christmas?

A. No, sir.

Q. Have you not made statements that you would be out after Harry Mohr and Mrs. Brunen were tried and that you would take Christmas dinner with your wife and two children?

Mr. Peacock: Objection on the same line.

The Court: Unless you call attention to it I won't allow you to contradict it. They would be of no avail to you if you attempt to contradict them.

Q. Have you been told by any of the State's officials as to what punishment will be given you for your connection in the murder if you testified as to the statements you made to Mr. Parker after you had been confined to the jail?

Mr. Peacock: Objected to on the same grounds, no person named, no place stated.

The Court: I think the witness ought to know if you are going to contradict him. I won't permit any witness to be brought up unless you mention the person.

Mr. Keown: This is cross-examination, if your Honor please, as to a statement that the witness made. He said that no promises had been made to him. If I recall his testimony no promises made on the part of the State.

The Court: What you intend to do is to contradict him?

Mr. Keown: Yes, sir.

The Court: Why not call his attention to whether he didn't make a statement to so and so? Otherwise you won't be able to contradict him.

Mr. Keown: The form of my statement is——

The Court: You have read it. What State officials? There are a lot of State officials.

Q. Has Mr. Parker, Mr. Kelsey or Mr. Peacock ever told you what punishment would be given you for your connection in the murder if you admitted as to the statements you made before Mr. Parker after you had been confined to the county prison?

Mr. Peacock: I object to that on the same grounds, that is not laying a basis for contradiction.

The Court: He doesn't do it as cross-examination. He does it for laying the basis for the purpose of contradicting this witness. He has a right. He may call you and may call the different persons he has mentioned to contradict him.

Mr. Peacock: That is what I mean. If he thinks Mr. Parker or Mr. Kelsey and myself made such statements, let him ask the question, "Did Mr. Peacock or Mr. Kelsey tell you certain things at a certain date?"

The Court: It is better not to be too strict in

a matter of this kind. Now, you may answer the question.

(Question repeated.)

A. No, sir.

Q. How did you come to get acquainted with John Brunen?

A. In the show business.

Q. Do you remember now just what facts led up to the acquaintance?

A. No, sir.

Q. Do you remember where it was that you became acquainted with him?

A. No, sir.

Q. Have you any way of fixing the time?

A. No, I have not.

Q. Not even by year?

A. No.

Q. Or by place?

A. Before I knew Mr. Mohr.

Q. Have you any way of fixing the place where you became acquainted with Mr. Brunen?

A. No, I have not.

Q. Have you worked continuously for Mr. Brunen since he has had his show?

A. No, sir.

Q. How many seasons were you away from him?

A. I couldn't say. I have been around the show practically most every season outside of a couple seasons.

Q. Where were you those couple seasons?

A. I was in the army for one season.

Q. What was the other season?

A. I was not in the show business the other season.

Q. Where were you employed then?

A. I was employed in the Jones Hotel in Monongahela.

Q. What year was that?

A. I don't just remember.

Q. You said that you were in the army. How long were you in the army?

A. I was in the army from the last of April or the 1st of April or the middle of April, something like that.

Q. Of what year?

A. Until the last of the following June, last June.

Q. Did you go across?

A. Eleven months; yes, sir.

Q. Do any service, get to the front?

A. No, I was in the engineers.

Q. Was your health such that you could go to the front?

A. Yes.

Q. Sure of that?

A. I guess so.

Q. Well, were you tested?

A. Well, every soldier is tested.

Q. Well, were you compelled to take any treatment?

A. No, sir.

Q. How did you come to meet Harry Mohr, one of the defendants?

A. I met him in the winter time in Pittsburgh.

Q. Upon what occasion was it?

A. When he came from Chicago to join Mr. Brunen.

Q. Do you remember who introduced you to Mr. Mohr?

A. No, I don't.

Q. Do you remember what Mr. Mohr's connection was?

A. I think he came from Chicago to be secretary for Mr. Brunen.

Q. Do you remember when that was?

A. I don't remember what year.

Q. Approximately how long ago?

A. Ever since I knew them.

Q. How long have you known him?

A. Well, I said around seven or eight years, I figure that many.

Q. Have you known Mr. Mohr seven or eight years?

A. That is what I figure.

Q. When did you meet Mrs. Brunen?

A. I met her on the show.

Q. When?

A. At the same time I met Mr. Mohr.

Q. Not the same time you met Mr. Brunen?

A. No, I knew Mr. Brunen in the show business before I knew Mrs. Brunen or Mr. Mohr either one.

Q. How long had you known Mr. Brunen before you knew Mrs. Brunen?

A. I don't know.

Q. Approximately?

A. Probably a year.

Q. Have you always been friendly with Mrs. Brunen?

A. Yes, sir.

Q. Now were you a promoter for Harry Mohr during the spring of 1919?

A. Yes, sir.

Q. What was your compensation?

A. Well, whatever a promoter is.

Q. I know, but I want you to tell me what your compensation was at that time.

A. Well, a promoter is a man that goes in and looks after the electric wires, looks after the hauling ——

Q. No, what was your salary?

A. Well, I think my salary was $25 a week.

Q. Do you know that?

A. I am not sure. I have commissions coming in from other sources around the show, that the salary didn't amount to anything.

Q. What was your salary when you took over the general agency?

A. There wasn't any raise in it at all.

Q. Why did you quit working for Harry Mohr in September, 1919?

A. I didn't quit.

Q. Didn't you testify that you quit working for Harry Mohr?

A. No, sir.

Q. In September, 1919?

A. No, sir.

Q. You finished the season, the 1919 season, in September, did you not?

A. Yes, sir.

Q. And you were working then for Mr. Brunen, not Harry Mohr?

A. Working for Mr. Mohr.

Q. Well, then, when you quit the season in 1919 where did you go to live?

A. St. Louis.

Q. Now why did you join the Brunen show again in 1922?

A. Well, during the winter Mr. Mohr and I were corresponding all through the winter and Mr. Mohr wanted me to come over on the show.

Q. You joined the show in 1921, the Brunen show, didn't you?

A. Yes, sir.

Q. Now did you work continuously for the Brunen show during the 1921 season?

A. On the Brunen show, I did.

Q. Where did the 1921 season close, the Brunen show?

A. I left the show at Timonian, Maryland, Maryland State Fair, September 10.

Q. Had the show closed?

A. No.

Q. Why did you leave before the show closed?

A. I had another proposition.

Q. Have any quarrel with Mr. Brunen?

A. No, sir.

Q. Just a better proposition?

A. Yes, sir.

Q. When did the show reach the Maryland State Fair at Timonion?

A. I think the dates were the 5th to the 10th, I am not sure.

Q. 5th to the 10th of what?

A. Of September.

Q. What were you doing for the show when Mr. Coleman asked you to come over and handle the Danville, Pa. plan, and what reasons did you give for not doing what Mr. Coleman wanted you to do?

A. I explained it to Mr. Coleman, that I had a better proposition, that was all, where I expected more money, and that is the reason why I had to turn down Mr. Coleman.

Q. Isn't it true that you had a misunderstanding with Mr. Brunen in Timonion and after that went to work for Mr. Parrell when he had his trouble with John Brunen?

A. No, sir.

Q. You went to work with Perrell at that time?

A. I went to work for Perrell, but not running any concessions, but going out promoting block parties in churches.

Q. Didn't Harry Mohr tell you at about that time that John Brunen was complaining about your drinking on the show and that if you didn't stop drinking and make full account that you would not stay on the Brunen show any longer?

A. No, sir; he told me a lot of things, but Mr. Brunen wouldn't want to have sent me to Danville, Pennsylvania, to handle another town for him if he was complaining of me on the show.

Q. Mr. Mohr at that time told you that Mr. Brunen was complaining about you, didn't he?

A. He told me several times. He has always told me several things about Mr. Brunen, but Mr. Brunen never told me anything.

Q. But Harry has always complained, hasn't he?

A. No, just that one time, he didn't complain, but he has told me.

Q. Where did the Brunen show go after it left Timonion?

A. I don't know.

Q. You don't know?

A. No.

Q. Where did you go?

A. I went to the Reading Fair, Reading, Pennsylvania.

Q. Were you in sympathy with Paul Parrell and antagonistic against John Brunen for Brunen having tied up your concessions with Parrell?

Mr. Kelsey: I object. I don't know how far Mr. Keown expects to go with this testimony.

The Court: Now let's see. I will stop him if I think—go ahead.

Q. When did you next see Harry after that?

A. Wilkes-Barre.

Q. How did you know that the letter advertised in the "Billboard" was from Harry Mohr?

A. I didn't know.

Q. Had you gotten any other mail through the "Billboard"?

A. From Mr. Mohr?

Q. From any one?

A. Not for several weeks.

Q. At that time I am speaking of.

A. Yes, not for several weeks.

Q. Did you get the letter from Harry Mohr?

A. Yes.

Q. What did you do with the letter?

A. I don't know.

Q. Destroy it?

A. The same as anyone would. They wouldn't hold every letter without reason.

Q. And when did you receive the letter?

A. I don't know; as soon as I saw it in the "Billboard" I wrote for it, and just as quick as they could send it to me I got it.

Q. Now when did you get it?

A. I can't say.

Q. Can't you give us some idea when you received that letter that you received through the "Billboard" from Harry Mohr?

A. Well, if I just knew the date of the Billboard —I think it was the 27th of ——

Q. You testified yesterday as to when you saw it in the Billboard, did you not, from memory?

A. Yes.

Q. What did you testify yesterday about it?

A. I testified that that was the letter advertised in the Billboard for me and it was my letter.

Q. And you gave us the date of the Billboard yesterday, did you not?

A. No, I didn't; myself, I didn't. Maybe someone else did.

Q. Then how did you know that it was this issue of the Billboard that you saw your name in if you didn't give us the date?

A. That was the only letter that I received that month in the Billboard.

Q. What month?

A. October.

Q. What year?

A. 1921.

Q. You don't remember the date of the Billboard?

A. I think it was around the 27th.

Q. Now when did you next hear from Harry Mohr?

A. I answered his letter, told him what I was doing in Wilkes-Barre, and who I was working for, and there is where he could get in touch with me.

The Court: Mr. Keown, does it serve any useful purpose to go over the same ground that has been gone over and over again?

Mr. Keown: I don't think, if your Honor please, that I have covered any questions that I am asking now on my cross-examination. I was very careful in the preparation of these questions to make sure that I did not cover anything that I dwelt on yesterday, and if your Honor remembers a question that I covered ——

The Court: I do not find any fault, only it is for you to consider whether questioning on some of these matters would serve any purpose whatever.

Mr. Keown: I think they all do, if your Honor please. I purposely prepared the questions.

Q. Now do you remember what was in the first telegram that you received from Harry Mohr?

A. No, I couldn't say. The telegram is there.

Q. When did you first see that telegram?

A. Well, when it reached me.

Q. Did you keep it?

A. No, sir.

Q. When did you charge your memory with what was in that telegram?

A. Well, I just remember of how the communications first started.

Q. Had you seen that telegram before you testified?

A. Which telegram?

Q. The telegram that you testified from.

A. For the following telegram?

Q. I am speaking of the telegram that I am asking you what it contained, the first telegram, and I am asking you if you saw that telegram before you testified.

A. Yes, sir.

Q. When before you testified?

A. The day before.

Q. The night before?

A. The day before.

Q. Was that after the telegrams were offered in evidence you saw them for the first time?

A. I don't know when they were offered.

Q. Well, on the opening day of the court.

A. Yes.

Q. Of this trial?

A. Yes.

Q. Had you not seen those telegrams before that?

A. No, sir.

Q. Then the telegrams refreshed your memory as to what was in the telegrams, did it not?

A. I don't believe I looked over the telegrams. I just knew the telegrams were there.

Q. How did you know the telegrams were there if you hadn't seen them?

A. Mr. Parker showed them to me.

Q. Then you saw them, did you not?

A. Yes.

Q. And the telegrams were what you testified from and not your memory?

A. No, it was in my mind.

Q. Then tell me what was in the first telegram now?

A. Well, let me see. I just don't remember. I think there was a letter and a telegram came the same date.

Q. Well, you have already testified that you didn't know what the letter said. I am asking you now if you remember what that first telegram said.

A. I knew what the letter said that came from the Billboard.

Q. All right. What did the telegram say?

A. I don't remember.

Q. Do you remember why you sent the telegram to Harry Mohr marked Exhibit H and dated November 5, 1921, telling him that it was impossible for you to come to Riverside until the grand finale was over?

A. Yes, I remember that telegram.

Q. What was that telegram?

A. I sent that telegram in either answer to one of his telegrams or a letter that he wanted me to come into Philadelphia and meet him, but there wasn't nothing said not about John Brunen at that time to me.

Q. But you don't remember why you sent that telegram telling him that it was impossible to come to Riverside?

A. Yes.

Q. Why?

A. It was in answer to one of his letters, or maybe it was in answer to a telegram, where he wanted me to come to Philadelphia, to meet him in Philadelphia for something, which I wouldn't come.

Q. Do you remember at this time that it was impossible for you to come to Riverside?

A. Yes.

Q. Why?

A. I had this bazaar in Wilkes-Barre, and I couldn't go there until the bazaar was over. But at that time I knew nothing about anything that he wanted to talk to me about.

Q. There had been no talk between you about the Brunen family?

A. I hadn't never saw him, as far as I remember, since I left Timonion, Maryland, the State Fair.

Q. On the day Harry asked you to come to Riverside did you not know you had had no talk with him about the John Brunen affair?

A. Well, he never came to me. He hadn't come to Wilkes-Barre yet.

Q. I understand that, but I am asking you why he would wire to you and ask you to come on to Riverside if you had had no talk about John Brunen.

Mr. Kelsey: I object to that question. How does he know what was in the mind of Harry Mohr, why he wanted him.

Q. Do you know of any reason?

The Court: How can he state?

Mr. Keown: I will withdraw that question and ask him this question:

Q. Do you know of any reason why Harry Mohr would want you to come to Riverside at that time?

A. Not at that time, no, sir; that I can remember.

Q. Mr. Powell, in the telegram that you sent Mr. Mohr under date of November 25, 1921, and marked Exhibit H, you said that you were following the telegram with a letter and his Honor asked you whether you sent a letter and you answered, "No, sir; I don't know, or what was in the letter." How is it that you remember so distinctly everything that has passed between you and Mr. Mohr in the form of telegrams and don't remember whether letters have been written or what is in those letters?

A. Well, I think that the letter of November 5th, if one was written that date, that it was one that I answered to his letter through the Billboard, explaining what I was doing in Wilkes-Barre, and that is where he could get in touch with me, as far as I know.

Q. But that is not my question. You answered his Honor's question when he asked you whether you sent a letter by saying, "No, sir; I don't know, or what was in the letter." Why did you answer it that way yesterday and say what was in the letter?

A. Well, the question may not have been placed to me the same way that you have this morning.

Q. Well, I will put the question just the way his Honor put it to you, in order to get it up for you, you have just said, "It says on the bottom 'Letter following.'" That was so, wasn't it?

A. Of the telegram?

Q. Now this was so, was it not: "It says on the bottom 'Letter following from me.'" At that time you were reading one of the telegrams which has been marked as an exhibit. The Court then said, "You were to write a letter and you don't know whether you did or not?"

Mr. Kelsey: I think it is proper for him to read the telegram to Mr. Powell, to convey to him ——

The Court: No, let him take it his own way. You can do that.

Q. Your reply was, "No, sir; I don't know, or whether—what was in the letter?" Do you remember that testimony yesterday?

A. Well, that is the same answer this morning, in this answer to his letter through the Billboard. My answer in my letter was to inform him what I was doing in Wilkes-Barre and that that is where he could get in touch with me.

Q. Then you say today that you did write a letter and what you told his Honor yesterday was not correct?

A. Yes, I answered the letter in the Billboard to Mohr.

Q. Then what you said yesterday is not correct?

A. Did I say that?

Mr. Peacock: That is not correct. His answer was not so. He didn't tell the Court that he didn't write it.

Mr. Keown: I won't go any further with that.

Q. Now isn't it possible that in that letter that you wrote to him you fully explained your proposition and that brought about the telegram to Harry Mohr under date of November 12, 1921, marked Exhibit I, which reads: "Your proposition looks good. Will see you later or sometime Tuesday in Wilkes-Barre"?

Mr. Peacock: I object, because that is not the

way the telegram reads. It reads: "Your proposition looks good. Will see you either late Monday or sometime Tuesday in Wilkes-Barre. Harry C. Mohr."

Q. When was that telegram dated, the 12th?

The Court: The 12th.

A. There may have been a letter or two in between those two telegrams, the 5th and the 12th.

Q. But isn't it possible that that is what caused this wire or letter?

A. Well, there may have been a couple letters in between.

The Court: The question is not that. The question is whether it is possible that that was the answer.

A. Well, the way that telegram reads that must be the answer.

Q. You must have written him a letter explaining your proposition to him up there?

A. Yes, as I said in the letter of the 5th, if that is the letter that you are referring to, in answer to his letter through the Billboard.

Q. You said that after Harry Mohr came to Wilkes-Barre that he remained about five days and that during those five days his mind was back home with his sister and mother and he never ceased talking about the trouble at home and what John might do while he was away. Was that not the reason why he returned instead of staying longer with you to go about the country, the surrounding towns about Wilkes-Barre, to look for church bazaars?

Mr. Kelsey: I object. How does he know what Harry Mohr's reasons were. I think the frame of the question that he asked yesterday, when he said so and so ——

The Court: If he knows; you can ask that.

Q. I will add that to it.

A. Well, he really did talk that way, but I don't know what was in his mind at that time.

Q. Didn't you yesterday testify he received a phone call and went?

A. He received a wire from his sister and then he called her up from the telephone booth in Wilkes-Barre and left the same night.

Q. You did not hear the conversation, but he immediately went home?

A. Yes, Mr. Brunen and his sister were having trouble and he left the same night for Riverside after the telephone call.

Q. Now, he left suddenly without his wife, did he not?

A. Yes.

Q. Left Mrs. Bessie Mohr back?

A. Yes.

Q. Now, after you arrived in Philadelphia in response to Harry Mohr's telegram, you testified that you missed him because your train was late, so if you intended going on with your mission. How do you account for the fact that you wired to Harry Mohr at the Brunen home when you knew that in communities such as Riverside telegrams were generally sent over the telephone?

A. The train that Mr. Mohr was to meet in the morning was late that I was on. Mr. Mohr had to go to Riverside or to Williamstown, which he told me with Mr. Brunen, and he couldn't get out of

going there, so that way I missed Mr. Mohr, and I sent a telegram after I found out my train was late, I sent a telegram to Riverside to him, so that when he reached Riverside he would know I was at the Philadelphia & Reading station waiting for him.

Q. You are coming on to Wilkes-Barre to carry out this unlawful mission—or coming to Philadelphia, pardon me, to carry out this unlawful mission of killing John Brunen. When you didn't meet Harry Mohr at the Philadelphia station why did you wire to him at the Brunen home that you were here?

A. Well, I supposed he would expect me to do that, same as anyone else.

Q. Were you not fearful some of the Brunens would get your message?

A. No, I had nothing to hide.

Q. You certainly had something to hide if you were coming on from Wilkes-Barre to kill John Brunen?

A. I hadn't come on to kill John Brunen.

Q. You didn't want the jury to understand that is why you came?

A. No, at that time, the proposition was mentioned again about shooting him with a revolver.

Q. Why did you come to Philadelphia and Riverside?

A. In answer to Mr. Mohr's telegram.

Q. Don't you know why you came down to Riverside?

A. Yes, before he left Riverside he asked me any time I wire for you will you come down at once. I said, yes.

Q. You were coming down on the same mission?

A. Yes.

Q. Then my question is if you were on that unlawful mission why would you deliberately send a

telegram right to the Brunen home telling Harry Mohr you were in Philadelphia?

A. To let Mr. Mohr know it.

Q. You were not afraid to let the Brunens know it?

A. No, I didn't come down for the purpose of killing Mr. Brunen, I came down in answer to Mr. Mohr's telegram.

Q. For what purpose?

A. Read the telegram.

Q. I have read the telegram and so have you. I want you to tell me if you didn't come down for the purpose of killing John Brunen, what purpose did you come down for?

A. There hadn't been no set way of killing Mr. Brunen or shooting him, and it was only in the restaurant mentioned about using the pistol, and he told me to stay at the hotel and he would take me out to his home the next day and show me how easy it would be to shoot him as he pulled his automobile into the garage while the motor was still running.

Q. That is not the answer to my question. I am asking you why you came to Philadelphia on that particular occasion.

A. In answer to Mr. Mohr's telegram.

Q. Was that for the purpose of a business transaction or for the purpose of discussing this killing?

A. I guess it was for the purpose of discussing this shooting.

Q. And it was in your mind that you came to Philadelphia for the purpose of further discussing the shooting?

A. Yes, sir.

Q. Then, why then being engaged on that unlawful mission you would wire directly to Mr. Brunen's home a telegram to Harry Mohr you were there?

A. Well, that was the only way I knew of that I could let Mr. Mohr know I was there.

Q. And you were not fearful of the Brunens knowing you were there?

A. No.

Q. Did I understand you to say the guns you bought in Philadelphia were put in the back of Mr. Brunen's car?

A. No, sir, Mr. Mohr's car.

Q. Oh, I beg your pardon. With that correction will you answer my question, were they put in the back of Mr. Mohr's car?

A. Yes, sir.

Q. What do you mean by in the back of his car?

A. Well, in the back of his car there is a lid lifts up where the gasoline tank is and you can put in a lot of things along with it.

Q. Were the guns put in there?

A. Yes, sir.

Q. Where were you when the guns were put in there?

A. With Mr. Mohr.

Q. Where?

A. When the first gun was bought it was wrapped up broke, apart, and wrapped up. I came out, handed him the receipt and the gun and he put it in the back end of his car.

Q. Is that the first gun you bought?

A. Yes, sir.

Q. And that was put in the back of his car as it is (indicating gun)?

A. No, sir, broke apart and wrapped up.

Q. It was that way when you got it?

A. When I brought it out to him.

Q. How was the other gun put in the car?

A. The same way.

Q. In front of the place where you bought it?

A. No, his car stood around the corner. Mr. Mohr, he stood around the corner also.

Q. And you went and bought the guns yourself?

A. Yes, sir.

Q. And you carried them around and put them in the car?

A. No, I bought one gun, brought it out, got in the car and he took me down to 1800 on Market Street.

Q. Did he put the gun in the back of the car right then?

A. Yes, sir.

Q. And you bought the other gun and he put that in the back of the car?

A. Yes, sir.

Q. And you came on to Camden?

A. Both of us did.

Q. Now, Mr. Powell, where is it on Browning Road, on the way to Williamstown, that you refer to that you stopped four or five times? Perhaps you can show us on the map.

A. There is a bridge there. I couldn't read that map very well.

Q. The jury wants to know where that road is and so do I.

The Court: Can you describe the place?

The Witness: I don't understand that map.

The Prosecutor: I can, if I can speak to Mr. Keown.

The Court: He doesn't understand the map and you won't gain anything. You may have him describe the place.

Q. In going to that place, how do you get there?
A. I went there in the automobile with Mr. Mohr.
Q. How did you go?
A. He drove from Camden.

Mr. Keown: If your Honor please, I don't want to appear captious, but I don't want these photographs held so the jury can see them.

Mr. Peacock: They will not be shown.

Q. Can't you tell us how you got there? I want to know where the road is and about where you stopped.
A. Well, from Camden I couldn't tell you.
Q. How did you go?
A. I couldn't tell you. He drove.
Q. You can tell us some road to give us some idea?
A. No, I couldn't. The only way that I could explain that road, that road leads into the street car tracks going out to—leads into the street car track on Federal Street, that same road does.
Q. Where does it hit the street car track?
A. I couldn't say, the Browning Road hits it around 35 or 40 hundred.
Q. That would be the road running from Merchantville to Collingswood?
A. I don't know. I am not acquainted.
Q. You have been there four or five times?
A. Yes, sir, more than that.
Q. How did you go there on the other occasions?
A. Always through his car, I am not acquainted in Camden and never there before until I came there in December.
Q. Can't you give us some idea?

A. Yes, I could take you there easy, but I can't explain it.

Q. How many times have you been there with Mr. Parker or someone else since the tragedy?

A. Once or twice, I am not sure.

Q. Let's assume you were there only once. How did you get there from Mount Holly? You pointed the road out to Mr. Parker?

A. Yes.

Q. Tell us just what you told Mr. Parker so you could get to that place.

A. I told him it was the road, road to Williamstown.

Q. Is that all you told him?

A. I didn't even know the name of the road.

Q. Is that all you told Mr. Parker?

A. Yes.

Q. Then did Mr. Parker with that meagre instruction take you to the very spot?

A. Yes, he took me on that road, of course, after I got on the road I knew it was the right road.

Q. He knew where it was and took you there?

A. He knew the road that leads to Williamstown.

Q. He knows the road that leads to Williamstown?

A. Yes.

Q. And that's all you told him to find it?

A. Yes, as far as I know. I didn't know where it was at. I knew it was on the road leading to Williamstown.

Q. You can't tell us now what municipality that place is in?

A. Sir?

Q. You can't tell us now what municipality that place is?

A. No, sir, I could take you there, that's all.

Mr. Keown: Now, if your Honor please, I rea-

lize that I might be annoying, but I certainly would like to know that place.

Q. You say you could take me there. How would you take me there from here?

A. I wouldn't know how from here, but I could take you from Riverside.

Q. All right, how would you take me to this place from Riverside?

A. You would have to go over the same route Mr. Mohr and I went over, from Riverside you would have to go to Riverton or Palmyra and turn to your left.

Q. We go to Palmyra. Where did you go?

A. You turn to your left there or Riverton, anyway to get to the Burlington Road.

Q. The Burlington Pike?

A. Yes.

Q. Now, what did you do?

A. The Burlington Pike, before you get to the street car line, the Westfield street car line, a road turns to your left that runs into Federal Street, and right there I think it goes across right there on to the Browning Road, I think right in there as you come out I think the Browning Road comes into Federal Street there.

Q. Now we get on the Browning Road. Now, where do we go?

A. Go right down the Browning Road until you come to this bridge.

Q. Is it a great, big, high bridge?

A. No, just a little bridge.

Q. Doesn't the Browning Road only run from Collings Avenue, Collingswood to Maple Avenue, Merchantville?

A. As I said, I am not acquainted. I couldn't answer.

Q. Isn't the road you speak about only about two miles long?

A. I don't know. This Browning Road leads into the road coming into the Williamstown Road, I guess.

Q. After you get off Browning Road where do you turn to get on to a road to take you to Williamstown?

A. I couldn't tell you, the other side of the bridge.

Q. Is this place you are speaking about nearer Williamstown or Riverside?

A. Nearer Camden. Must be about three miles from Camden.

Q. Now, when was it Harry Mohr went to Baltimore for Mr. Brunen?

A. I don't know just exactly the date, I got his telegram there that I sent for his sister to him in Staunton, Virginia.

Q. What is the date of the telegram?

A. I don't know.

Q. How do you know this telegram was sent?

A. I know I sent it for his sister.

Q. Did you yesterday testify to the date of it?

A. No, I don't think I did, I might have. If I did, I seen the telegram there.

Q. When was it Mrs. Brunen came and asked you where she could locate Harry?

A. The same day I sent the telegram, I think the day after Mr. Mohr went to Baltimore.

Q. Can you give us that date today?

A. Yes, I think it was in January.

Q. What date in January?

A. I don't know the dates, I can't remember the dates of every place he went.

Q. Then the only way you testified yesterday was from the fact the Prosecutor showed you the telegrams and refreshed them to your memory?

A. Yes, I can't remember the dates every place he went.

Q. How long did the $100 last you that you received from selling out your business in Wilkes-Barre?

A. I think I had about $60. I owed some things in Wilkes-Barre, owed two weeks' room rent. I was holding my rooms over there and while I was in Camden expecting to go back, I owed two weeks' room rent there, $20, and carfare back. I suppose I had $60.

Q. When did you start to work when you returned to Camden?

A. I didn't work.

Q. Didn't you tell us you worked for a burglar alarm concern?

A. Yes, that was later on, that was in the last of February up until ——

Q. My question is when you—after you returned to Camden did you go to work?

A. I didn't go to work.

Q. Don't you call that working, selling burglar alarms?

A. Yes, that is working, but that didn't happen until around the first of March.

Q. When was it after you returned to Camden that you went to work?

A. The first of March.

Q. How do you account for Mr. Mohr sending you the telegram under date of February 18th, while he was in Chicago, I mean the letter he sent you.

The Prosecutor: I object to the form of the question. How does he know why.

The Court: I don't know what his answer will be, but the question can be answered readily enough.

The Witness: The form of the letter he sent me?

The Court: How do you account, if you can? I don't know.

The Witness: What was that question?

(Question repeated.)

A. He sent me a letter as soon as he arrived in Chicago. That is the only thing I can recall.

Q. Do you remember what was in that letter?

A. Yes.

Q. What did he say in that letter?

A. He just told me he arrived there O. K. and a few words, a very short letter.

Q. He didn't say anything at all in that letter about John Brunen?

A. Naturally he wouldn't.

Q. He didn't?

A. No.

Q. During that time he was in Chicago was the time you were supposed to pull this job off with the pistol?

A. No, the shotgun.

Q. And he never made any inquiry as to how anybody was or never mentioned a thing in the letter as to the tragedy, did he?

A. Naturally he wouldn't.

Q. Well, he didn't, did he?

A. Yes, he did. He mentioned peoples names, but he didn't mention the tragedy.

Q. What was in that letter that gave you a clue he was referring to the tragedy?

A. No, he didn't, naturally he wouldn't.

Q. What do you mean by saying he did, by referring to names?

A. "Best regards to you and Marie and the baby."

Q. You said he didn't mention anybody's name in the letter or anything about the tragedy. Now, you testified on your direct examination that you were to get $1000 the minute John Brunen was shot whether Harry Mohr shot him or you shot him. What reason can you give that Harry Mohr would give you $1000 if Harry Mohr shot him?

A. It didn't make any difference who shot him, that was the way it was understood.

Q. You were to collect this though Harry Mohr did the job?

A. I collect?

Q. You were to get $1000 even though Harry Mohr did shoot him?

A. Yes.

Q. How long were the guns in the Ford car?

A. From the day the guns were bought, on the 23rd of December, until he first went to Baltimore, then the guns were taken out and placed in the barn —no, there was only one gun then, the other gun had been broken, that is, the single-barrel, Mr. Mohr said.

Q. Won't you please answer my question and tell me how long they were in the Ford car?

A. I am answering it, explaining it the best I can. Until Mr. Mohr went to Baltimore he took the gun out and placed it up in the garage because Mr. Brunen wanted to use his Ford coupe.

Q. Had the gun been unwrapped at that time?

A. Yes.

Q. Was it put back in the Ford car?

A. Yes, sir.

Q. Put together?

A. Yes, sir.

Q. Was it put then in the Ford car in the same condition it is now, together?

A. No, yes, sir.

Q. And that gun was put in the Ford car that way?

A. No, sir.

Q. You just said it was?

A. It was all together. Break that gun and it will fold over this way, and it will fit in his Ford coupe.

Q. Will you show me what you mean by that?

A. Yes, sir.

A. (Witness indicates.) That is the way it fit right there.

Q. In that condition the gun was in the Ford car?

A. Yes, sir.

Q. Now, what was the condition of the other gun in the Ford car all of the time?

A. Until it was broke it was broke the same way.

Q. It was in the car?

A. Yes, sir.

Q. Now, who was driving the Ford car during that period, Mr. Mohr or Mr. Brunen?

A. When the guns were in there?

Q. Yes.

A. Mr. Mohr.

Q. Did you ever see Mr. Brunen drive that Ford car during that period?

A. No, he never drove it.

Q. Are you sure Mr. Brunen didn't drive it?

A. As soon as Mr. Mohr figured Mr. Brunen was going to borrow his car he took the gun out.

Q. When did he take the gun out figuring Mr. Brunen was going to borrow his car?

A. When he went to Baltimore.

Q. When did he go?
A. You have the date.
Q. I haven't the date, I want you to tell me.
A. In January.
Q. Then assuming that he went in January, the gun was then only in the car a very short time, wasn't it?
A. Yes, from the 23rd of December until the time he went to Baltimore, there was only one gun in there, the other one was broke sometime in December, I think the last of December.
Q. In other words, one gun was only in there about a week?
A. That's all.
Q. And the other gun was in how long?
A. Until he went to Baltimore.
Q. You can figure that?
A. If you will get that telegram from Staunton I can tell you how many days.

The Court: You can fix the date. What is the use in taking time? You asked him when he went to Baltimore over and over again.

Mr. Keown: I had a purpose, if your Honor please, and my purpose is to show the jury and show your Honor that this witness is not speaking from memory, but from the telegrams shown him.

The Court: He says it was. He has told you the telegrams were shown him by Mr. Parker and that he fixed his recollection of the contents and dates from what Mr. Parker showed him.

Q. And that applies to all of these telegrams?
A. I don't understand your question.

The Prosecutor: I object, I don't know what the purpose of his question is.

Q. I mean to say when you say your memory was refreshed on the dates of these telegrams, you mean to say that all these telegrams had been shown you in order to refresh your memory on the dates?

A. I couldn't say word for word.

The Court: About the dates, was it necessary to show you the telegrams to refresh your memory as to the dates on which these telegrams were sent or received?

A. Well, the first ones, yes, sir, and that one to Staunton, Virginia, when he went to Baltimore, of course, I can't remember the dates he would leave himself. If it was myself I was leaving I could remember. But him leaving, I couldn't unless I had something to refresh my mind.

Q. Who carried the double-barrelled shotgun after the shooting?

A. Who carried the double-barrel shotgun after the shooting?

The Court: Yes, that is the question.

The Witness: Well, I did. I was the one that shot him.

Q. Where did you carry it?

A. Into Mr. Mohr's car.

Q. After you got in the car who carried it?

A. It was put in between us.

Q. Where do you mean?

A. It was broke apart. I lost two shells and the piece that connects the stock and the barrel.

Q. I understand you to mean this gun broken the way you broke it, was put in between you?

A. No, sir, that piece that connects the two together was lost and the two cartridges.

Q. What parts were not on the gun?

A. This piece here wasn't on here and the gun was taken apart in two pieces.

Q. Well, you take that apart the way it was please.

A Juror: This is the piece that was lost? (Indicating.)

The Witness: Yes, sir.

A Juror: And the gun was taken apart like this?

The Witness: And sit in the car between the two of us, like that (indicating).

Q. Leave it apart please, sir. Now, that was on the seat in between you and Mr. Mohr?

A. Not on the seat, standing up between us.

Q. Now, who threw the gun away?

A. He threw the barrel away and I threw the butt.

Q. You both stopped that car on the bridge?

A. Yes, sir, right there by the bridge. I couldn't say the spot where the gun was found.

Q. I don't care where it was found, I am asking you where you stopped the car?

A. I think just the other side of the bridge, it kind of raises, and as you go down I think the car was stopped on the down road coming back in from Riverside.

Q. Coming back in from Riverside?

A. Yes, after the shooting.

Q. After the shooting you were going from Riverside to Camden?

A. Yes.

Q. Which approach over that bridge did you throw the gun over?

A. I think the part coming down toward Camden.

Q. Don't you know where it was?

A. Right on the other side of the bridge, I think, as you are coming down the bridge he stopped the car. I don't know exactly what inch.

Q. You were with him?

A. Yes, I was in the car.

Q. Tell us where the car stopped.

A. I said at the bottom of the bridge at the incline going down. It is not a very high grade, it is just a small bridge.

Q. Isn't it a decided grade?

A. Yes, sir, it is quite a large grade.

Q. Tell us where on that grade you or Mr. Mohr stopped the car and where you got out?

A. We stopped the car right in front of where the guns were found.

Q. How do you know that?

A. Because we threw the guns right straight across from the creek.

Q. How do you know where the guns were found?

A. I know they were found in the creek.

Q. How do you know that?

A. I read that in the paper before I was arrested.

Q. Did you read in the newspapers just where the guns were found?

A. In the creek.

Q. How do you know just where the guns were found?

A. I know they were found in the creek. Wherever the creek is.

Q. Why do you say you stopped your car in the very spot where the guns were found?

A. Because they were threw where Mr. Mohr brought the car to a stop.

Q. Tell me where the guns were found.

A. In the creek.

Mr. Peacock: The witness wasn't there when the guns were found. He said, "All I know I saw it in the paper. They were found in the creek."

The Court: How can he tell you where they were found except from hearsay. You are bringing out hearsay testimony.

Mr. Keown: He says the car was stopped opposite the place where the guns were found.

The Court: That is a matter you can argue before the jury. I don't see how you can get any more.

Q. Give us the point to the best of your recollection where that car was stopped.

A. I said at the bottom of the bridge.

Mr. Peacock: He has answered half a dozen times by saying it stopped at the bottom of the incline.

Mr. Keown: If your Honor please, can we now, as long as Mr. Davis has called the matter ——

The Court: Let the Prosecutor and his assistant here take care of the examination.

Mr. Peacock: What is Mr. Keown's objection, what is he talking about, what is his objection?

The Court: His objection was to Mr. Davis interposing. I don't know, I didn't hear anything that Mr. Davis said.

Mr. Davis: I made a suggestion to the Prosecutor. I have been practising at this bar a good bit longer than Mr. Keown and I think I am within my rights in sitting here and making such suggestions.

The Court: What he objects to is they are not loud enough for the jury to hear. I don't think he does that intentionally. He has a right to suggest through the Prosecutor any questions he thinks the Prosecutor should ask. I don't see why not.

Mr. Keown: I want it noted on the record right now I object to Mr. Davis getting on the floor and arguing in this case any answer to motions.

The Court: When he does it again you put in your objection.

Mr. Keown: I see.

The Court: And I will think it over.

(Previous testimony repeated.)

The Court: Well, I don't know where that was. That will be a matter for you to discuss afterwards and you will have an opportunity to prove.

Q. Did Harry say anything to you about getting

another single-barreled gun after the single-barreled gun had been broken?

A. Yes.

Q. Did you get another single-barreled gun?

A. Yes, there was another one bought.

Q. Where is that?

A. It was taken back to the same place.

Q. Why didn't you keep it?

A. It was never used.

Q. Well, how long did you have it?

A. Probably a week.

Q. And when was it taken back in relation to the night of the tragedy?

A. Might have been a little longer than a week.

Q. How long before the tragedy was it that it was taken back?

A. Two months.

Q. Two months before the tragedy it was taken back?

A. Yes.

Q. When did you first find out the time that the train passed through Riverside?

A. Mr. Mohr told me.

Q. Well, now, that is not answering my question. When?

The Court: When was it?

A. Well, it was the very first time that the shotguns were found, I believe, or the shotguns were bought, I believe.

Q. December 23rd?

A. Yes, it must have been after that, because we never thought of the train while the pistol was in mind.

Q. Where were you when you had the discussion as to when the trains passed through Riverside?

A. I don't remember.

Q. You don't remember where you were? How many times did you talk about that?

A. Well, Mr. Mohr had a Ford car there, a time-table, that he used.

Q. When did he show you the timetable?

A. Oh, many a time.

Q. How long before the tragedy did you last see the timetable?

A. I don't remember.

Q. Well, can't you give us some idea?

A. No.

Q. When was the last time that you talked about the trains before the night of the tragedy?

A. Well, I knew how the trains were the night of the tragedy, and I knew before that.

By the Court:

Q. When was the last time before the night?

A. I don't remember.

The Court: Well, that answers it.

By Mr. Keown:

Q. How many nights prior to the tragedy were you at the Brunen home or in the vicinity of the Brunen home?

A. I don't just remember, but I was not out there only when I was there with Mr. Brunen.

Q. Well, tell us how many times, approximately, just prior to the shooting.

A. I am sure I was there three nights straight. I am not sure.

Q. Now does that three nights straight include the night of the tragedy?

A. Yes, I think it was three nights straight. I couldn't say whether it was any more, but I know it was three nights straight ahead.

Q. Now the tragedy occurred on what evening?

A. Friday.

Q. Now let's go back to Wednesday evening. You were there Wednesday evening?

A. Yes.

Q. You are sure you were there Wednesday evening?

A. Yes. We were there three nights.

The Court: He is sure of two nights, he says, before the night of the tragedy.

A. I am pretty sure it was three nights. Wednesday night was a dark evening, and I think, and Thursday was moonlight and Friday night it was dark because it was raining. It might have been raining Wednesday night, I am not sure, but I am sure of two nights anyway.

The Court: You have answered the question.

Q. Now what time did you get there on Wednesday night?

A. About the same time. We went out every night the same time, we arrived there.

The Court: The question is what time. Don't go on and state something else. Answer the question.

A. Well, we would leave Camden around quarter after six.

Q. What time did you get out there on Wednesday night?

A. Well, I can't say.

Q. What time did you get out there Thursday night?

A. The same time.

Q. What time did you get out there Friday night?

A. The same time.

Q. Where did you stop Wednesday night with the car?

A. Well, I just don't know.

Q. Where did you stop Thursday night with the car?

A. On the Thursday night we stopped right the other side of Cambridge station, over in front of the house, or a couple stores right along there.

Q. Where did you stop Friday night?

A. And I left Mr. Mohr in the car and he didn't do any stopping.

Q. Well, he stopped the car, didn't he?

A. Well, I got out at Cambridge.

Q. Well, that is what I want you to tell me. Now on Wednesday night did you get out of the car?

A. Yes, we both got out of the car.

Q. You both got out of the car? What did you do?

A. Now Wednesday night I am not sure of that. Wednesday night we drove the car right straight in front of his house, I think, I sat in the car and he walked over to his home.

Q. Your recollection is that on Wednesday night the car was driven right up to the Brunen home?

A. Not across the railroad track, but on that paved road that leads into Palmyra and Riverside.

Q. And you sat in the car?

A. Well, I am not sure now whether that is where the car was parked or not.

Q. Why can't you remember what happened on

Wednesday night if you can remember so distinctly what happened on Friday night?

A. Well, I don't just recall where the car was parked that night, that is all. I recall where it was parked Thursday night and Friday night.

Q. You went out Wednesday night for the purpose of killing John Brunen, did you?

A. We went every night that we went out there, that was supposed to be the reason that we went there.

Q. Well, whether it was supposed to be or not, after you left Cambridge that night didn't you talk about how you were going to kill John Brunen?

A. Yes.

Q. Why is it you can't remember what happened on Wednesday night the same as you remember what happened on Friday night, the night you did kill him?

A. It was the same story all the time.

Q. It was going to be the same story, or do you mean you are going to tell the same thing of all the nights?

A. Every time we went out there it was the same story.

Q. And the same story Wednesday night was that you were to park the car across the railroad track in front of the Brunen home?

A. No, I didn't know whether Mr. Brunen was home Wednesday night and I didn't know whether Mr. Mohr knew he was home or wasn't home. Mrs. Brunen went to the picture show with Mr. Brunen's mother and Hazel.

Q. That is not responsive. I want to know whether you went out Wednesday night for the purpose of killing John Brunen.

A. Any night I went out there that was ——

The Court: Answer the question yes or no.

A. Yes.

Q. Where was the gun Wednesday night?

A. In the garage.

Q. Why didn't you get out of the car and go to the Brunen home Wednesday night, if you were going to kill him?

A. Mr. Mohr went over to see if Mr. Brunen was home.

Q. Did he come back?

A. Yes.

Q. Then what did you and Mr. Mohr do?

A. We went to Camden.

Q. What time?

A. Well, I don't know. I didn't look at my watch, or he didn't look at his, that I know of.

Q. Approximately.

A. I couldn't say.

Q. Now had Mr. Mohr found Mr. Brunen home what were you supposed to do on that night?

A. Well, if we found him home I guess ——

Q. Don't guess, tell us what plans were made.

A. It would have been the same thing as Friday night.

Q. Well, your car would not have been out at Cambridge, would it?

A. Well, he could have drove it to Cambridge. It wasn't talked about when Mohr drove it.

Q. Was the arrangement that he was to take the car if John Brunen was home and drive it to Cambridge?

A. No, Mohr would come any place, he would just drive up and down the road.

Q. Well, you would not know where to meet him when you had done the shooting, would you?

A. Cambridge.

Q. Had you made plans for him on Wednesday night to drive the car to Cambridge and meet you?

A. No, he didn't know whether he was home or not. He went across to the home.

Q. Well, assuming he was home, what were your plans to be?

A. Well, the plans would have been then, I probably would have went over or he would come back to the house.

Q. No, I am not asking you probably; I am asking you if you had agreed on your plans, what they were.

A. It would have been the same thing as it was Thursday night when he went with me to the house.

Q. What were your plans Thursday night? What time did you get there Thursday night?

A. Well, we left Camden quarter of six.

Q. What time did you get to Riverside?

A. As quick as he could drive.

Q. Where did you park the car?

A. Right the other side of Cambridge station.

Q. That was Thursday night?

A. This side of Cambridge station. No, the other side from here.

Q. What did you do Thursday night?

A. We got out of the car and walked to the Brunen home.

Q. Was that part of the plans?

A. Yes.

Q. Part of the plan was that you and Mohr should walk to the Brunen home?

A. Yes.

Q. Which way did you walk?

A. Right straight to the Brunen home.

Q. Right up the front pavement?

A. No, the car was parked over the other side of the railroad track, on the same side that the Brunen

home was on. We walked down that road and I think we went through a field to the back of the Brunen home.

Q. Mr. Mohr with you?

A. Yes.

Q. Then where did you go?

A. Went in the Brunen home.

Q. What did you do when you got to the Brunen home?

A. I stood back of the barn and Mr. Mohr went around the house to see if Mr. Brunen was in the house.

Q. Now if he was home what were your plans for that evening?

A. The same thing as Friday night, I guess.

Q. Well, don't you know?

A. I said the same thing as Friday, I guess.

Q. I say don't you know without guessing?

A. I say the same thing as Friday night, I guess.

Q. Had you agreed upon plans?

A. Yes.

Q. What were the plans?

A. The same as Friday night.

Q. Well, what happened Thursday night that you didn't do it?

A. Mr. Brunen wasn't—he must have been upstairs or he was in the basement, but he wasn't there.

Q. Well, now why didn't you wait for him?

A. Mr. Mohr had an appointment with the Veterans of the Foreign Wars Post in Philadelphia.

Q. And that was more important than shooting John Brunen, after you went all the ways out there to do it?

A. You will have to ask him that question.

Q. Well, I mean as far as you are concerned, you didn't do it?

A. I had nothing to do with his appointment in Philadelphia.

Q. That was Thursday night?

A. Yes.

Q. John Brunen was home in the house alone?

A. I don't know whether he was or not.

Q. I thought you said he was either upstairs or down in the basement?

A. Well, I know he wasn't any place where Mr. Mohr could see him.

Q. How long did you stay around waiting for him to get into a place where you or Mr. Mohr could see him?

A. We didn't stay very long.

Q. How long?

A. He walked around the house, he tried the side door, the kitchen door, couldn't get in and he walked around the house and walked all the way around the yard and came in the back hedge and whistled for me and I went on out with him. We went out and got in the car.

Q. Was the house lighted?

A. Yes, they always kept a light in the house.

Q. Nobody heard him rattle that back door?

A. I don't know. I said I was behind the barn.

Q. But nobody responded to the rap on the back door?

A. I don't think so.

Q. Why should Harry Mohr try the back door when he lived in the house and had a key for the house?

A. I don't think he had a key for the house.

Q. Didn't he ever go in the house on any other occasion in the front door or any other door with a key?

A. Not as I know of.

Q. You never saw him do that?

A. No.

Q. You mean to infer to this jury that he had no right to go into the house unless he knocked?

A. I had nothing to do with that.

Q. You know where he was living, don't you?

A. Yes.

Q. And he was living in that house, wasn't he?

A. Yes.

Q. You know that, don't you?

A. Yes.

Q. You know he had a perfect right to go in and do there as he saw fit, don't you?

A. I guess he did.

Q. You know he was the general manager of the show, don't you?

A. Yes, sir.

Q. Now I am asking you why he would go to the back door and rattle instead of taking out his key.

A. He wanted to see if Mr. Brunen was home.

Q. If Mr. Brunen had been home what were you supposed to do?

A. I guess it would have been the same thing as Friday night.

Q. Well, what had Mr. Mohr told you to do before if Mr. Brunen was home?

A. He hadn't told me to do anything.

Q. I thought you said that your plans had been made before you went there. They hadn't, had they?

A. They had been made for a long time.

Q. What were they supposed to be in the event of finding John Brunen in the house?

A. Well, I suppose he would probably have got shot Thursday night then.

Q. Who would have shot him?

A. One of the two of us.

Q. How would he have been shot?

A. With a shotgun.

Q. If Mr. Mohr had gone in the house and found John Brunen home he could have shot him and wouldn't need you, would he?

A. He could have done that any time. He didn't want it an inside job, he didn't want it to be him, I guess.

Q. And before Harry Mohr went up and rattled the door what instructions did he give you?

A. "Wait here and see if he is home."

Q. And if he was home what were you supposed to do?

A. The same thing as Friday night, I suppose.

Q. Well, what?

A. I don't know.

Q. Why don't you know if he told you?

A. I couldn't say. He would have been shot Thursday night if he had been home.

Q. That is what you went out there for, wasn't it?

A. Yes, that is the only thing we ever went out there for.

Q. And had your plans already made?

A. Yes.

Q. Tell this jury what you were going to do Thursday night if you found John Brunen home.

A. Shoot him, the same as Friday night.

Q. How were you going to shoot him?

A. The only thing we had was the shotgun.

Q. How were you going to shoot him? Where was he going to be and how were you going to shoot him?

A. Well, the same way, in the kitchen, I suppose.

Q. Was Harry Mohr supposed to go in the house and get John Brunen and set him at the window and then was he supposed to go out and from the outside shoot him? Was that your plans?

A. No, there wasn't any plans laid if he was not home. That was all there was to it.

Q. But you had your plans laid before Harry Mohr went and rapped on the door?

A. If he was not at the window it never would have took place.

Q. Then why did Harry Mohr go up and knock on the door, if you say he was not at the window?

A. He didn't knock on the door, he tried the door, as far as I know. I didn't go up with him.

Q. Why did he do that?

Mr. Peacock: I object, because he can't tell what was in the mind of Harry Mohr.

The Court: That is right. I think the objection is sustained.

Q. What were your arrangements with Harry Mohr in the event of Harry Mohr being able to get into the house that night, Thursday night?

A. I don't know.

Q. In other words, you had no arrangements with him?

A. He was not trying to get in the house, he was trying to find out if Mr. Brunen was home.

(Objected to on the same ground.)

Mr. Kelsey: If the Court please, don't you think we have gone far enough in this matter, over and over again? The question is purely argumentative.

Mr. Keown: It may be so.

The Court: Well, Mr. Kelsey, I have ruled and Mr. Keown has acquiesced in the ruling.

Q. Now when did you make up the plan of action

for the Friday night? Was that after you got in the car or before you got in the car?

A. Friday night?

Q. Yes.

A. Thursday night when we left there I went out to 56th and Spruce Streets with him. He asked me to go out with him. So I sat in the car and he went over to the Veterans Foreign War Post.

Q. What time was it you arrived over there at the Veterans Foreign War Post?

A. Well, it was close to nine o'clock, I am not sure. I don't know just what time it was.

Q. But you are sure that it was on a Thursday night?

A. Yes.

Q. Did you leave Riverside earlier Thursday night than you did Friday night?

A. No, I don't think so.

Q. Did you leave it later?

A. It may have been. I can't say.

Q. How would you compare the time that you left Riverside on Thursday night and the time that you left Riverside on Friday night?

A. Well, I couldn't compare it. We didn't stay at the Brunen home on Thursday night very long. As soon as we got there I stayed in back of the barn, he walked around the house and tried the side door. He went out the front of the house, went out the front of the yard and came around the same way and got in in the back of the hedges and whistled for me. I went out and we went back. It was a moonlight night.

Q. Moon shining brightly, wasn't it?

A. Pretty bright night.

Q. Anybody could have seen you, what you did?

A. Yes.

Q. Did you see the dog out that night?

A. No.

Q. Now is it possible that you attended this meeting of the Veterans' War Association on Wednesday night and not on Thursday night?

A. What night?

The Court: On Wednesday instead of Thursday night.

Q. Is it possible that that meeting was on Tuesday night of that week?

A. No, it was not.

Q. You are positive that it was on a Thursday night?

A. I am not positive, but I am sure it was.

Q. Well, what is the difference between being sure and being positive?

Mr. Peacock: I object. That is a question of argument.

The Court: You look in Webster for that.

Q. If it was not on Thursday night what night was it on?

A. My recollection is Thursday evening.

Q. Is it possible that it was on Wednesday night?

A. No, I don't think it is.

Q. Now if it was not on Thursday night then what you have said happened on Thursday, that didn't happen that Thursday night, did it? I mean the things that go before attending this meeting.

(Objected to.)

The Court: You are asking for the witness' con-

clusion. It is objectionable and you withdraw it, I assume?

Mr. Keown: I withdraw it; yes, sir.

Q. Now do you know what appointments Mr. Mohr had for Wednesday night?

A. No, I do not.

Q. Where did you leave Mr. Mohr on Wednesday night?

A. I don't know, in Camden.

Q. Well, you do know, don't you?

A. I said in Camden.

Q. Well, where in Camden, please?

A. Well, close to my home, because I went right home.

Q. What time did you get home Wednesday night?

A. As soon as he left me.

Q. Well, can't you give us an approximate idea as to the time?

A. Well, it wouldn't be any later than eight o'clock, I don't presume.

Q. Where did he leave you Thursday night?

A. I went to 5600 Spruce Street, I think that is the number, and I waited in the car for him while he went over to the Veterans Foreign War Post, and he was over there about three-quarters of an hour, I think.

Q. My question is where did he leave you that night?

A. He brought me back to within a square, I think, of my home.

Q. Where did he leave you Friday night?

A. He left me at the ferry.

Q. Camden side or Philadelphia side?

A. Philadelphia side.

Q. What time was it that you arrived in Philadelphia on the Friday night in question?

A. On the Camden side?

(Question repeated.)

A. I never got in Philadelphia. I just got off one boat and got on the next boat, came right back.

Q. Didn't the boat run in Philadelphia?

A. It landed at the dock.

Q. Well, then, what time did you get to Philadelphia?

The Court: As near as you can fix.

A. Between five minutes of eight and eight o'clock.

Q. Do I understand you to say that you got off of one boat and onto another boat?

A. Yes.

Q. Why didn't you stay on the same boat and go right back?

A. I went on the boat that would get back quicker.

Q. Get back quicker?

A. Yes.

Q. Did you have to pay an extra fare to get on another boat?

A. I think I did.

Q. Well, don't you know?

A. Well, that night I was a little excited; I think I would be excited. I don't just remember whether I paid another fare to go back or not.

Q. When you come back in the boat the only way you can get into another boat is to go out and pay another fare, isn't it?

A. I think I went right in the smoking room and came right out without paying an extra fare.

Q. The boat that you came on would be the boat to go out first, would it not?

A. I don't think so.

Q. Don't you know?

A. No, I don't.

Q. After you shot John Brunen in what direction did you run?

A. The same way I went.

Q. The same way you went?

A. The same way Mr. Mohr and I went Thursday night.

Q. Well, what was that?

A. Through the back end of his hedge, across the street, across Rancocas Avenue, into another field, then there is another street and then you enter into a big field. That field leads right into Cambridge station.

Q. Now do I understand you to say that you left the garage? (Referring to map.)

A. Yes.

Q. You give me the direction that you went.

A. That is it.

The Court: Tell us where you are pointing, Mr. Keown.

Q. You say that you went in a direction which would be about a line drawn from the garage to a house on the opposite side of Rancocas Avenue?

A. Yes, there is a field in there. There is a field right across from the back end of the Brunen property.

Q. A field back here?

A. No, after you go across Rancocas Avenue, right in there is a field.

Q. There is a field nearer New Jersey Avenue or between New Jersey Avenue and the house that is

marked "House" on here, on the upper right-hand corner?

A. What house is that up there?

Q. I can't tell you, Mr. Powell, but is there a house there?

A. I don't know. I say what house is it? I say I can't tell you.

Mr. Kelsey: I would suggest that Mr. Powell come down and take the pointer and show the Court and jury which way he went when he went himself.

Mr. Keown: I am examining the witness, please.

Q. Don't you know that there is a house back there, don't you remember the location so that you can remember the house that the engineer has put back there?

A. No, I don't; never saw that before.

The Court: Well, he doesn't remember the house but he remembers the field.

Q. Now how far back of the Brunen garage do you think it was that you ran before you hit that field?

A. Just across the street there is a field, just as you get across the street.

Q. Now after you got over here, assuming that this is the field that you are speaking about, what course did you take?

A. Right straight through the field.

Q. How far over?

A. To the next street.

Q. Then where?

A. Across the street, and there is another big

field, and that big field leads right out to Cambridge station.

Q. Does that then get you right on the railroad track or does it get you back to the field from the railroad track?

A. Well, the field leads to the road. There is a road runs alongside the field, and it leads to the railroad track, Cambridge station.

Q. When you crossed this second field, after having passed two streets—I understand that you passed two streets, didn't you, getting to the street where the car was?

A. Yes, crossed two streets.

Q. Then did you go down that street towards the railroad crossing?

A. No, I crossed two streets and went through this big field, and this field leads right out to the Cambridge station.

Q. How far is the Cambridge station from where you did the shooting?

A. It must be three and a half squares or four.

Q. Three and a half or four squares?

A. Yes, sir.

Q. Did you walk it or did you run it after you did the shooting?

A. I ran it.

Q. Were you winded when you arrived over there?

A. Yes, sir.

Q. Had run all the way?

A. Yes, sir.

Q. Were you wet or muddy when you arrived at Mr. Mohr's car?

A. I don't know. Yes, I had a pair of over-shoes.

Q. Were you muddy?

A. Yes, my shoes were muddy.

Q. Why did you say you didn't know?

A. You said wet or muddy.

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Q. Were you wet?

A. Well, I can't remember those things.

Q. Well, isn't that important to remember when you got back in the car, whether you were wet or not?

A. No, it wasn't important.

Q. Do you remember whether your shoes were muddy?

A. I remember my overshoes were muddy.

Q. Did you clean them off?

A. In the car.

Q. You cleaned them off in the car, what on?

A. With a handkerchief.

Q. What did you do with the handkerchief, throw it away?

A. Yes, sir.

Q. Then you did notice that you were muddy and that you might look suspicious, and you cleaned them off, didn't you?

A. Yes, sir.

Q. Didn't you also notice whether you were wet?

A. No.

Q. Where did you throw that handkerchief?

A. I don't know. I threw it out of the car after I wiped my shoes off.

Q. Where?

A. Out on the ground some place.

Q. Wasn't it important to get rid of that evidence?

A. No. I wiped the mud off and threw the handkerchief is all I did.

Q. Now, in relation to the railroad crossing, or the railroad track, how far was the car away from the railroad track when you got in it?

A. It was right in front of Cambridge station, back of Cambridge station.

Q. Now, I don't quite understand what you mean by that. Now, where is Cambridge station? Which

side of the railroad crossing is that, or the railroad track?

A. Well, it is on the right-hand side of the railroad tracks going from Cambridge into Palmyra or to Riverton.

Q. Now, in relation to that little station that you speak of, where was Mr. Mohr's car?

A. Back of the station.

Q. It was on the asphalt then?

A. Yes.

Q. And was parked there facing which direction?

A. Going to Camden.

Q. On the right or left-hand side of the road?

A. I don't know, I couldn't say that. I never paid any attention to that. I know he was headed for Camden.

Q. Now, where was this other car that you saw in relation to Harry Mohr's car?

A. Well, I saw that car first, then there was a street car coming along and it had a powerful light on it, and I stayed back until the street car passed.

Q. Now, just answer my question. Where was this other car in relation to Mr. Mohr's car?

A. I don't know, I just heard it go through there and I thought it was his car and I started to cross the railroad track and seen this street car coming, and it was so close that I backed up——

Q. But Mr. Mohr's car was there and you saw the other car?

A. I didn't see them both at once. I saw this other car and thought it was Mohr's car.

Q. Where did you see the other car in relation to Cambridge station?

A. Right the other side of the street car track.

Q. I am sorry, but that doesn't mean a thing to me. Where is the street car track?

A. It right in back of Cambridge railroad station.

Q. But it runs all the way from Camden to Trenton, doesn't it?

A. It is right in back of the Cambridge railroad station.

Q. Yes, but where along that drive was this other car in relation to the station house?

A. Well, it was out there and I started across.

Q. I understand that.

A. I can't explain it to you.

Q. About how far from Cambridge station was it?

A. I couldn't tell you; probably as far as that second post over there when I saw it.

Q. That is what I mean.

A. Flashing. It had its lights and I thought it was Mr. Mohr's car and I started across and the street car was coming and I backed up.

Q. I understood that. There is no question pending.

The Court: I think we have gone over that a dozen times.

Q. Now, why did you take the gun apart while you were running across these fields?

A. Well, I couldn't answer that question.

Q. Why did you tell Harry Mohr after you had gotten in the car that you didn't know whether you had gotten him or not?

A. I don't know.

Q. Now, what direction did you go on this Friday night in going from Cambridge to Camden? Can you show us on the map?

A. From Cambridge to Camden?

Q. Yes.

A. Well, I don't know that map.

Q. You don't know?
A. No, I know the way we come but I don't know that map.

The Court: Well, you have said that. There is no use repeating.

Q. How rapidly were you driving?
A. Going out I don't know, but going back I think that he went back as fast as he could go.
Q. Did he drive fast?
A. Yes.
Q. Was it raining?
A. Drizzling.
Q. Was there any obstruction along the windshield by reason of the rain?
A. I don't remember.
Q. Did you have any close calls in speeding, any narrow escapes?
A. I don't remember
Q. Any sharp turns?
A. Yes, sir.
Q. What?
A. There was at Riverton. Before we got to Riverton we changed there and went around a couple squares and got back on that road leading into the Burlington Pike.
Q. You drove hard through Camden?
A. Well, I don't know. He done the driving. He went pretty fast.
Q. Now, after you got on the Burlington Pike how did you go into Camden, right straight in Federal Street until you hit Tenth and Cooper?
A. No, I don't think that is Federal Street there, is it? The Burlington Pike don't run into Federal Street, does it?

Q. Well, you go into the Burlington Pike until you hit Federal Street, do you not?

A. Is that Federal Street?

Q. Federal or Market, I think you call it.

A. No, we didn't go in that way. We didn't get that far. We turned off some place and got over on that double street car track that runs into Haddonfield—I don't know what the name of it is.

Q. Haddonfield there?

A. About three blocks over, three squares over, there is another street that has got two street car tracks on it. That is the sreet we got over on some way.

Q. Maple Avenue, Merchantville?

A. Merchantville, that is right.

Q. Then you went right from Merchantville following the double car tracks?

A. No, we come out this side of Merchantville, didn't have to go through Merchantville, I don't think.

Q. After you went in the double trolley tracks did you continue along them?

A. Right straight down until we come to 10th and Cooper, I think, or 12th and Cooper—12th and Cooper, I think.

Q. You kept on those double tracks until you hit the place where Cooper Street runs into the double tracks?

A. Yes, sir.

Q. Do you know how to drive a car?

A. Yes, I can drive a car.

Q. Have you ever had a license to drive a car?

A. No.

Q. When did you change seats with Mr. Mohr in order to drive the car over on the ferry-boat?

A. About half a square from the entrance of the ferry.

Q. You mean right along the boulevard?

A. Just where he got out. He got out and I sat over in his seat and he paid his way through and I drove the car.

Q. I am asking you where you changed seats.

A. Half a square from the entrance of the ferry.

Q. You mean to say a half a square from the driveway to the ferry or half a square from the driveway leading into the ferry?

A. That is it; right in the boulevard. He just 10 'got out of the car and I took his seat.

Q. In relation to the place where the traffic officer stands where did you change?

A. The other side of the traffic officer.

Q. The other side or this side?

A. The other side, going in.

By the Court:

Q. The nearer side to the ferry? 20

A. Yes, the nearer side to the ferry.

Q. Now, that traffic officer stands there within about five hundred feet of the ferry house, does he not?

A. Well, I don't know. I don't know how many feet he stands.

Q. Well, you have seen him there hundreds and thousands of occasions, haven't you?

A. Yes.

Q. Can't you tell us that? 30

A. Well, you know that, I guess, without my telling it.

Q. Where did Mr. Mohr get out of the car?

A. About half a square from the entrance to the ferry.

Q. Where you changed seats?

A. I didn't change seats till he got out.

Q. I understand that. So he got out when you changed seats?

A. Yes.

The Court: He answered that. He said half a square from the ferry. How many times do you want him to answer that question?

Q. Were there any cars in line ahead of you when you stopped?

A. No.

Q. And you continued right on the ferry-boat?

A. Yes, sir.

Q. Did you pay the ferriage out of your own pocket?

A. Yes.

Q. And Harry Mohr went through the passengers' entrance and paid a fare?

A. Yes.

Q. And then he met you on the ferry-boat again?

A. Yes, as soon as I drove the car on the ferry-boat he got on the same boat.

Q. Do you recall what the ferriage was?

A. The price of it?

Q. Do you recall what the ferriage was?

A. No, I gave him a quarter.

Q. And that took you over?

A. I don't remember. He gave me a ticket and he may have given me some change back, I don't know.

Q. What part of the boat did you park on?

A. Right-hand side.

Q. How many cars were ahead of you when you got on the boat?

A. I think we were the first car.

Q. Were there any in back of you?

A. I don't remember. I think there was.

Q. You walked back through that boat, didn't you, later?

A. No.

Q. I thought I heard you say yesterday that you threw a cap of Harry Mohr off the back of the boat after you left your car on the boat?

A. I didn't say the back of the boat, I said I threw it over the boat.

Q. You said the back of the boat.

A. Then I made a mistake.

Q. When you said that?

A. I threw it over the front of the boat. If I said the back——

Q. They are both——

A. It all depends on which way you are going.

Q. Yes, it is front and it is back.

A. Yes, there is no front or back to those boats.

Q. What kind of a hat was that?

A. It was a cap.

By the Court:

Q. A white cap?

A. A white cap.

By Mr. Keown:

Q. Was it duck, linen?

A. No, I don't remember. I never paid any attention to his cap. It was a light cap, though.

Q. Had you seen him have that cap on on other occasions?

A. Many a time.

Q. If you have seen the cap on him on so many other occasions you certainly know what kind of a cap it was, don't you?

A. No, it was a light cap.

Q. When you say light do you mean white? Yesterday you said white.

A. It wasn't no white, if that is what you call—they call paper white. There is a lot of things you can call light.

Q. When you said white yesterday what did you mean?

A. He had a light cap on.

The Court: Does it make any difference whether it was light or white?

Mr. Keown: I think it makes a lot of difference. I think it is fairly in this case, the identification of that hat.

The Witness: It was not a hat, it was a cap.

Q. I understand that. Now, did Mr. Mohr give you any money at the ferry that night?

A. Forty cents.

Q. Why was it that amount, do you know?

A. He said he didn't have any more.

Q. Gave you all he had?

A. I guess, only to get back over the ferry.

Q. Where did you get the $50 bill that Harry Mohr gave you after the tragedy changed?

A. At the ferry-boat.

Q. What?

A. At the ferryboat, going over into Philadelphia, at the ferry.

Q. You gave the man at the ticket office at the ferry-boat $50 to pay fare to go over?

A. Yes.

Q. And how long was that after you received the money that you had the money changed?

A. Probably an hour, an hour and a half, something like that. I don't know just the time.

Q. Now, do you remember where you had the second $50 bill broken?

The Court:

Q. When was that day that you had the $50 changed, on the day of the shooting?

Mr. Keown: The following day.

Q. Do you remember where you had the second $50 bill changed?

A. No, I don't.

Q. You don't?

A. No.

Q. Do you remember where you had the third and fourth $50 bills that Harry Mohr gave you changed?

A. No, I don't remember where I had them changed. I wouldn't have remembered the ferry if it was not just the ferry.

Q. Do you remember Harry Mohr coming to your home on the morning after the tragedy?

A. Yes, I remember seeing him.

Q. Do you remember his questioning you as to where you had been the night before?

A. No. Him question me?

Q. Yes, that is my question to you.

A. He knew where I was.

Q. Now, answer my question.

A. No, he didn't question me.

Q. Where were you when Harry Mohr gave you the second $50 bill?

A. At my house.

Q. And he gave you the first at your house?

A. No, he gave me the first in his car, then he

came back on Monday evening, between twelve and one o'clock at night, and gave me two $50 bills.

Q. What time was it you met him at Broadway station?

A. On Saturday evening.

Q. What time?

A. It must have been around eight o'clock.

Q. And according to your testimony he gave you $200 between the day of the tragedy and the time that you went to the pawnbrokers in Philadelphia; that is right, isn't it?

A. No.

Q. Isn't that according to your testimony yesterday?

A. Two hundred and a quarter, I think.

Q. What?

A. I think there is two hundred and a quarter there, until we went to the pawnbroker's.

Q. Now, have you any way for accounting for the expenditure of so large a sum of money in that short time?

A. No.

Q. Did you spend any of it on drink?

A. Yes, I drank.

Q. Any of it on drugs of any kind?

A. Never used any in my life.

Q. Have you anything to account for that $250 being spent in that short time?

A. Yes, I bought a suit of clothes, I bought shoes, I bought hats, I cleaned up and spent the money.

Q. You say that you have been in Riverside with Harry Mohr about twenty-five different times; that is correct, is it?

A. Yes, maybe more.

Q. Can you tell me the first time that you were in Riverside with him?

A. Well, do you mean before the tragedy?

Q. I mean the first time that you refer to of these twenty-five times.

A. Yes, sir.

Q. Where was that?

A. The first time I came to Philadelphia from Wilkes-Barre, the following day.

Q. When was that, please?

A. Well, I don't know what day I arrived in——

Q. Was there anything unusual about that trip to Riverside that day?

A. Yes.

Q. Do you mean to say all of these twenty-five trips to Riverside were made for the same purpose, to get John Brunen?

A. Yes.

Q. Now, do you recall when it was that you met Grant and that Grant was introduced to you?

A. I don't recall the date, no.

Q. About how long before the tragedy?

A. I couldn't tell.

Q. You remember when it was that Mr. Mohr introduced you to the chief of police?

A. Yes, it was after Christmas.

Q. Do you remember when it was that you were introduced to the detectives, in Camden?

A. No, I don't remember the date.

Q. Do you remember when it was that you were introduced to Zimmerman in Williamstown?

A. It was before Christmas, it must have been. It was right after I came over here to live. It was before the first of the year, anyway.

Q. Now, on this testimony that you gave concerning this shooting Mr. Brunen at the Taylor's station, do I understand you to say that you were to shoot Mr. Brunen or that Harry Mohr was to shoot Mr. Brunen while he passed the Taylor's station in the train?

A. Yes, sir.

Q. While the train was moving somebody from the outside of the train was to shoot through the train and shoot him?

A. Yes, sir.

Q. Now, when did you make that arrangement with Mr. Mohr?

A. There wasn't any arrangement made. That was a suggestion.

Q. Well, if there was a suggestion, when was that suggestion made to you that you kill him in that way?

A. I don't know. It was sometime in the month of February.

Q. And where were you when you talked about that, Mr. Powell?

A. I think in the car.

Q. And did you go into it any fuller than what you went into it yesterday?

A. No, only to just go down to the terminal and see a train there and then get in Mr. Mohr's car we had, and we went out towards Riverside, and we stopped on the bridge at the Taylor's station, and there waited for a train to come by, and of course the train went by, that was all there was to it.

Q. Was Mr. Brunen on the train?

A. No, no.

Q. You were merely demonstrating that it was possible to be done?

A. Yes.

Q. In other words, you saw a train leaving the station and you ran out and you jumped in the automobile and you beat that train to Taylor's station; is that what you mean to tell us?

A. Yes.

Q. Did you pick out anyone in the train that you

were going to see if you could pick him out when you hit Taylor's station?

A. No, we didn't.

Q. What plans had you made in the event of Mr. Brunen perchance changing his seat in the train?

A. Well, I had no intention for thinking of shooting him on the train anyway, so that would never have worried my mind. I said it was only a suggestion made by Mr. Mohr.

Q. Did you tell him that was a foolish way of doing it?

A. Yes, I did.

Q. Did you suggest some other better way?

A. No.

Q. Didn't you testify yesterday that the reason you refused to go through with that shooting at Taylor's station was due to the fact that you were afraid you would get somebody else on the train?

A. No, I didn't say that about myself.

Q. Page 134, didn't you say yesterday, "Well, that was just spoke of; and he told me there, 'We can beat the train there, we will go out there now;' and he took me out that evening after dark and we got out of the car, waited for the train to come by and I wouldn't have anything to do with that, I was afraid I would harm somebody else in the train."

Mr. Peacock: I object. It would harm somebody.

Q. You said that it would harm somebody else?

A. Yes.

Q. And that's the reason you didn't do it?

A. That's it.

Q. Mr. Mohr said he could get the fellow?

A. Yes, he said he was a very good shot.

Q. Shot?

A. Shot, yes.

Q. Did you persuade Mr. Mohr to do the shooting?

A. No, I knew he could never do that himself.

Q. Well, he had said he could?

A. We didn't say he could.

Q. You didn't care whether he did?

A. I certainly did.

Q. Why?

A. I wouldn't want him to do anything like that and kill three or four people in there.

Q. That wouldn't have made any difference to you?

A. I would have been there just the same.

Q. You would have gotten the $1000 if he had gotten John Brunen?

A. That don't make no difference.

Mr. Keown: Now, if your Honor please, I appreciate the fact I covered part of this yesterday, but I think there is just one question your Honor will allow me to ask on that examination.

The Court: All right.

Q. You say in going to Riverside you passed Twenty-sixth and Federal Street, that there was an officer there and you went around him. How did you know that there was an officer there if you drove around him the way you say you drove around him by turning in at 25th Street, to your left?

A. I didn't say it was 25th Street, but I knew the officer was there, because we passed up and down there many times and Mr. Mohr told me that he would go around this officer because I highballed him as we came in.

Q. You don't know whether he was there that night?

A. Only what Mr. Mohr told me.

Q. You don't know, as a matter of fact, whether he was there that night?

A. That the officer was?

Q. Yes.

A. Well, I don't know, yes, I think he was up there. I think we could see him at 26th Street, I am not sure.

Q. Did you not say on your direct examination yesterday, "We passed 26th and Federal Street, there was an officer there and we went around him." Didn't you say that? Didn't you say that?

A. Well, I don't know, if I did, we didn't pass him, we went around him.

Q. That was a mistake of yours yesterday?

A. Unless it was a misprint of somebody took it down. I said I must have said it unless there is a mistake.

Q. What is it?

A. We couldn't have went around him and passed him both.

Q. So which did you do?

Mr. Peacock: Mr. Keown left out the word "out."

Q. Which will you tell us now about that?

A. We didn't pass him. I know he didn't want to pass him.

Q. Now, when did you last see John Brunen prior to the night of the murder?

A. I don't remember.

Mr. Keown: I wonder if your Honor would grant me an intermission for a couple of moments. I can get this thing sorted and get through much sooner.

The Court: There is a question I want to ask. The jurors have requested a recess of five minutes and you can look this thing up.

(After recess.)

By the Court:

Q. How far about above the ground, how high above the ground, I should have said, was the window at which John Brunen sat at the time you did the shooting?

A. I don't know, sir.

Q. Can't you point to any article right in this room that would indicate it, for instance, this desk?

A. About the size I am.

Q. Will you get down from there and take that gun and show how near you approached that window and did the shooting?

(Witness takes gun and leaves the stand.)

Q. Suppose this is the line of the house (indicating)?

A. Yes, sir, the window was just about as high as I am.

Q. Did you stand as far away from the window as that, as far as I am now?

A. There is a cellar right there.

Q. A cellar door?

A. Yes, sir.

Q. How many feet would that be? Estimate, gentlemen.

The Prosecutor: The window is out back, your Honor, if that can be brought in as an exhibit.

Q. I want to know just where he was standing.
A. About as far as I am from you.
Q. How many feet would you say?

Mr. Keown: About ten.

A Juror: Nine or ten feet.

Q. At that time when you did the shooting?
A. Yes, sir, there was a cellar door.
Q. In which position did you hold the gun, straight like that (indicating)?
A. Yes, sir, I think it was just about even with my eyes.
Q. You think it was even? You took aim as you are doing now?
A. I came in this way (indicating) and straightened up and pulled the trigger and came on a run.

By Mr. Keown:

Q. Did you see Mr. Earnest, the proprietor of the boarding house where you were, the proprietor of the rooming house where you were rooming, on the night of the tragedy?
A. Yes, sir.
Q. What time of the night did you first see him after the tragedy?
A. Just as soon as I came home.
Q. About what time did you get home?
A. It must have been around eight o'clock.
Q. Did you also see Mrs. Earnest at the same time?
A. I don't think I saw Mrs. Earnest. I think I saw just Mr. Earnest.
Q. Did Mr. Brunen agree to pay you anything for

testifying at his trial at Mount Carmel, at Sunbury? Pardon me.

A. No.

Q. Do you remember going to the Brunen home and making arrangements with Mr. Brunen and with Mr. Mohr about selling some signal flags sometime prior to the commission of the shooting?

A. Yes.

Q. You did go there?

A. Yes.

Q. Does that refresh your memory as to the last time that you saw John Brunen prior to the tragedy?

A. What was that first question asked?

(Previous question repeated.)

A. Not with Mr. Brunen, with Mr. Mohr, I did. Mr. Brunen wasn't there.

Q. Did you not see Mr. Brunen when you entered the house that night?

A. No, sir.

Q. Did he not get up when you entered and go upstairs and refuse to talk to you?

A. No, sir, he wasn't there, no one there but Mrs. Mohr, Mr. Mohr's mother.

Q. When was that occasion?

A. I don't remember.

Q. Approximately how long before the tragedy?

A. Probably a week, maybe longer, I couldn't say.

Q. And that was one occasion then when you went to the Brunen home for some other purpose than to shoot John Brunen?

A. I went with Mr. Mohr.

Q. That was one occasion when you had a legitimate mission there at the Brunen home?

A. No, sir; we just went out there and Mr. Brunen wasn't home and that was all.

Q. But you did discuss about selling these flags?
A. Yes.
Q. And didn't you go ahead and sell some of the flags?
A. Yes.
Q. That was a legitimate business engagement you had?
A. Yes.
Q. How many of these flags did you sell for Mr. Brunen through Mr. Mohr?
A. Didn't sell any.
Q. You didn't deliver any at all?
A. Not for Mr. Brunen.
Q. I said Mr. Brunen's flags through Mr. Mohr?
A. Yes.
Q. You did sell some of them?
A. Yes.
Q. Received orders?
A. Yes.
Q. And then you delivered them, did you not?
A. No, sold them all at one place.
Q. And you delivered them to that man?
A. Mr. Mohr did.
Q. Were you with him?
A. Yes.
Q. Did you not go out to the Brunen home and load them in the car and deliver them to the man you sold them to?
A. No, sir; they were brought down to my home and I sold them and the same day Mr. Mohr came with his car and we took them down to the place where I sold them.
Q. And you got paid for that?
A. Yes, we got money for the flags.
Q. You got paid for your services?
A. Yes, I didn't get paid for my services, I got the money for the flags, Mr. Mohr and I did.

Q. How much?

A. I don't remember what we really got for the flags.

Q. You have testified in regard to the trouble you had with Harry Mohr at Salamanca, New York?

A. Yes, sir.

Q. Did not Harry Mohr meet you at a hotel in Salamanca on that evening which was in July, and were you not intoxicated?

A. Not as I know of.

Q. Did not Harry Mohr on that occasion take away from you a 38 calibre revolver?

A. No, sir.

Q. Had you not threatened on that evening to take John Brunen's life with that 38 calibre revolver?

A. No, sir.

Q. Did not Harry Mohr come to your home on the morning following the tragedy and ask you where you had been the night before?

A. No, sir.

Q. And did you not tell him that you had been home all evening, as it had been raining and that you had no umbrella and therefore could not go out?

A. No, sir.

Q. Did not Harry Mohr then question you as to who knew that you had been in the house, and did you not tell Harry Mohr at that time that your wife, the landlady and her husband knew that you were in the house on the night of March 10th?

A. I told Mr. Mohr the next morning that I had seen Mr. Earnest before I went to bed, just after I came in. I told him it was just a coincidence he happened to run into me.

Q. Then he was questioning you?

A. No, it was only that I had an alibi where I was on Friday night.

Q. You told Mr. Mohr what your alibi was?

A. I told him that I had this coincidence I run into with Mr. Earnest.

Q. And that made an alibi for you?

A. Yes.

Q. And you had Mr. and Mrs. Earnest corroborate your statement that you were in there on the night of the tragedy, did you not, in the presence of Mr. Mohr?

A. That they had met me at a certain time, approximately between 7.30 and eight o'clock.

Q. And you brought Mr. and Mrs. Earnest down and confronted them in your presence and Mr. Mohr, and they confirmed what you said, that you were in the house between half-past seven and eight o'clock?

A. I don't think so.

Q. Will you say they didn't?

A. I say I don't think so. They didn't come down in front of Mr. Mohr just to tell him.

Q. They were in his presence?

A. Maybe Mr. Mohr and I going downstairs, or something, and Mr. Earnest may have said.

Q. But Mr. and Mrs. Earnest did tell Mr. Mohr in your presence you were home on the night of the tragedy between half-past seven and eight o'clock, did they not?

A. I wouldn't say to that.

Q. Did they have any conversation with Mr. Mohr on that occasion, Mr. and Mrs. Earnest?

A. Not while I was—that I can remember, they may have had it, but not that I can remember.

Q. Then it is possible they told Mr. Mohr you were home?

A. Yes, it is possible, because I did run into them just as I got home. I was going into the bathroom and Mr. Earnest was coming in the door and his little boy came out of the place, and said, "What

are you doing out here?'' and I thought he was talking to me.

Q. I will ask you another question. Did not you call your wife in to tell Mr. Mohr that you had not been out on the night of the tragedy, that you had been home?

A. No, sir, I was supposed to be working at the bazaar in Camden, and I went out every evening, but I came home early and my wife was in bed, she wasn't feeling well and had been in bed all day, and she was still in bed and she dozed off to sleep. Of course, when I came in she asked me what time it was, and I told her. She was still in bed. It was early.

Q. Where was Mr. Benham, if you know, when you had this contest for the Veterans of the Foreign War, in connection with the Brunen show after the tragedy?

A. Where was Mr. Benham staying?

Q. Yes.

A. At the Windsor Hotel, Philadelphia.

Q. Did you ever go over there and see Mr. Benham after the tragedy?

A. Not until I went to work on the show, that's the first time I met Mr. Mohr and Mr. Benham there.

Q. Were you with Mr. Benham earlier in the evening of the night you were arrested?

A. Yes, sir.

Q. What time on that evening was it you left Mr. Benham?

A. I judge 12.30.

Q. Had you been drinking on that night?

A. Yes, I had.

Q. What was your condition?

A. My condition wasn't—I wasn't drunk.

Q. How much had you drank that night?

A. I don't know. We were at a smoker out there held by the Veterans of the Foreign War Post, and I think the smoker was over around twelve o'clock, and we had a little business and I think we left at 12.30. I must have left Mr. Benham around one o'clock, him and I came down in the same car.

Q. Was it not Mr. Mohr's custom to always wear a cap while he was driving the car?

A. I don't know.

Q. I know, when he was in your presence.

A. Well, yes, sometimes he wore a cap and sometimes he wore a hat.

Q. Which would he wear most, a cap or hat?

A. That is according to where he was going.

Q. Didn't you see this cap in the car three weeks after the tragedy?

A. No, sir, three weeks after the tragedy—I threw the cap myself over into the water.

(After conversation at the side bar.)

The Court: The application made to me is to admit in evidence the statements made by this witness to Mr. Keown in the jail, and which statements were taken down in writing, and it is acquiesced in by both counsel that these statements should be admitted in evidence. Is that right?

Mr. Keown: Yes, sir.

The Prosecutor: Of course, that is made, may it please the Court, subject to Mr. Davis' approval, who represents Mr. Powell, and Mr. Davis wasn't present at the time.

The Court: If there is nothing in there that implicates this witness in anything else——

Mr. Davis: That is just the point.

The Court: That would incriminate him for some other offense, so far as this offense is concerned he has conceded that he did the act, and anything he may have said in regard to that——

Mr. Davis: If I may have an opportunity to read it I may offer no objection.

The Court: I think I will let him read it if he wants to.

Mr. Keown: Oh, yes, I have no objection. But I think Mr. Kelsey and Mr. Peacock, who have already read it, can assure Mr. Davis of that fact.

The Court: Is that all? Are you through?

Mr. Keown: I will be through then.

The Court: We can't stop. We will allow you to offer it at any time. These are questions and answers. How will the jury get it? Do you want it read in the record?

Mr. Keown: Yes, I want it read in the record, in front of the jury. With your Honor's permission there is just one question I want to ask.

The Court: Yes.

By Mr. Keown:

Q. Did I understand you to testify, Mr. Powell, that this shotgun was sawed off to fit you?

A. Not sawed off.

Q. What was your testimony?

A. A piece was taken off of here. That was a padding that goes under your arm, and being it is about a half an inch thick, or an inch thick, was——

Q. Where is that, do you know?

A. Well, I don't know. It was taken off. Mr. Mohr taken it off one night, him and I together.

Q. Where were you when you took it off?

A. Along the road, River Road.

Q. In the car, in the dark?

A. I had a searchlight while it was taken off.

Q. And the purpose of that was to make that gun fit you?

A. Yes.

Q. You have used guns in the service? While you were in the government service you used guns?

A. Yes, we had a gun, but I was in the engineers aud we never used it.

Mr. Kelsey: At this time, may it please the Court, I desire to make a suggestion in the form of a motion, and that is that at some time which may be convenient to your Honor and to Mr. Keown that a jury view may be granted and that Mr. Powell may instruct the jury as to the road and the various places.

The Court: No, that can't be done. You can't take testimony outside of the court. There may be a jury view granted by this Court of the premises, if counsel consent to it on the other side. If the defendant's counsel will consent to a jury view

it may be that it would be helpful to have them see the premises.

Mr. Keown: I am perfectly agreeable. I would, as a matter of fact, suggest that the jury be taken to view the Brunen property, but I do not think that the jury——

The Court: You need not make any argument on that. I cannot send a witness along and point out different places; that would destroy the validity of any verdict the jury might render against these defendants. The testimony must be taken in court. A jury view is a very proper thing and if counsel consent to it and both sides desire it, and it probably will be helpful as to the situation as to the height of the window from the ground and where the shot was fired. Now, my present inclination would be to have a jury view on Saturday morning. There is a half day only, and so if they take it Saturday morning I would adjourn over until Monday, and there would be no time lost. They could go down; it would take them at least an hour or two hours to go there and back from here, and there is no reason why the sessions of the court should be interfered with, and Saturday would be the day, and counsel could go along.

Mr. Peacock: May I suggest that the jury go and counsel remain home?

The Court: You can do whatever you like. You must not talk to the jury or point out anything. They must get their information at the premises by looking at it and the testimony that has been given here in court, as to where this man says he shot and

where he says the garage is and where he says he ran across the field, etc. Outside of that that is about all. They don't want to go around and take testimony. No testimony is to be taken. They may go through the premises and look at the rooms, the situation of the rooms, the kitchen especially. You have no objcetion?

Mr. Keown: Oh, absolutely none. I sort of request it myself. I know they can understand it better if they see what we are talking about.

Mr. Kelsey: About the roads, may it please the Court——

The Court: The roads, no.

Mr. Peacock: Would they have the opportunity to go into Cambridge station where Powell has described that place he came across the field, etc.? They would have an opportunity to see that, wouldn't they?

The Court: Is there any objection to that?

Mr. Keown: No, sir. My thought would be this: that the jury be permitted to go on a tour of inspection, without anybody telling them where to go or what to do, and let them find out what to do.

Mr. Kelsey: That is satisfactory to the State.

The Court: Well, I don't want them to take a tour of inspection.

Mr. Peacock: Do I understand that Mr. Keown

will consent that this jury go and view the Brunen premises, the place where Powell says that the car was stopped at the Cambridge station and the place where the guns were thrown over the bridge, the place on the Browning Road? That is what I understand he consents to.

Mr. Keown: If they can find those places themselves, yes.

Mr. Kelsey: That is satisfactory.

The Court: I don't understand that. That rather puzzles my understanding—if they can find those places themselves.

Mr. Kelsey: From the discussions, yes.

Mr. Keown: In other words, if the testimony——

The Court: Who is to direct them?

A Juror: I think some of the jurymen are familiar with the property.

Juror No. 2: Your Honor, I am acquainted with the country of Camden and Federal Street, where the Burlington Pike goes into Camden Pike, and I cannot understand what bridge, I have not been able to make out what bridge was crossed over. The witness does not seem to be able to locate the bridge, where or what bridge it is. There are several bridges out there and I can't tell. I have traveled that road over——

Mr. Peacock: The witness, for the information of the jury, will testify on that one point.

The Court: I think we had better wait until Friday and see what testimony there is in. It may be that this matter will all be cleared up incidentally, and all the jury will need to do then will be to go to see the premises and the Cambridge station, and I think that is what I will limit them to. I won't let them go around the bridge or look at any streets or anything of that sort.

Mr. Keown: Gentlemen of the jury, it has been agreed that this testimony which was taken by me of Charles M. Powell in the jail, be read.

(Proceeds to read testimony.)

Mr. Davis: I have no objection to the reading of this statement, but I shall have objection to using this statement as any basis for contradiction, in other words, so far as what has been said in this statement——

The Court: I will have to rule on it. Do you want to contradict the statement after it is read?

Mr. Keown: No, sir.

The Court: Well, what is the use of argument?

Mr. Davis: Well, I do say if he is not going to use it as a basis of contradiction, but use it as a statement on his behalf.

The Court: I would not limit him. I would allow him, if he can contradict the statement of this witness, I am going to allow if he can contradict the statement of this witness, I am going to let the statement in.

Mr. Davis: But your Honor is not going to allow some questions asked in this statement about his attempt to commit suicide? I don't assume your Honor is going to allow that matter to be gone into.

The Court: No, I said yesterday that anything that would subject this witness to a prosecution outside of the crime of which he is now accused is improper.

Mr. Keown: Well, if we come across any such testimony we will stop.

The Court: You will omit it?

Mr. Keown: Absolutely.

The Court: Anything that incriminates him for some other crime. That is what Mr. Davis, I think, was aiming at.

(Mr. Keown reads statement as follows):

"STATEMENT OF CHARLES M. POWELL.

Taken at the sheriff's office, Mount Holly, N. J., on Friday, December 8, 1922, at 3.20 o'clock P. M., in the presence of Robert Peacock and Anna Yoos.

Mr. Peacock: Mr. Powell, that is Mr. Keown (indicating Mr. Keown).

Examination by Mr. Keown:

Q. My name is Mr. Keown and I understand that your name is Charles M. Powell. No doubt you know who I am. I am Walter Keown, a member of the Bar of the State of New Jersey, and I repre-

sent Mrs. Brunen and Harry Mohr. I have endeavored to see you ever since I was given permission to see Mrs. Brunen and Harry Mohr, which was about the middle of July. The sheriff refused to allow me to see you and the matter was then taken before Justice Katzenbach, who told me that I could see you and talk to you, but the Prosecutor refused to permit me to see you and so instructed the sheriff, and it was only Monday, December 4, 1922, that Justice Kalisch, in the presence of Mr. Peacock and of Prosecutor Kelsey, told them that they must tell the sheriff that I could see you and talk to you. The Court, however, added that he could not make you talk to me, all he could do was to make the sheriff permit me to see you. I want you to understand that I am representing Mrs. Brunen and Harry Mohr, and that you do not have to answer any questions that I ask you unless you wish to do so. I presume that you have already been advised and are prepared and know what questions of mine you are going to answer, so I have therefore prepared a list of questions that I am going to ask you, with the hopes that you may answer these without any injury to your case.

Q. What is your age?

A. Well, Mr. Keown, I have counsel and of course I don't care to answer any questions relative to this Brunen trial. That is all I have to say to you.

Q. Well, the question that I asked you, what was your age, that has nothing to do with the Brunen trial, has it?

A. No, but it is just as I said, I don't care to answer any questions at all now.

Q. What objections have you to telling me your age?

A. Well, my age is thirty-one.

Q. When were you born?

A. I was born October 3, 1891.

Q. And where were you born?

A. Indianapolis.

Q. What was your mother's and father's first names?

A. My father's name was Powell and my mother's name was Jones.

Q. Their first names?

A. Elizabeth was my mother's name and my father's name Joe.

Q. How many times have you been married?

A. Once. I don't care to answer any more questions. I have got counsel and if you want to get any you will have to get it from him.

Q. These questions I am asking you are fair questions, aren't they?

A. You can ask me outside, in the court room, if you want to, but I don't care to answer any in here.

Q. Have you ever had any domestic troubles that would cause you worriment?

A. No, but I don't care to answer any questions, Mr. Keown. I am sorry, but I don't want to offend you. I don't want to answer any more questions.

Q. Why don't you want to answer the questions?

A. I prefer you to ask me those questions in the court room, because I don't feel that I could answer any questions here unless my attorney was here. I have counsel, and that's all I should say.

Q. Would you answer these questions if Mr. Davis was here?

A. If he advised me to, otherwise I wouldn't. I don't care to answer any more questions unless my counsel was here. If Mr. Davis was here, I would be willing to answer any questions that he would tell me to answer.

Q. Have you been advised to say nothing at all to me?

A. No, sir.

Q. Have you been advised not to answer my questions?

A. I have never been told that I didn't have to unless I cared to.

Q. Who told you that?

A. My counsel wrote me you were coming here and said I didn't have to answer any questions unless I wanted to.

Q. What objection have you to answering my questions?

A. Well, I don't know, Mr. Keown, but he is an attorney, the same as you are, and I don't care to answer any questions and confuse myself unless I have a counsel present.

Q. Well, how could these questions that I am asking you confuse you?

A. Well, I just don't care to answer any. I will answer in the court room, if you ask me those questions, I will answer them, I will answer every one in the court room that you ask me, if I can.

Q. My questions heretofore have been very fair?

A. Yes, fair enough.

Q. Let me submit some more and see if they are not fair.

A. The idea is, you have four pages there and if you get me interested in answering a few of them, you will have the four pages taken up in a few minutes.

Q. I have already told you you don't have to answer any questions you don't want to.

A. If you will call my counsel up, I will answer the questions in his presence, but any other questions I won't answer unless he advises me to. You

wouldn't want Mr. Davis to go up and see Mr. Mohr.

Q. I would have no objection at all. You knew I was coming to interview you today?

A. I knew you would be here.

Q. And Mr. Davis knew I was coming to interview you today?

A. I guess he did.

Q. And he could have been here and passed upon any of these questions, to tell you whether they were proper questions to answer or not, couldn't he?

A. I suppose so.

Q. But he just told you to do what you are doing and refuse to answer?

A. No, he didn't.

Q. What?

A. No, he didn't tell me not to answer the questions if I wanted to, but I didn't have to talk.

Q. You have answered some of my questions.

A. I don't care to answer any more, Mr. Keown. I don't want to offend you but I don't care to answer any more.

Q. You wait and hear what they are and you may be glad to answer them. Where did you go to school?

A. Indianapolis.

Q. How old were you when you left school?

A. I don't know. I am not sure enough to answer those questions. I went to common school, though, but I won't answer any more questions.

Q. How far did you progress in school? What was the reason—will you please note no answer, and will you note that, Miss Yoos? What was the reason for your leaving school? Have you ever been arrested before this time? Have you ever been convicted of a crime? Has there ever been any insanity in any of your family?

A. No. I will answer that one.

Q. Well, I am glad you are answering some of them.

A. I will answer them. I just want you to know that much.

Q. Did either of your parents to your knowledge, ever suffer delusions or irrational periods? Will you answer that?

A. I answered that when I said there was no insanity in the family.

Q. I understand that you have admitted to the county officials that you shot John Brunen. Is that correct? How long after the shooting of John Brunen was it before you admitted to the county officials that you had shot John Brunen? Will you answer that? Do you remember the date when you made your admission? What was your physical and mental condition during the time that you were in jail here, before you made an admission? Did any doctor attend you between the time that you were arrested and the time that you made your admission? Was your admission taken down stenographically? Did you sign it? Have you ever attempted to take your life while you have been in jail here? Was your physical and mental condition improved after you made your admission to the officials? How are you feeling now? How many times have you been out of your cell since you have been incarcerated here in Mount Holly? Are you permitted to go out of your cell daily? How many times have you left the court house since you have been here and where did you go? How many times have you been on fishing trips or automobile trips with Detective Parker or any of his assistants or associates? How often have you been taken out of your cell to talk to Mr. Kelsey, Mr. Parker or Mr.

Peacock? Are you feeling better now than you did when you came in this jail? Has a doctor been attending you at all while you have been in jail? Have you had any bad nervous attacks since you have been in jail? Did you testify in John Brunen's behalf when he was tried for murder? Do you want to answer that?

A. What was that question?"

The Court: How do you make that relevant at all in this case? I don't see the force of it, that he would not to talk to you. He had a right to refuse to talk to you.

Mr. Keown: I appreciate that. There are some questions that were answerable. There are just a few here that were not answerable. I will hurry over them.

"Q. Did you testify in John Brunen's behalf when he was tried for murder? Will you answer that?

A. Yes.

Q. You mean you will answer it or you mean your answer is you did testify?

A. Yes, I testified.

Q. Did you see John Brunen shoot the other man? Will you answer that?

A. I testified for him but I won't answer any more questions on that.

Q. Won't you tell me whether you saw the shooting or not? I mean the shooting where John Brunen was indicted for murder and where you testified for him. Won't you tell me whether you saw that shooting or not? You won't answer it? How many cells have you been in since you have been in prison here?

A. Two cells.

Q. Did you enjoy the automobile trips that you took with Mr. Parker? Where did you go? Have you made more than one statement to the county officials about the murder of John Brunen? Won't you answer that?

A. I don't care to until I have my counsel here, Mr. Keown, I don't care to jeopardize my own self without counsel.

Q. Do you remember how many statements you have signed about the John Brunen murder? You can tell me whether you remember or not, can't you?

A. That was the same question, wasn't it?

Q. A yes or no to that question couldn't hurt you, could it, as to whether you remember or not. Do you remember how many statements you have signed about the John Brunen murder, do you remember?

A. Yes.

Q. Will you tell me how many, will you? I understand that you have a wife and two children, is that correct?

A. That is correct.

Q. You think a lot of them, don't you?

A. I certainly do.

Q. Your wife's name is Marie, isn't it?

A. Yes.

Q. Are you anxious to get out?

A. I think I would be.

Q. Do you expect to be set free and returned to your wife and children? Will you answer that?

A. I don't care to answer that.

Q. If some one who had the authority told you if you talked to me and told me the truth that they would permit you to return to your wife and children, would you then talk to me and tell me the truth?

A. What's that question?

Q. If some one who had the authority told you if you talked to me and told me the truth that they would permit you to return to your wife and children, would you then talk to me and tell me the truth?

A. No, I don't care to answer that either.

Q. If some one had the authority to release you if you told the truth would you tell the truth? Have you ever been on the streets in Mount Holly walking with your wife and children since you have been arrested in this case? Have you ever been taken out of prison and taken to any restaurant for your meals since you have been placed in this jail? Will you answer that? Did you ever take lunch at the Y. W. C. A. at the same table with Hazel Brunen? Now Powell, I want you to answer this question and tell me the truth, did you shoot John Brunen? Were you intoxicated on the night that you shot John Brunen, and what time of the night was it? Were you under the influence of any drugs on the night that you shot John Brunen?

A. No narcotics.

Q. Had you used any drugs on that day?

A. Never used any in my life. What do you mean by drugs, narcotics?

Q. Any kind of drugs.

A. Do you call whiskey drugs?

Q. No, I didn't refer to whiskey as a drug in that respect.

A. No, I never used any in my life.

Q. What do you call drugs?

A. Anything that has morphine, dope, laudanum.

Q. Is that what you call it?

A. To say they are drugs I thought you might mean whiskey or anything that would make you in-

toxicated or not in your right sense it would be a drug.

Q. Had you taken anything on the day in question which put you in that condition that you didn't know and wasn't yourself?

A. A half hour before the shooting I drank near a half pint of whiskey, but I never used any drug in my life.

Q. Do you know what time it was that you shot John Brunen? Are you thinking or aren't you going to answer that question?

A. Well, I would rather not answer questions only in front of my counsel, Mr. Keown.

Q. What time did you get to your home after John Brunen was shot? Did you stay home all that night? Do you remember seeing Mr. Earnest that night? Won't you answer that question for me? That couldn't hurt you, could it? Do you remember having a conversation with Mr. Earnest that night?

A. Well, that is in my statement.

Q. Will you tell me something else that is in your statement?

A. If you are not asking too much I will.

Q. I won't ask you any questions. You tell me what is in your statement?

A. I couldn't tell you what is in my statement. I know what is in my statement from the beginning to the end.

Q. But you don't want to tell it to me now?

A. No, I will have to tell it, I guess, Monday or Tuesday.

Q. Why do you say Tuesday and not Monday?

A. I don't know. I just say Monday or Tuesday.

Q. No reason at all for saying Tuesday?

A. No, no reason.

Q. Now has Mr. Kelsey or Mr. Peacock told you that I was coming today to talk to you?

A. No, my counsel told me.

Q. Well, haven't they also told you?

A. These questions I don't like to answer.

Q. You mean to say you won't even answer the question as to whether Mr. Peacock or Mr. Kelsey has told you I was coming to see you at this appointed hour?

A. Yes.

Q. Do you mean by that they did tell you I was coming?

A. Yes.

Q. Did either one—did either Mr. Kelsey or Mr. Peacock give you any advice as to the answering of my questions?

A. No.

Q. Did they tell you that you should or should not answer them?

A. No, sir.

Q. When did Mr. Davis advise you that you didn't have to talk to me if you didn't want to?

A. I think on Tuesday night.

Q. Are you sure it was Tuesday night?

A. No, I am not sure but I think it was Tuesday evening.

Q. Isn't it possible it was Monday night?

A. Yes, it is possible it was on Monday night, yes, it was Monday night, yes, it was Monday evening.

Q. Was he here to see you?

A. Yes, he saw me Monday evening.

Q. Well, now, you see that all of these questions I ask you are fair questions and the answers would not have hurt you any, don't you?

A. Yes, but the only thing, Mr. Keown, is I would rather not talk without my counsel. It is the same

as anything else, I realize that you are smarter than I am, and I don't care to talk without having somebody to give me advice.

Q. Did you ask Mr. Davis to be here today and advise you as to whether you should answer the questions or not?

A. No, I didn't.

Q. Did he tell you that he would come?

A. No, he told me that you were coming and that to see me, and that I didn't have to answer anything that I didn't want to.

Q. Well, now, that was good advice to you, wasn't it?

A. Yes, it was.

Q. Is there any reason why you wouldn't want to answer some of these questions I have asked you?

A. No, but I would jeopardize myself and I don't care to do that without counsel.

Q. You are intelligent enough to know some of these questions I have asked you, you would not jeopardize yourself by answering them, aren't you?

A. I may.

Q. What question did I ask you that the answer—

A. I don't care to go over them for the simple reason, I don't feel like it.

Q. Let me finish my question. What question do you remember I asked you that would be jeopardizing your interests if you answered it?

A. I don't care to answer any of them any more than I have, but I will answer on the stand any question you ask me, and I will answer just as true as I can any question that you might ask me.

Q. What did you mean by what you were saying when I interrupted you that you don't feel like it?

A. I just don't care, I don't feel like answering without counsel. That is all. I realize the position

I am in, and the position Harry is in, and I don't care to answer any questions without counsel.

Q. Will you answer this one question for me? When do you expect to get out?

A. I don't know.

Q. Has there been any promises made to you as to when you may expect to be liberated?

A. No promises.

Q. Why do you answer that question for me and refuse to answer some of the other questions?

A. It is the truth, it don't hurt to tell the truth.

Q. It won't hurt to tell me the truth about some other questions?

A. These other questions I would rather answer in front of my counsel, and if he was here and said it was all right I would answer every question, but without him I wouldn't answer any more questions, and I am not saying this to offend you or anything like that, I just don't care, it is just the same as if my counsel came to see Harry, he wouldn't feel like answering any questions to him without you."

Recess till 1.30 P. M.

(Trial of the cause resumed at 1.45 P. M.)

CHARLES M. POWELL, resumed.

Re-direct examination.

By Mr. Kelsey:

Q. Mr. Powell, you have already stated that you were out in an automobile with Mr. Parker and others. Was I present?

A. No, sir.

Q. And any time when you were in an automobile was I present in the party, possibly not in the automobile, but in the party on the road?

A. One time, I believe.

Q. At that time where did we go?

A. We went to the bridge on the road leading to Williamstown, Browning Road.

Q. And where else?

A. I don't just remember.

Q. You remember no other places that we went at that time?

A. At that time?

Q. Yes.

A. I think we came right back, right back to jail.

Q. Where did we come from? Where did we start from?

A. I started from the jail here and I think we met you some place along the road in another car.

Q. Who was present at that time? Who went along?

A. Mr. Horner and the deputy sheriff went with me and I think Mr. Keown was in another car and the photographer, I think Mr. Parker and yourself and Mr. Peacock was in another car, and a stenographer.

Q. Were you at the Brunen house when the photographer was there?

Mr. Keown: If your Honor please, I do not think it is proper to lead the witness at this time. The witness has said he didn't remember, and now for the Prosecutor to lead him, I do not think it is a proper question.

The Court: I think that objection is fairly made. I don't think you ought to lead the witness.

Mr. Kelsey: I do not intend to.

Q. Was there any other time in which I was present?

A. I think I rode in the car that you were present to Pemberton, but I came right back, and the deputy sheriff. That is the only time that I can remember, that I can recall.

Q. Do you remember the day that you said we went to the bridge on the Browning Road? Where did you go first in the car where we were all present?

A. I forget the name of the little town, Moorestown, I think.

Q. Were you present when photographs were taken?

A. Yes, sir.

Q. Well, at what place?

A. In the woods where the car was parked.

Q. Was I present there?

A. Yes, sir.

Q. Now tell what other places.

A. And over the bridge pictures were taken.

Q. Do you recall how we went from the place where the car was parked to the bridge?

A. Yes, through the fields.

Q. Now where did we go through the fields, to what point?

A. To where the car was parked in the woods, from the bridge.

Q. From the bridge to the place where the car was parked?

A. Yes, sir; in the woods.

Q. Mr. Powell, you stated on cross-examination on the night immediately preceding the murder, as soon as you got back to the house, that you met Mr. Earnest in the house?

A. Yes, sir.

Q. Do you recall or did you have any conversation with Harry Mohr relative to what you said to Mr. Earnest or Mr. Earnest to you?

A. I told him the next morning when I saw him.

Q. Tell us what you told Harry Mohr at that time.

A. I just told him that I ran into Mr. Earnest as I was coming out of the bathroom.

The Court: We have been all over that.

Mr. Kelsey: No, not this part, I don't think.

The Court: He testified that he told Mr. Mohr that he met Mr. Earnest coming out of the bathroom and that it was a coincident that he should meet him in the circumstances. So I recollect the testimony.

Mr. Keown: I think your Honor is correct about it.

Q. Mr. Powell, were photographs taken of the bridge?

A. Yes, sir.

Q. On the Browning Road?

A. Yes, sir.

Q. I show you a photograph and ask you if that is the photograph of the bridge?

Mr. Keown: I object to that. It is certainly no way of proving a photograph.

The Court: No, you can't—I can't see the relevancy of the question anyway. If a place is pointed out by a person to another it may be self serving

in some respects, in other respects it is hearsay testimony. If he pointed out and said I was at this bridge, and you took a photograph of it, that wouldn't add any strength to his statement at all. It is still the statement of the person stating the fact of which he alone has knowledge, and it is communicating a fact of which he has knowledge to some other person. The mere fact that that other person took a photograph cannot make that photograph evidence.

The Prosecutor: That is not my intention, if the Court please. My intention was this; to ask if that was the bridge, the photograph was taken, and then to show that there is a bridge at that particular point.

The Court: You have gone over the case and he has testified as to the bridge that he crossed. Now, you may prove it by some witness who knows the locality and he may testify as to whether there is a bridge there or not. You are beginning the wrong way, I think.

The Prosecutor: It was my intention to follow that up.

The Court: You may show there is a bridge there. He has already testified to it. The mere fact he showed it to somebody else wouldn't prove a bridge was there or that he was there. We know just where he went from his own testimony. I think he has made that very plain, that he went over a certain bridge located on a certain road. I don't think you will have any difficulty, if there is such a bridge, to establish it, and you may show that photograph.

The Prosceutor: It wasn't my intention to offer the photograph. I was simply asking Mr. Powell if that was the bridge, not to offer the photograph, and to show the various points, and by other photographs of the place where the car was parked.

The Court: I will let you go as far as this; show him the photographs and ask him whether or not they represent the bridge, whatever bridge it was you refer to. I won't let the photographs go in now.

The Prosecutor: No, I didn't intend to.

Q. Mr. Powell, I ask you if that is the bridge, if that is the photograph.

The Court: No, does that represent, does that photograph represent the bridge? What road? I don't remember what road it is on.

Q. If that photograph represents the bridge on the Browning Road, or the road from Riverside to Williamstown.

(Counsel hands photograph to witness.)

A. This is the bridge on Browning Road.

The Court: Well, that is his answer.

The Prosecutor: I offer it for identification.

(Photograph marked Exhibit R, for identification.)

Q. I show you another photograph and ask you if

that represents the place where the car was parked on the road?

Mr. Keown: That question, if your Honor please, is certainly leading.

The Court: Ask him what does that represent.

Q. What does that photograph represent?
A. This represents the woods right along the road.

The Court: Do you want that marked?

The Prosecutor: Yes, I offer that.

(Photograph marked Exhibit S, for identification.)

Q. What does that represent? (Handing photograph to witness.)
A. That represents the woods where the car was parked.

(Photograph marked Exhibit T, for identification.)

The Prosecutor: Now, on direct examination, if it please the Court, I asked this witness a question. I find in going over the printed case that the matter at that time was stricken from the record relative to the conversation that Harry Mohr and Charles Powell had relative to what occurred on Christmas night, in the Brunen home on Christmas night. Now I am asking the witness at this time to tell me what Harry Mohr told him had happened at the Brunen home.

Mr. Keown: Wait a moment, I don't quite follow the Prosecutor. If that question was ruled upon on direct examination I certainly would ask the same ruling to apply now.

The Court: Did you offer evidence on it?

Mr. Peacock: Your Honor, objection was made to the testimony going in in the forenoon, and in the afternoon Mr. Powell had testified what Mrs. Brunen told him and your Honor allowed the testimony to go in, what was told, then Mr. Kelsey asked all the questions except the one about Christmas.

The Court: I can't see the object of the question, what occurred on Christmas night between Mohr and Mrs. Brunen.

The Prosecutor: Showing the preparation for this crime that happened on the 10th of March, and it showed the ill-will of Mrs. Brunen toward her husband; that is the intention.

The Court: Well, I think on the question of motive that would be admissible as establishing a motive, but as to Mr. Mohr's statement, I don't see how he can charge Mrs. Brunen with what he said, or what he said about it.

The Prosecutor: That can be followed up.

The Court: You can bring in that later, if necessary, I don't think it is proper at this time.

Q. Now, Mr. Powell ——

The Court: My attention has been called to some

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testimony in this case now which probably will make that testimony admissible. There is testimony in the case which relates to what Mrs. Brunen said to the witness that she wished somebody would shoot John, and it may or may not be sufficient, as the jury may find from the facts and circumstances as to whether Mrs. Brunen at that time was in any combination to kill her husband; nevertheless there is some proof now from which the jury might find that she was connected or participated. If she is connected with or participated in some plan for the killing of her husband, and that being so, it seems to me that testimony would be admissible.

Mr. Keown: If your Honor please, I think your Honor only allowed that question to come in on the statement of the Prosecutor that he would connect it up. Your Honor's ruling was that nothing would be binding upon Mrs. Brunen until the State actually showed some conspiracy on her part. Now I call your Honor's attention to the bill of particulars in this case. The bill of particulars charges Mrs. Brunen with conspiring, planning, aiding and abetting, and that is all it does charge her with, and I don't think, the State being limited to that respect, that that evidence, a statement she might have made to this witness, would be sufficient for the jury, and I don't think it would be evidence under the bill of particulars. Does your Honor have the bill of particulars before you?

The Court: Not that I know of.

Mr. Keown: Has the clerk a bill of particulars, please?

The Court: Well, there is testimony, as I said

before, of what Mrs. Brunen said to this witness which related to her, well, which indicates that she wanted to get rid of her husband. Now, if that were a fact and a circumstance and it is a circumstance in this case, wouldn't it be a sufficient basis from which a jury might infer there was a conspiracy between her and Mohr and the witness himself to kill Brunen?

Mr. Keown: But Mrs. Brunen in the indictment, amplified by the bill of particulars, is not charged with conspiracy with this witness.

The Court: She is with Mohr.

Mr. Keown: Mohr's statement would certainly be a self-serving declaration, and would certainly not be binding upon Mrs. Brunen in view of the fact Mrs. Brunen has not been charged in the bill of particulars with this witness.

The Court: No, but she is charged with conspiracy with Mohr to kill Brunen, and she made a statement to this witness that she wanted her husband put out of the way. Wouldn't that be some evidence from which a jury might infer she was in the combination to do away with her husband, and wouldn't what Mohr said bind her to the extent that he was acting for the co-conspirator?

Mr. Keown: I do not think so.

The Court: Well, I can leave that latter part out, but it would bind Mohr, and the question then will arise after the case is in whether the jury shall consider the testimony which is given binding upon Mrs. Brunen. At least it will bind Mr. Mohr, and

if that is so the testimony is competent so far as he is concerned. As to whether it is competent against Mrs. Brunen is a matter which may be disposed of when the case comes to be delivered to the jury. I think I will put it in that way.

Mr. Keown: May I have an exception, if your Honor please?

(Exception noted for defendants.)

The Court: This testimony now offered is strictly admitted. It is some admissions made by Mohr, a statement binding upon himself. As to whether it shall affect Mrs. Brunen is a matter which I can properly deal with afterwards and will protect her rights in that manner.

The Prosecutor: May I ask the stenographer to repeat that question?

(Question repeated.)

The Court: I think I will admit that testimony.

Q. Tell me what Harry Mohr told you.

A. He came to my house between eight and nine o'clock on Christmas Eve, and told me they had some trouble at his house and that Mrs. Brunen had shot at Mr. Brunen six times.

The Court: Now, I don't know about that. You are giving testimony of some offense which has been held in several cases in our State you cannot do, to charge a defendant on trial with the commission of some other offense.

The Prosecutor: There is more to that, may it please the Court. Were he to stop right there, it seems to be the worst part of it. There is other testimony. You only have a part of it at the present time. That leads from that time up to the City Hall.

The Court: I only call your attention to it.

Mr. Keown: My motion is that that part of the testimony be stricken from the record.

The Court: I will refuse to strike it from the record.

(Exception noted for defendants.)

Q. Continue, Mr. Powell.

A. He told me there was some shooting at the Brunen home and that Mrs. Brunen had shot six times at Mr. Brunen, and that Mr. Brunen, after she emptied the gun, had taken aim at her and shot one time, striking her in the stomach and her corset saving her. The next day he told me when he came down that Mr. Brunen was held. They arrested Mr. Brunen, not arrested him, I don't think, but had held him in Riverside some place at the City Hall until he came home to find out if he held any grudge against Mr. Brunen for shooting Mrs. Brunen, and of course, he said Mr. Voshell, Chief of Police of Riverside, and Mr. Parker had asked him and that he told them no, that he held no hard feelings toward Mr. Brunen for shooting Mrs. Brunen as long as it didn't hurt her any.

Q. Were you with Harry Mohr at any time passing the place, the town hall? I think you already testified and answered that question.

A. What was that question?

Q. Were you with Harry Mohr at any time when you passed the town hall at which John Brunen had been taken?

A. Yes, I was in there; the police station in Riverside?

Q. Yes.

A. I were in there between Christmas and New Year's.

Mr. Keown: I think that is immaterial.

Q. Who was with you at the time?

A. Mr. Mohr.

Q. What did Harry Mohr say to you?

A. He said this was where they had John. We went in, there was a fire in there, we went in, and he said this was where they had John, and as we were coming out, we ran into Mr. Voshell, the chief, and he introduced me to Mr. Voshell.

Q. Now, Mr. Powell, you have already testified on cross-examination as to what happened up in Mount Carmel. Did you ever have any conversation with Harry Mohr relative to what you had testified to about the Mount Carmel case for John Brunen?

A. I don't understand that question.

The Prosecutor: All right, I will withdraw the question.

WILLIAM BERKOWITZ, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Berkowitz?
A. Place of business?
Q. Yes.
A. 117 North 9th.
Q. What is your business?
A. Pawnbroker.
Q. On September 23, 1921, did you sell a double-barreled shotgun?
A. December 23rd.
Q. December 23, 1921?
A. Yes, sir.
Q. Who to?
A. I couldn't ——
Q. Stand up, Charlie. (Indicating Charles M. Powell.) That gentleman?
A. I couldn't swear that is the gentleman.
Q. I show you the shotgun and ask you if that is the shotgun you sold on that day. (Handing gun to witness.)
A. That's the gun.
Q. How do you identify it?
A. By the book and by the numbers.
Q. What was the price of that gun?
A. $12.
Q. Did you sell any stock and dies?

Mr. Keown: Don't you think the date ought to be fixed?

The Witness: On the 19th of December.

Q. Who did you sell those stock and dies to?
A. I couldn't tell you, sir.
Q. Were they afterwards brought back to your place?
A. Yes, sir.

Mr. Keown: Do you mean the stock and dies or the gun?

Mr. Peacock: Stock and dies.

The Witness: Somebody brought them back and I refunded the money, $3.50.

Q. Do you know when they were sold?
A. On the 9th of December, on Monday.
Q. And returned on what day?
A. Two days later.

Cross-examination.

By Mr. Keown:

Q. What is the number on your books or the number on this gun that makes you identify this gun as the gun you sold?
A. The gun in the first place came from Harrisburg.
Q. And what is the number on your books, and the number on this gun?
A. I didn't bring that with me. The date of the gun, I can give you the date on the gun, the 23rd of December.
Q. Without looking, how can you say the number on this gun corresponds with the number on your books if you haven't any record?

A. I know generally where these guns come from, because I buy them myself.

Q. My question is how you can tell this jury the number on this gun corresponds with the number on your book when you don't have your book here?

A. I didn't think it necessary to bring it.

Mr. Keown: I certainly think the testimony is—

The Court: Do you recollect the number?

The Witness: No, I do not, I know the date it was sold.

Q. That is the only way you have of identifying the gun?

A. Yes, because there are not many guns like that sold.

Re-direct examination.

By Mr. Peacock:

Q. Was this gun brought to your place by Mr. Parker?

A. Yes, sir.

Q. Did you compare the numbers on the gun at that time with the numbers on your books?

Mr. Keown: I think that is objectionable.

The Court: Yes, that is hearsay. You are trying to prove something he said in the presence of another person. If the defendants had been there it would be all right. You can't go and say he looked at a book in the presence of Mr. Parker.

Q. How do you know, Mr. Berkowitz, that is the same gun you sold that day?

A. That gun came from Harrisburg. I get those guns from the State.

By the Court:

Q. Who did you sell the gun to?

A. To a gentleman came in and purchased a gun about three o'clock in the afternoon.

Q. Did you identify him?

A. No, sir.

Q. Can you?

A. No, sir.

Q. You saw Mr. Powell on the stand, the witness who preceded you in court here?

Mr. Peacock: Stand up, Powell.

The Witness: I seen him.

Q. I am asking you whether you identified him?

A. No, sir, I do not.

The Court: Will the other defendants stand up?

(Defendants stand.)

The Witness: No, sir.

JAMES BRADLEY, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live?
A. 2304 Lombard Street.
Q. What business are you in?
A. Pawnbroker.
Q. Where is your place of business?
A. 1836 Market Street.
Q. On December 23, 1921, did you sell a single-barrel shotgun?
A. I didn't, the clerk did.
Q. What was the price of that gun?
A. $8.50.
Q. On April 4, 1921, were there any diamonds pledged at your place of business?
A. In what name?
Q. In the name of Mohr, Harry C. Mohr?
A. Mr. Mohr.
Q. Were they afterwards redeemed?
A. On April 6th.

No cross-examination.

WILLIAM L. LEARY, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Leary?
A. Atlantic City, N. J.
Q. What is your business?
A. Pawnbroker.
Q. Where?
A. Philadelphia, 17th and Market.
Q. On December 31, 1921, was there a revolver pledged in your place?
A. Yes, sir.
Q. In what name?
A. H. Mohr, 521 Second Street, Camden, New Jersey.
Q. For how much?
A. $7.00.

No cross-examination.

JOSEPH HENRY MOORE, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live?
A. My home is Sheridan, Wyoming.
Q. Were you in Wilkes-Barre?
A. Yes, sir.

Q. When?

A. I was in Wilkes-Barre from the latter part of August a year ago up until early in June this year.

Q. Where did you live in Wilkes-Barre?

A. 128 North Main Street, was the last place.

Q. Do you know Charles M. Powell?

A. Yes, sir.

Q. Was he ever in Wilkes-Barre during the time you were there the latter part of 1921?

A. Yes, sir.

Q. During what time?

A. I don't remember just when Powell got in there. He was there for some time. He came there in connection with a bazaar held from the 5th until the 12th of November. I think he was there five weeks before it and stayed there pretty much all the time.

Q. What bazaar was that?

A. A bazaar for the Junior Order of Mechanics.

Q. Did Powell have his family there?

A. His wife came there later.

Q. Did you see Harry Mohr, the defendant, in this case, there?

A. Yes, sir.

Q. How many times during the time Powell was in Wilkes-Barre was Mr. Harry C. Mohr there?

A. I think Mr. Mohr was there about six, five or six days, and during that time he went away on a short trip of some kind.

Q. Was Mr. Mohr's wife at Wilkes-Barre while you were there?

A. Yes, sir.

Q. How long was she there?

A. He left her there. She was there, if I remember correctly, about two weeks.

No cross-examination.

HAZEL BRUNEN, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Miss Brunen, what is your age?
A. 17.
Q. And who are your parents?
A. John Brunen; and do you want me to give the name of my mother who is dead?
Q. Yes.
A. Josephine Huntzetter Brunen.
Q. Is Doris Brunen, the defendant at the bar, your step-mother?
A. She is.
Q. When did your mother die?
A. I believe it was eight years ago.
Q. Since your mother's death, where have you been living?
A. With my father and step-mother at Riverside and different places.
Q. Travel with your father while he was in the show business?
A. I did.
Q. Wherever he traveled?
A. Yes.
Q. Harry C. Mohr, what relation is he to you?
A. A step-uncle.
Q. Who did he live with?
A. Why, at times he was with us.
Q. At or about the time your father was killed, where was Harry Mohr living?
A. At that time he was living with us.
Q. How long had be been living there?

A. The year before my father's death, and that year, I believe.

Q. Had he lived there continuously during that year?

A. Yes.

Q. Are you married?

A. I was.

Q. Who are you married to?

A. William Parkstrom.

Q. When did that take place?

A. Last 18th of October, 1921.

Q. After you were married where did you go to?

A. Why, I came home to Riverside.

Q. Did you stay in Riverside immediately after your marriage?

A. Yes.

Q. For how long?

A. For about two weeks.

Q. Did your father know you were married at that time?

A. No.

Q. Who did know it in your household?

A. No one.

Q. Doris Brunen know it?

A. No.

Q. Did you tell her that you had been married?

A. After my father found out I did.

Q. After your father found it out, where did you go?

A. I went to Hoboken, New Jersey.

Q. Who went with you?

A. My step-mother.

Q. Who else?

A. My husband.

Q. Where did you go in Hoboken, New Jersey?

A. I don't remember the address, Mr. Peacock.

Q. Did all three of you remain together while you were in Hoboken?

A. No, we did not.

Q. Where did you and your husband go?

A. I don't recall the address.

Q. Did you go to a hotel or have rooms or apartments?

A. We had rooms.

Q. You had rooms?

A. Yes.

Q. Did Doris Brunen stay with you all the time?

A. No, she had rooms at another place.

Q. Who was she with if any one?

Mr. Keown: I object to that.

Q. Do you know where she stayed?

A. I don't recall the address.

Q. How long did Doris Brunen stay in Hoboken with you?

A. Until my father came for us.

Q. How long was that?

A. I should judge about four days.

Q. What happened when your father arrived in Hoboken?

A. Why, there was quite an excitement.

Q. Yes; state what happened?

A. Father had us arrested.

Mr. Keown: I think the witness should be instructed not to say anything which would be incriminating against her mother or step-mother.

Mr. Peacock: What do you mean incriminate? That is what we are attempting to prove to you.

The Court: The relations between the parties are always a matter of investigation.

Mr. Peacock: That is what I am attempting to prove, sir.

The Court: The idea is not to prove the guilt unless to show a step, what you might call motive, towards the commission of a crime. Now I won't know—it would not be for the purpose of showing that she has been guilty of some offense.

Mr. Peacock: Not for that reason at all, sir.

The Court: But the idea is merely to show the feeling that might be created between herself and her husband?

Mr. Keown: This witness could tell that without going into any details.

The Court: Well, generally speaking, of course not going into details, but generally speaking of what took place there.

(Question repeated.)

Q. Had who arrested?
A. Had us all arrested.
Q. Who did that include?
A. That included my husband, myself and my mother.
Q. Anyone else?

Mr. Keown: There are only three in the party. She has included them all.

The Court: She is relating all that took place.

Q. Tell me who your father had arrested when he arrived in Hoboken who here you or in your party?

Mr. Keown: If your Honor please, I just want to ask what difference would it make who else besides Mrs. Brunen, if we are proving motive, that Mr. Brunen had arrested.

Mr. Peacock: To show the relations that existed between this man and his wife.

The Court: I don't know. If it is not connected up it can be easily stricken out.

Mr. Kelsey: It will be connected up.

A. You want me to repeat what I just said?

Q. I want you to repeat who were in your party and who your father had arrested.

A. My father had my husband, myself, my stepmother and Doc Ward arrested.

Q. Who is Doc Ward?

A. He was a party that was on the show, his lot superintendent.

Q. And was he with you and Parkstrom and Mrs. Brunen?

A. We met him there and helped to get the rooms and later I don't know what took place.

Q. How far was Mrs. Brunen's room from your room?

A. I should judge about three or four blocks.

Q. How long were you in Hoboken?

A. Four days.

Q. Where did you go to then?

A. Why, my father took us home.
Q. To Riverside?
A. Yes.
Q. And you continued to live in Riverside up to the time your father was killed?
A. I did.
Q. Were there any quarrels between your father and mother at your home during the latter part of 1921 or the first part of 1922?
A. There were.

Mr. Keown: Your Honor is going to allow this in now on that condition, that it has to be tied up?

The Court: Yes, it is material on the question of motive.

Q. Now will you relate, starting at the latter part of 1921, relate to me those quarrels, if you can, give us the time and the cause of them from the time you returned home from Hoboken? Start there.
A. There were several quarrels, but I just couldn't recall the time.
Q. And what was the cause of those quarrels between John Brunen and his wife?
A. Family quarrels.
Q. What about, Hazel?
A. About my running away, and there was an argument Christmas.
Q. What was that?
A. That was a family quarrel also.
Q. Were you home that day?
A. I was.
Q. Well, what happened between John Brunen and Doris Brunen on Christmas Day, 1921?
A. Well, we had dinner and after dinner I went to washing dishes and my step-mother coaxed my

father to have dinner, and he refused, calling my mother profane names, and finally he got in a rage and went to reach for his gun, and with that my step-mother ran to the pantry, and of course I ran between, and my father said that the last bullet would reach him. Of course that got me scared and I ran between and I threw up my hands and I said, "Go ahead and blaze away;" and with that my step-mother drew a gun which I didn't know that she had and started to fire and I grabbed her hand, and of course she emptied her gun in the kitchen. My father ran to the dining room and when my mother emptied my gun she ran to the dining room door and of course I ran after her, and as my mother got in the dining room door I think she threw her gun away in the meantime, and my father brought his gun up and fired and it passed between us and I didn't know that my mother was hit, and finally she said that she had been shot and I dragged her out on the porch and I called for the doctor, and with that they took me away.

Q. What did she say regarding that quarrel concerning your father?

A. In what way do you mean, Mr. Peacock?

Q. Did she make any remark concerning your father?

A. I don't just understand how you mean.

Q. Did you have a conversation with her concerning John Brunen at any time?

A. Why, they had been quarreling, and father, of course, as I say, would not come to dinner.

Q. After that, I mean, did you have any conversations with Mrs. Brunen concerning your father that you can remember and what she said about him?

A. Not that I don't remember.

Q. You don't remember them?

A. No, I don't.

Q. While you were in Hoboken did you have a conversation with Mrs. Brunen concerning John Brunen? Did she tell you anything about him?

A. If I recall, I think my step-mother said she was going to get a divorce.

Q. Did she say anything else about your father?

A. Not that I can remember.

Q. Now after this affair on Christmas was there another quarrel between your father and mother in which there was a dress cut up?

Mr. Keown: I think the Prosecutor is leading.

The Court: Well, he is simply calling attention to an incident.

Q. Do you remember that?

A. I remember that quarrel, but I don't remember whether that was before Christmas or after Christmas.

Q. All right. Do you remember the quarrel?

A. I do.

Q. What happened that day?

A. Well, my mother was to go down to Philadelphia to pay a bill for her mother, and when she went she didn't inform my father where she was going. My father was having a business transaction outside and when he came in he asked for my step-mother and we had told him that she went to Philadelphia to pay a bill for her mother, and he didn't believe it and he accused her of going with Doc Ward; and he ran upstairs and was going to tear up all her clothes and he got hold of a suit and tore the coat up of this suit, and I stopped him, and then he went out. He was very mad.

Q. Any other quarrels between your father and mother after that between John Brunen and this—

A. There were several but I just don't remember them all.

Q. Where was the winter quarters of your father's show?

A. Williamstown, New Jersey.

Q. How long had it been there?

A. From the time it closed till the time it opened.

Q. Did you ever go to Williamstown with your father?

A. I went there once or twice.

Q. Did you ever have any conversation with Doris Brunen concerning you going to Williamstown with your father?

A. Yes, my step-mother advised me not to go; she said that they were laying for my father to kill him, and that they might kill me with him. And if she was me she wouldn't go.

Q. How many times did she tell you they were laying to kill your father?

A. Several times.

Q. And advised you not to go to Williamstown in the car with your father?

A. Yes.

Q. Do you know how many times she told you that, Hazel?

A. I don't recollect how many times, no.

Q. Where were you when she told you that?

A. At home at Riverside.

Q. Anyone else in the house at that time that heard that?

A. Well, now, I wouldn't say whether they heard it or not, but as a rule her mother was always there.

Q. And the result of Mrs. Brunen's advising you about them laying in wait for your father, did that prevent you from going to Williamstown with him?

A. Yes, I didn't go.

Q. Do you remember the day that your father was killed?

A. I do.

Q. Where were you that day?

A. At home.

Q. All day?

A. Yes, all day, except in the evening.

Q. Prior to the date your father was killed would you go out in the evening?

A. Yes.

Q. Where?

A. To the moving pictures.

Q. Who would go with you?

A. Why, sometimes I went alone, sometimes my step-mother would go and sometimes my step-mother, her mother and myself would go.

Q. At whose suggestion did you go?

A. Why, at my own at times, and sometimes at my step-mother's.

Q. Now did you go to the movies nearly every night?

A. Yes, nearly every night.

Q. For how many days or weeks prior to the time your father was killed?

A. Always.

Q. Continued that, did you?

A. Yes.

Q. When you and your grandmother would go to the movies who would be home?

A. Why, my step-mother and my father.

Q. The night your father was killed where were you?

A. I was in the moving pictures.

Q. Who was home?

A. My step-mother.

Q. Now what time did you leave her that night?

A. I left her exactly twenty minutes of seven.

Q. Were there any people at your house that afternoon?

A. Yes, Mattie Mohr.

Q. Who is Mattie Mohr?

A. That is my step-mother's sister.

Q. And what relation is she to Harry Mohr?

A. A sister.

Q. How long had she been there that day?

A. Why, she came before lunch; at what time I don't just remember.

Q. And what time did she leave?

A. After lunch.

Q. Did you hear a conversation that day or that afternoon that your father was killed between Doris Brunen and Mattie Mohr?

A. I did.

Q. What did you hear Doris Brunen tell Mattie Mohr?

A. I heard Doris Brunen tell Mattie Mohr never to be surprised at any time if she would get a phone that father was killed.

Q. Where was she when she made that statement, Hazel?

A. In the kitchen.

Q. About what time of day was it?

A. It was after lunch.

Q. That was the day that your father was killed?

A. It was.

Q. That same night did she get a phone call that your father was killed?

A. Who, do you mean, Mr. Peacock?

Q. Mattie Mohr.

A. She did.

Q. What time did she get that phone call that your father had been killed?

A. Why, I called myself, I should judge, at 8.48 or 8.50.

Q. That is, at ten minutes of nine you phoned to Mattie Mohr at Philadelphia that your father had been killed?

A. I did, I spoke to Harry Mohr.

Q. Hazel, who answered the phone in Philadelphia?

A. Mattie Mohr.

Q. What did you tell her?

A. I asked her if Harry Mohr was there.

Q. Was Harry Mohr there at ten minutes of nine?

A. He was.

Q. Did he answer the phone?

A. He did.

Q. What did you tell him?

A. I said that dad was shot, to come home at once.

Q. And ten minutes of nine; what time did Harry Mohr get to Riverside that night?

A. Why, it was a few hours later, I just don't recall what time.

Q. How many hours later?

A. Well, I just don't recall how many hours.

Q. Did you have a conversation with Harry after that concerning the same phone call in which he said he thought you had said something else?

A. He said that he thought I said it was Dot was shot.

Q. That Dot was shot?

A. Yes.

Q. You said dad was shot?

A. Dad was shot.

Q. Who was present in your house when Doris Brunen told Mattie Mohr not to be surprised to receive a phone call at any time that your father would be killed?

A. My stepmother and my step-grandmother and myself and Mattie Mohr.

Q. Is Mattie Mohr in the courtroom?

A. I don't know.

Q. Have you seen her since you came to court?

A. I have not.

Q. Have you seen her in this town since this trial started?

A. I have not.

Q. How do you state the time, Hazel, that it was 8.48 or 8.50?

A. I remember looking at my watch.

Q. And you know that that is the correct time?

A. It is.

Q. When did you first learn that John Brunen had been killed?

A. When I got word at the moving picture show that something had happened at home.

Q. About what time was that?

A. About eight o'clock.

Q. Who brought you that word?

A. Fred Sheetz.

Q. Then where did you go after Mr. Sheetz told you of it?

A. I went direct home.

Q. Who was present at your house when you arrived there?

A. The doctor and my step-mother.

Q. Doctor who?

A. Maul.

Q. Did you have any conversation with Mrs. Brunen when you arrived there?

A. I wanted to know what was the trouble.

Q. What did she tell you?

A. She said that she had been upstairs in the bathroom, when she came out she heard a shot and she ran downstairs and she found that my father had been shot and was so excited she ran through

the rooms and ran across the street and told Fred Sheetz.

Q. Now she told you she had gone to Fred Sheetz, didn't she?

A. Yes.

Q. Where does Fred Sheetz live?

A. Across the street with Mrs. Walters.

Q. That is the house towards Camden, isn't it?

A. Yes.

Q. Marked 153 feet from the Brunen home? (Referring to map.)

A. I don't know just how many feet.

Q. As marked on the map, 153 feet, 3 inches?

A. Yes.

Q. Is there any house closer than the Walters house where your mother could have gone to?

A. Stecher's house.

Q. Did you pass Stecher's house that night?

A. I did.

Q. Was that house lighted or was it dark?

A. I don't remember. I don't believe I looked in, I was too excited.

Q. Stecher's house is 57 feet from your house and your mother went to the Walters house, 153 feet; is that correct?

A. That is correct.

Q. Did she tell you that?

A. She did.

Q. What did she tell you she did after she arrived at the Walters house?

A. She told Fred Sheetz that something had happened, to come over with her.

Q. How long did she tell you she remained in your house before she gave the alarm that your father had been killed?

A. She didn't say.

Q. Did she say she ran around the house some time before she went and told Fred?

A. She said she ran through the rooms and then she ran out and told Walters.

Q. Did she say anything about going out through the front or back door before she went to Sheetz's?

A. She said she went out the front door.

Q. Did she say anything about what she saw when she came out of the front door?

A. Yes, she said she saw a machine and it was going slowly and some one jumped on.

Q. Did she say how many men were in that machine?

A. I don't recall now whether she did or not.

Q. Did she describe the appearance of those men?

A. I don't recall.

Q. Did you have any other conversation with her?

A. Not that I remember.

Q. Did she tell you anything concerning going out before or after the shot?

A. Yes, she told me she went out and emptied the garbage.

Q. Where is that garbage pail that she emptied the garbage into?

A. As you go down the porch, right around the corner.

Q. In the back part of your house there is a cellar door, isn't there?

A. Yes.

Q. I show you a map which is described as your home, the parlor, living room, dining room, porch, kitchen, pantry. This is the cellar door outside of the house, this is the side door going out to the porch to go back.

A. Yes.

Q. Going out of the back of the house she would go out this door, wouldn't she?

A. Yes.

Q. Where would she go to empty that garbage?

A. Right around that banister. There was a banister on the stairs.

Q. Around to the right?

A. Yes.

Q. Is that right?

A. Yes.

Q. Were you present when Mr. Parker came to your house that night?

A. I was.

Q. Who else was there?

A. I think Dr. Maul and the coroner, my stepmother and myself, and Mr. Voshell, I believe he was there.

Q. Did Mr. Parker ask Doris Brunen if she had been out of the house that night?

A. I believe he did.

Q. For what purpose did she tell Mr. Parker that she had gone out the back door?

A. I believe that she said she put the dog in the cellar.

Q. And she told you she had gone out to empty garbage?

A. Yes.

Q. Were you present when Fred Sheetz was there in the Brunen home?

A. I don't know whether Fred came afterwards or not.

Q. Did you hear Doris Brunen tell Fred Sheetz anything concerning the dog?

A. I don't remember now.

Q. You don't remember?

A. No.

Q. She told you she had put the dog in the cel-

lar, didn't she, or told Mr. Parker? You heard her tell him that?

A. Told Mr. Parker.

Q. Where did she tell you she went to put the dog in the cellar? Where did she tell Mr. Parker that she had to go to put the dog in the cellar?

A. I believe she said she put him in from the outside.

Q. From the back cellar window, did she?

A. Yes, that was the cellar opening there.

Q. Where was the dog kept?

A. In the kitchen as usual.

Q. And what was that dog's name?

A. Snooky.

Q. You say you didn't hear her tell Mr. Sheetz anything about the dog after he arrived there?

A. No, I didn't.

Q. Did you have a conversation with Harry C. Mohr about your father being killed on the Monday before the funeral?

A. I did.

Q. What did Harry Mohr tell you about your father being killed?

A. Harry Mohr told me that the guy that killed my father ought to have had a gold medal.

Q. And where were you when he told you that?

A. Upstairs.

Q. How did he come to tell you that, Hazel?

A. Why, we were talking of my father and I said it was brutal how he was shot.

Q. What else did you tell him?

A. I just don't remember the whole conversation.

Q. Were you having a conversation with Harry Mohr as to the manner in which your father was shot?

A. I was.

Q. Well, tell the whole conversation that led up to the time that Harry Mohr said the guy that killed your father ought to have a gold medal. Tell the Court and jury the entire conversation, what he said and what you said.

A. I was upstairs making up Harry's room and Harry came in. I believe he was going away. When he came up we got to talking about my father and I said it was brutal how papa was shot, he didn't have a chance, and he didn't say anything for a while and then he said, "Well, the guy that done this ought to get a gold medal," or some words to that effect.

Q. And when was that?

A. That was before my father's funeral.

Q. Now did your father have any other trouble concerning your mother going with Doc Ward?

A. At what time do you mean?

Q. Just prior to him being killed.

A. Only about the time the coat was cut up.

Q. Do you know whether your mother left Riverside to go to Jersey City to meet Doc Ward after the time you met him and were arrested up there?

A. No.

Q. You don't know that?

A. No.

Q. Was Harry Mohr at your home the day that your father was killed?

A. Yes, he came home in the afternoon.

Q. About what time?

A. I don't just recall what time. It was before five o'clock.

Q. Mattie Mohr was there that afternoon?

A. Yes.

Q. How long did Harry Mohr remain at your house before leaving that day?

A. Long enough to write two letters, and I believe he had a cup of coffee and then left.

Q. Did he tell you where he had been before coming to your house that afternoon?

A. I don't remember whether he said or not.

Q. Did you know where he had been?

A. I think he was either in Camden or Philadelphia.

Q. He came from Camden to your home about five o'clock; is that right?

Mr. Keown: If your Honor please, the witness has not said that.

Mr. Peacock: She said he was in Camden.

The Court: Well, I don't remember.

Q. What time did he arrive at Riverside that afternoon?

A. I don't recall what time.

Q. You say he wrote two letters?

A. He did.

Q. He then left again?

A. Yes.

Q. Did he tell you where he was going?

A. Why, he was going to a meeting, I believe, of the American Legion or the Woodmen, or something of that kind.

Q. Did he tell you that?

A. He told it to all that was present.

Q. And he left there about five, did I understand you?

A. About ten minutes to five or five, I won't say for sure what time.

Q. What method of transportation did he use to go to Camden that day, train, automobile or trolley?

A. Why, he had his Ford coupe.

Q. And he left your home in a Ford coupe?

A. Yes.

Q. When did you next see Harry Mohr?

A. When he came home after the accident had happened.

Q. What kind of an overcoat did he wear that afternoon?

A. I believe he had on a brown overcoat.

Q. Did he change overcoats that day?

A. I think he did.

Q. Did you hear Doris Brunen say anything to him about changing overcoats?

A. I don't remember her saying to him, but I recall her saying to me, "Don't mention that Harry changed overcoats."

Q. That was the same day your father was killed, wasn't it?

A. No, that was a few days after.

Q. A few days after?

A. Yes.

Q. She said to you, "Don't say anything about Harry changing overcoats"?

A. "Don't mention."

Q. "Don't mention it"?

A. Yes.

Q. What conversation did you have with her that day that led up to the conversation about changing overcoats?

A. I don't recall. I went to the pantry to get my—the cupboard, rather, to get my coat. I was going uptown, and that was how she told me that. I don't believe we were talking about Harry.

Q. What was the color of these overcoats?

A. One was a raincoat and the other was a brown overcoat.

Q. Is that Harry Mohr's overcoat?

(Overcoat shown witness.)

A. Yes, that is the overcoat.

Q. How do you know it is his overcoat?

A. I remember sewing it at one time.

Q. At the place sewed on the back?

A. No, his mother sewed that. I sewed at the bottom.

Q. And what other overcoat did he have?

A. A raincoat.

Q. Which overcoat had he worn that day that he changed, this or the raincoat?

A. I just don't remember which one it was, but I think he had that one in the afternoon.

Q. He came home in the afternoon with this overcoat on, did he?

A. I believe he did.

Q. Then what coat did he put on before he left?

A. I think his raincoat. I may have that wrong. It might be the reverse, I wouldn't say for sure.

Q. He changed either the one or the other that day, didn't he?

A. Yes.

Q. Do you know what he did with this overcoat?

A. He gave it to Howard Ellis.

Q. How soon after your father was killed did he give this overcoat away?

A. I believe it was after the funeral.

Q. And who is Howard Ellis?

A. Why, that is a fellow that used to drive the calliope for my father.

Q. Where does he live?

A. He used to live in Maple Shade, New Jersey.

Q. Was he at your father's funeral?

A. He was there when the funeral took place.

Q. Where was he when Harry gave him this overcoat?

A. At the Riverside home.

Q. Had your father made any arrangements to go away the day he was killed?

A. Yes, he had made arrangements to go to New York.

Q. That day or the next day?

A. He was to go that day, but he changed his mind, and then he was to go the next day.

Q. Did he say anything to Harry Mohr or Doris Brunen about going to New York?

A. Yes.

Q. And for what purpose was he going to New York?

A. I believe that he was going to New York on business and he was going to look up the fellows that he believed robbed my step-mother.

Q. And who did he say they were?

A. Freeman; I believe that is the name.

Q. When did he tell Harry Mohr and your mother that he was going to New York?

A. Why, the day before he was killed. He was to go that day.

Q. Did you hear him tell them or say anything about getting something for Mr. Parker in New York, Mr. Ellis Parker?

A. I believe he was going to look up a merry-go-round.

Q. And did he say that he was going to buy one that day for Mr. Parker?

A. I don't recall whether he said that or not.

Q. Did you hear him say anything about taking a sum of money to buy ——

Mr. Keown: I think all of these questions—I have not objected to all of them, but they are all leading.

The Court: You must not lead the witness.

Mr. Peacock: I am not attempting to lead the witness. I will admit the last question I started out was leading, but I had not finished it, so there is no harm done.

Q. What else did you hear your father say concerning his trip to New York besides the purchase of the merry-go-round and the Freeman gang?

A. Now, I don't recall. I was to go with my father.

Q. Was Doris Brunen to go with him?

A. No, she was not going to go.

Q. Hazel, did your father have some diamonds at the time he was killed?

A. Yes.

Q. What were they?

A. A diamond stud and a diamond ring.

Q. What became of those diamonds after he was murdered?

A. Well, now, I don't remember whether it was the doctor or the coroner, but one of the two took them off my father and handed them to me, because at the time my stepmother was talking; and when my stepmother was through I handed them to her.

Q. What did she do with them?

A. Why, she put them away.

Q. After you gave them to her how long was it before you saw those diamonds again?

A. Why, it was a few months later, when they were set into rings, ladies' rings.

Q. Where had they been during those few months?

A. Why, in my mother's possession.

Q. Do you know that?

A. I couldn't swear to it, but I believe they were.

Q. Had you seen them any time during those three months?

A. Not that I recall.

Q. Did you see them any time from the time you handed them to your mother after being taken from your father's body until you saw them three months later?

A. Not that I remember.

Q. Do you know whether they were in your home during that time?

A. No, I couldn't swear to it. I thought that my mother would have them on her possession.

Q. Did Mattie Mohr ever come to your home when your father was there during the latter part of his life?

A. When my father was away she would come.

Q. Why didn't she come while he was there?

A. Because my father and her had a quarrel. When she left the home she said she would never come when he would be there.

Q. That day that your father was killed, did he phone before she came there?

A. That same day?

Q. Yes.

A. I don't remember.

Q. Will you try to recall?

Mr. Keown: If the witness can't remember, if your Honor please, that finishes the question.

The Court: Well, now, as near as you can recollect. If you can't remember, why, of course you are not asked to state anything that you merely guess at. That is objectionable. Unless she remembers don't attempt to state, anything you don't remember. Well, proceed. She doesn't remember.

A. I don't remember that.

Q. Did Jules Kresge live at your father's house any time?

A. Not that I know of. He used to come there to see Mattie in the summer.

Q. How long had it been prior to your father's death that Mattie Mohr lived at your home?

A. When we was away.

Q. About what time at night would your father arrive home from Williamstown?

A. Why, at different times, never at the same time.

Q. The night he was killed what time did he arrive home?

A. 6.30.

Q. And when he came in what did he say?

A. Why, we were through supper and my stepmother started to prepare supper for him and she asked him about his face; his face was so dirty. And he said that he thought that somebody was following him, and he said, "I put speed to Hortense"—that was his car; he always called it Hortense. And then he washed his face, and when he got through he says, "Well, when I am washed and dressed I am not such a bad looking guy after all, am I, mamma?"

Q. Where did he sit?

A. Why, at the supper table.

Q. After he ate his supper then where did he generally sit?

A. By the window.

Q. And is that the same window where he was shot?

A. It was.

Q. Was there a rocking chair there; did he sit in a rocking chair?

A. Yes, sir.

Q. Hazel, is this the rocking chair that usually sat by the back window?

(Chair shown witness.)

A. It is.

Q. Is that the rocking chair your father generally sat in by that back window?

A. Yes.

Q. Is that the chair he sat in when he was killed?

A. Yes.

Mr. Peacock: I offer it in evidence.

Mr. Kelsey: The overcoat is offered, too.

The Court: Any objection?

Mr. Keown: I have no objection to the chair.

The Court: Any question about the overcoat?

Mr. Keown: Yes, I want to submit the coat to my client to see if it is his overcoat.

(Overcoat submitted to Mr. Mohr.)

Mr. Keown: No objections to the coat.

(Chair and coat marked Exhibits S24 and S25.)

Cross-examination.

By Mr. Keown:

Q. Now, Miss Brunen, after this tragedy you and your stepmother lived together for some time?

A. Yes.

Q. You lived together as companions until your mother was arrested?

A. Yes.

Q. And you stayed at her home in Philadelphia some time after she was arrested?

A. Yes.

Q. You felt this matter very keenly when she was arrested?

A. Yes.

Q. Resented it very much?

A. I did.

Q. You and your mother had had no cross words whatsoever during the time between her arrest and the murder, had you?

A. No.

Q. You were her comforter throughout all that period?

A. Yes.

Q. You were with her during all that time?

A. I was.

Q. You called upon all occasions that were afforded you after she was incarcerated?

A. Repeat that, please?

(Question repeated.)

A. I just don't understand what you mean.

Mr. Kelsey: Your Honor, what is the purpose? I object to this line of examination.

The Court: As cross-examination it is perfectly proper.

Q. You called upon your mother when she was here in jail, in the prison?

A. Yes, at times; and I thought I was not being treated right by her people at home and by her attorney.

Q. No, I say you called upon her upon all occasions afforded you while she was here in jail?

A. Not all, no.

Q. You called upon her very frequently?

A. I did.

Q. And everything went along nicely between you and your stepmother?

A. Yes.

Q. Until about what time?

A. Well, now, I just couldn't state what time, but it has not been very long ago.

Q. And recently then you have turned against your stepmother?

A. I have.

Q. And why have you turned against your stepmother and come here to testify this way today?

A. Why?

Q. Why, please, yes.

A. Well, I will tell you the reasons. The first reason, when I put these questions that I have just told here together and I went to New York to see my own mother's people, and they told me it was my stepmother that took my father from my own mother and she tried to bring my mother's name into shame, and she had murdered my father. Now, why shouldn't I turn?

Q. Now, Miss Brunen, did you know all that you know now before you made this statement and turned against your mother?

A. Not all, but I have been told by different people.

Q. You haven't been told anything that you have testified here today about, have you?

A. Oh, no.

Q. Then you did know all of these facts that you have testified to here today?

A. I did.

Q. And you didn't feel that it was your duty to tell the authorities until you found out that there were financial difficulties between you and your mother, did you?

A. The reason I told was different things——

Q. Just answer my question.

Mr. Kelsey: I object. There is no question about financial difficulties.

The Court: He has a right to probe into the motives of this witness. I have already ruled that that testimony is competent. Proceed. Repeat the question.

(Question repeated.)

A. Financial difficulties?

Q. Yes, that is what I said, financial difficulties.

A. No, it wasn't that.

Q. Wasn't that the big reason that you turned against your mother?

A. No, it was not.

Q. Have you not tried to force your mother to file an account in the estate when she was in prison?

A. I signed for a guardian, because I never had one.

Q. And didn't you instruct your guardian to cite your mother to file an account in this court while she was in prison?

A. No, I didn't.

Q. And you didn't know that that was going on?

A. I knew that there had to be an inventory filed.

Q. And who told you that?

A. Because my common sense told me that, that there should be one filed.

Q. And you went and consulted an attorney to have your mother file an account?

A. I did.

Q. At that time you knew more about the estate than your mother, did you not?

A. No, I don't see where I do.

Q. You had been in constant touch with the estate ever since your father's death, had you not?

A. I don't see how I was.

Q. Was your mother ever on any business at all concerning your father's estate that you were not present?

A. Yes.

Q. Where?

A. At your office.

Q. When?

A. Several different times that I was not there.

Q. How many times to your knowledge was your stepmother to my office when you were not with her?

A. Now, I can't just recall how many times, but I know it was several occasions.

Q. And when you say several how many do you mean?

A. Well, I think you ought to know how many several means yourself.

Q. Well, I know what I mean, but I would like to have your idea.

A. Well, I can't just tell you. I can't recall how many times.

Q. Were you in conference with your mother on the first time I interviewed your mother after the tragedy?

A. I was in the home there, but I didn't go up in the office, and you folks went up in our home.

Q. Didn't your mother call us up into the office and with you she made the first statement to me?

A. Oh, no.

Q. On the Sunday afternoon after the tragedy?

A. I was called up, but I was sent out again after there were a few questions asked of me.

Q. Didn't you stay there while a statement was taken down stenographically?

A. Not through, no.

Q. And didn't you answer throughout the entire statement for your mother?

A. I don't recall that I did.

Q. Don't you remember that, Miss Brunen?

A. No, I don't.

Q. Do you remember who it was that sat there and took the statement stenographically?

A. No, I don't.

Q. Was it not Miss Breacker?

A. I couldn't say for sure, I am not sure.

Q. Was there ever any other person out to your home with me except Miss Breacker who took down statements stenographically?

A. I don't recall.

Q. Was I ever out there more than once and took took down statements stenographically?

A. I don't recall that, either.

Q. When, after that did I next, to your knowledge, see your mother?

A. I don't know.

Q. To your knowledge, I am asking you.

A. I don't remember.

Q. Can't you fix that time?

A. No, I cannot.

Q. Was it in my office?

A. It may have been.

Q. Well, when you were with your mother when was the next time you saw me?

A. I believe it was in your office.

Q. But were you not in my office almost daily, you and your mother, for a period of months about the estate?

A. Oh, not daily.

Q. How often would you say you were in there for the first month about the estate affairs?

A. Well, now, I just can't recall, but I know it wasn't daily.

Q. Where was the show at that time?

A. In winter quarters.

Q. Who was taking care of it?

A. Mr. Mohr.

Q. What were you and your stepmother doing about it?

A. We were at home.

Q. Didn't you go with your stepmother to Philadelphia and get clothes for the funeral?

A. Yes, I did.

Q. Was it not necessary to pawn these rings and stud that you have spoken about in order to get your mourning clothes?

A. It was not.

Q. They were not pawned?

A. Not that I know of.

Q. Where did the money come from that bought you the mourning clothes and your mother's mourning clothes for the funeral?

A. You had it advanced by someone in Camden, I don't know who.

Q. And it also bought your clothes?

A. It did.

Q. When was it the first time that the rings, to your knowledge, were put in pawn to get funds?

A. The first to my knowledge?

Q. Yes.

A. Now, just a moment until I think. The first

time to my knowledge was when Mattie pawned the ring they have now. There was one in and when my stepmother was arrested she sent the other one home and said to get this one out and pawn the other.

Q. Were not those rings in pawn within a week after the tragedy?

A. Not that I remember.

Q. Were you not with your mother when she had those rings reset?

A. Yes, I was.

Q. And was not that done at T. L. Bear's, in Camden?

A. It was.

Q. Was not that done just shortly after the tragedy?

A. Not shortly.

Q. Was it three months?

A. Well, now, I wouldn't say it was three months.

Q. You did say it was three months in your direct testimony?

A. When did I say three, Mr. Keown?

Q. I beg your pardon, what did you say?

A. A few.

Q. What do you mean by a few, two?

A. No, not two. I wouldn't say just how long, but it was not just after the tragedy.

Q. It was just as soon as you could get your hands on any money?

A. I don't believe it was until some time.

Q. Stop and think if it wasn't. You were having trouble at that time by reason of the fact the estate was tied up by a caveat filed by Mr. Jenski; is that true?

A. Yes, sir.

Q. And you came with your mother here to the

court house, your stepmother, to have her appointed administratrix of the estate?

A. Yes, I believe I was present.

Q. And how soon was it after that that those rings were put in pawn or those rings were mounted, it was almost immediately, was it not?

A. No, it was not.

Q. Do you remember talking to your mother on the night of the murder of your father?

A. Do I remember talking to her?

Q. Yes.

A. I do.

Q. Do you remember what you said to her when she stood over his dead body crying?

A. She didn't stand over his dead body crying.

Q. Did she stay up all night with that corpse?

A. We all stayed up all night.

Q. Did she stay up all night crying over that corpse?

A. I guess she was crying.

Q. Do you remember what you said to her?

A. I told her not to cry, that that wouldn't bring father back.

Q. Is that what you said?

A. It is.

Q. Nothing else?

A. Nothing else that I remember.

Q. Will you try to think and see if you didn't say something crueller than that?

A. Not that I remember.

Q. Do you know whether your mother cried over that corpse or not?

A. I won't say continuously.

Q. You retired?

A. I retired about six in the morning for an hour or two. I had such a headache.

Q. Where did you spend the evening after the tragedy, in what room?

A. In the sitting room, I believe.

Q. And that isn't where the corpse was?

A. No.

Q. Your stepmother was over the corpse all that night, crying?

A. She was not over the corpse.

Q. I thought you said a minute ago she was?

A. I said she wasn't, it was you said she was over the corpse.

Q. Where was she?

A. In the sitting room.

Q. Tell me what it was you said to her about the loss of her husband?

A. I said not to cry, that it wouldn't bring father back.

Q. Did you try to console your mother?

A. I did.

Q. Had you at that time thought anything suspicious about what she had told you as to her actions?

A. No, I didn't, because they were always telling me my father was going to be knocked off.

Q. Who was telling you that?

A. Harry Mohr, Mrs. Brunen and her sister.

Q. And you knew to whom they referred?

A. They referred to several.

Q. They never referred to your stepmother or Harry Mohr?

A. No, I should think they would be foolish to do that.

Q. You never thought for a moment when they said Mr. Brunen was to be killed they would kill him?

A. No, I didn't think they could be so heartless.

Q. When did you first think they meant they might do it?

A. After I put these things together and the opinion of the public.

Q. You were guided by the public opinion and things you found out in New York six or eight months afterward?

A. No, by the confession of that man that sits there, that murderer.

Q. Have you ever talked to me about this man's confession?

A. I don't remember.

Q. Stop and think. Have you made a statement to the Prosecutor through me?

A. I have.

Q. And did you tell the story to him then that you are telling now?

A. Not at that time.

Q. Why not?

A. Because I didn't think of it.

Q. Of what?

A. All these things I have told now, the authorities.

Q. In other words, everything you have told the authorities today you expect to use a different meaning for them?

A. I didn't think they could be guilty of such a crime. They were always saying somebody was going to knock my father off.

Q. I say you had a different meaning for every statement you made here today?

A. No, I did not.

Q. What statement have you made here today that you did not know on the day your father was killed?

A. What statement?

Q. Any statement you have told to Mr. Peacock

here today that you didn't know on the day your father was killed, any of them?

A. I didn't think of them at that time.

Q. You mean to say you didn't think of the facts or the interpretation of the facts?

A. No, I did not.

Q. What do you mean?

A. What I have told here today.

Q. You didn't think of those facts then?

A. No.

Q. Didn't you tell me immediately after the tragedy how your father had come home at six or thereabouts, how he had sat down at the dinner table, how he had washed his face because it was splattered with mud, and how he had washed himself and gone to his wife and kissed her, and said——

A. He did not kiss her.

Q. Didn't you tell me he did?

A. I did not.

Q. Was it not his custom to kiss her when he came home at nights?

A. It was not.

Q. Did you not tell me you went to the movies while they were still waiting, while your stepmother was still waiting supper?

A. My father had come home and was sitting at the table when I left.

Q. You and your grandmother had dinner alone?

A. No, my stepmother had supper with her.

Q. Did not your stepmother wait and have supper with your father?

A. She did not.

Q. Was she not sitting at the dinner table when you and your grandmother left?

A. She was not, she was waiting upon him.

Q. Did you not tell me that she was sitting there waiting on him, and eating supper with him?

A. I did not.

Q. You deny it?

A. I deny it.

Q. Did you not tell me—I withdraw that. Where was your father sitting on the night of the tragedy when you left the house?

A. At the supper table.

Q. Then why did you tell Mr. Peacock he was sitting in the chair by the window?

A. I didn't say he was sitting there when I left.

Mr. Peacock: She said before supper.

Q. Did you not identify the chair your father was sitting in?

A. I didn't say he was sitting there when I left.

Q. Did you say you saw him sitting in that chair that night at all?

A. Not that night, no, every other night.

Q. How did you know your father was sitting in this chair on the night he was murdered?

A. Because he was there when I came home.

Q. He was still in this chair?

A. He was.

Q. What time was it you were notified?

A. Eight o'clock.

Q. You knew that your mother, your stepmother, had told you she went out to empty the garbage, and she had told Mr. Parker she went out to bring in the dog and you knew they were conflicting stories, and you knew them at the time of the tragedy?

A. Conflicting in what way?

Q. I think they are conflicting. You heard two different stories from your mother, as to why she went out. You testified that?

A. Yes.

Q. Are those stories not conflicting stories?
A. It is according to how you put them.
Q. So you related them here?
A. When that was put out it was the custom.
Q. Then there was nothing unusual about it?
A. No.
Q. And there is nothing unusual about your mother going out, leaving the dog out for a few moments and bringing the dog back?
A. She never took it out, she used to send him out alone. The way it was told she put the dog in the cellar from the outside.
Q. And that was suspicious to you when you first heard it?
A. Well, it didn't seem suspicious, I thought she may have put him out there.
Q. It now becomes suspicious to you?
A. I didn't say it, no.
Q. It is not suspicious now?
A. No.

Mr. Peacock: I object to the line of examination.

The Court: You must stop interrupting the line of cross-examination, as long as counsel is within his rights.

Q. Miss Brunen, will that cellar door from your home open from the outside?
A. If it isn't locked from the inside.
Q. When you heard your mother had opened the cellar door from the outside, you certainly must have thought that suspicious?
A. No, I didn't.
Q. Why do you say it is suspicious now?
A. I didn't say it was suspicious to me, I just told you it wasn't.

Q. You don't mean to infer when you say here today that you think it was suspicious?

A. I didn't say it was suspicious.

Q. How long did you and your stepmother and the family stay in the Riverside home?

A. How long? Well, it was two or three weeks, I believe.

Q. And it was you that answered the bell and refused to allow anyone in the house?

A. There was no bell on our house.

Q. Well, it was you that answered the door?

A. Not always.

Q. When you were there you refused to allow anyone, any newspaper men, to interview you or your stepmother?

A. Sometimes, but Dr. Knaub used to answer the door most of the time.

Q. Who was Dr. Knaub?

A. He was taking charge there, he used to be a secretary for us.

Q. When was it you first became suspicious of your stepmother?

A. It has not been very long ago.

Q. About how long?

A. I just couldn't say how long ago

Q. Has your mother not within this last month ago given you testimony in your annulment suit?

A. Yes.

Q. Did you let her know at that time that you felt this way about her?

A. No, I don't think I did.

Q. Did you intimate you were going on the witness stand and testify against her?

A. No, I did not.

Q. Why not?

A. Why not, because at that time I didn't think for sure that she could be guilty of such a crime.

Q. Had you not at that time told this story to the Prosecutor?

A. No.

Q. Were you not riding around in the automobile with Powell and Mr. Parker before that time?

A. I wasn't ever out with Mr. Powell in Mr. Parker's car.

Q. You mean you have never been in an automobile prior to the time your mother gave testimony for you?

A. I don't remember.

Q. Did you not get on the car, in automobile at Sixth and Market Streets, Camden, and ride out to Riverside when Mr. Powell was in the car?

A. I don't remember.

Q. Will you deny that you did?

A. I don't remember.

Q. Will you deny you ever did it?

A. Yes, I will deny it.

Q. Have you ever been at the Y. W. C. A. eating at the same lunch table with Mr. Powell?

A. That is a public place.

Q. Answer my question, please?

A. It is a public place, anybody can sit there.

Q. You don't want to answer it?

A. No, I don't.

Q. Was that before or after your mother gave testimony in your annulment suit?

A. That was after.

Q. When was the last time you went to see your mother in the county jail?

A. That was two weeks ago.

Q. Did you tell her then she should never expect to see you back again?

A. No.

Q. Did you kiss her in leaving her two weeks ago?

A. No, not then.

Q. Why didn't you?

A. It wasn't a custom for me to kiss her always. At times I did.

Q. Were you cold against her?

A. I felt somewhat cold against her. I believe she knows that herself.

Q. What has made you feel colder against her than when you left her two weeks ago?

A. I just don't understand what you mean.

Q. Do you fell the same towards your mother today as you did two weeks ago?

A. No.

Q. What has changed you?

A. Because I have heard the true confession in this case.

Q. That is what changes you against your mother?

A. It is.

Q. And that is what makes you come here and tell these facts today?

A. I should think it is. Anybody who murdered my father.

Q. When did you hear the true confession?

A. Not long ago.

Q. Who read it to you?

A. Nobody.

Q. Who told it to you?

A. The man that committed the murder.

Q. Did he implicate your mother?

A. He did.

Q. In what respect?

A. He said she went out to see if the shades were pulled down. He said Harry Mohr told him she knew of it.

Q. What else?

A. Just a moment. I will think. He said she had come down to him once and sent a telegram and

was telling him how my father was killing her mother and herself.

Q. What else, please?

A. That's all that I can remember.

Q. Did you know all of those things before Powell told them to you?

A. I did not.

Q. Had you not read of those things in the newspapers that Powell had said long before?

A. I hadn't read the newspapers about it.

Q. Had you not commented with me on all those stories or articles in the newspapers and haven't you said in my presence that that man Powell was a dope?

A. I have not, because I couldn't.

Q. Haven't you told me you yourself knew Powell was a dope fiend?

A. I never did, because I couldn't say such a thing.

Q. Have you ever complained to me because I was dilatory in getting your mother out of jail?

A. I said I thought you could do something at that time. I didn't think she was guilty.

Q. Didn't you say to me, "How can they keep my mother in there on the testimony of that dope fiend?"

A. I did not.

Q. What reason did you then give me?

A. I thought she was innocent.

Q. What reason did you then give me to authorize you in criticising me for not getting your mother out of jail?

A. I said I didn't see why you couldn't do something. Everyone was saying, that is, the family, that Powell was a dope fiend, and that he was crazy.

Q. You only repeated to me what you heard other people say about Powell?

A. Yes.

Q. Have you since found out Powell isn't what the people say he was?

A. I have.

Q. That also has changed your mind?

A. It did.

Q. In other words, anything that comes along changes your mind?

A. No.

Q. If Powell should get on the witness stand and say today your mother hadn't anything to do with this, would you still have the love and respect for Mrs. Brunen that you had before?

A. If it could be proven to me she was not implicated in this crime.

Q. It is incumbent upon her to prove her innocence rather than the State to prove her guilt?

A. She has to prove it very strongly.

Q. It is all on those things you heard Powell say, the shades were pulled, there was some talk about the killing, and one other thing you mentioned? Now, how do you generally leave the shades in that back kitchen room?

A. Why, they were generally up, sometimes up and sometimes down.

Q. In other words, it didn't make much difference how the shades were?

A. No.

Q. There was nothing unusual to see the shades as they are in this court room, some up and some down?

A. As a rule, half-way, not all the way. We never had one one way and one the other.

Q. Who took care of seeing that the curtains were always even?

A. Any one of us.

Q. You have always made that a practice? Do you remember the position of the curtains when you went out to the movies?

A. No, I don't remember that.

Q. Do you remember the position of the curtains when you returned from the movies?

A. I didn't go in the kitchen.

Q. Didn't I understand you to say you came home and saw your father sitting in the chair?

A. Yes, through the kitchen door, and I thought I could get in that way.

Q. If you could see your father sitting in this chair by the window, you could see the curtains?

A. I took no notice to the curtains.

Q. But you could see them?

A. If I took notice, yes.

Q. You mean to say you came into that room where your father sat dead?

A. I didn't come into the room.

Q. You went to the doorway?

A. I didn't go in the doorway.

Q. You did not even rush in to see him?

A. The door was locked. I ran around to the front door.

Q. How could you see him?

A. Through the window.

Q. Did you not have access to that kitchen?

A. What do you mean by access?

Q. Could you not get in that kitchen?

A. Not when the door was locked.

Q. Was the other door locked?

A. What other door?

Q. The door leading from the kitchen to the dining room, was that door locked?

A. How could I get in from the kitchen to the dining room, when I couldn't get into the kitchen.

Q. After you tried to get in the back door, you went around to the front?

A. Yes.

Q. And then when you went from the hallway to the kitchen, the door was wide open?

A. It was shut.

Q. Was it locked?

A. I don't know.

Q. Do you mean to say you never even tried the door to go out to see where your father sat?

A. The doctor stopped me; he was in the dining room.

Q. Did you get out to the room at all?

A. No.

Q. Then how did you see your father sitting in the chair?

A. Through the window of the kitchen door, I have told you before.

Q. That's the only time you saw him?

A. And when he was laid out.

Q. In that position, I mean?

A. In that position, yes.

Q. There was a light in the kitchen?

A. Very low.

Q. Who came from the movies with you?

A. My stepmother's mother.

Q. What do you generally call her?

A. Grandmother.

Q. You and grandmother Mohr had been very dear friends?

A. Yes.

Q. Why do you now call her your stepmother's mother?

A. Because I have turned against them all.

Q. What has poor old grandmother Mohr done to have you turn against her?

A. I don't know, she may know something about it for all I know.

(Recess for five minutes.)

HAZEL BRUNEN, resumed.

By Mr. Keown:

Q. Miss Brunen, when was it that you had this change of feeling toward your grandmother?

A. Change? It was when I left her.

Q. And when did you leave her?

A. That has been sometime ago.

Q. About when, please?

A. The latter part of September or August.

Q. And you felt that way against Mattie Mohr and Mrs. Mohr, Mrs. Brunen's mother, and Harry Mohr's mother, when you left the apartment in Ridge Avenue in August?

A. I didn't feel just that way, but they insulted me several different times.

Q. And you left them because you didn't want to sty there when you didn't feel friendly towards them?

A. Yes.

Q. I show you a letter under date of November 13, 1922, and ask you if that letter contains your signature.

A. Yes.

Q. Did you write that letter to some one?

A. I wrote that letter to my step-mother, yes.

Q. And how did you address your step-mother?

A. "Dear Mother."

Q. "Dear Mother"?

A. Yes.

Q. And will you please read that letter to the jury?

A. "Dear Mother:—Just a few lines to let you know that I am well and hope you are the same. George went to work this morning. I expect to go soon. I have to wait until the man gets his office in shape and then I will go to work and I sure will be glad, as the days are so long. George and I was down to Aunt Mamie's and she is much better and said she would be up to see you some day in the week. Dear mother, if Bessie should come don't give her my address as I don't want her to come here, and tell Harry the same as you know how she is. Well, I guess I will close for this time. Write soon. With love and kisses,

Lovingly,

Hazel."

(Witness shown letter under date of November 11, 1922, and was asked whether that letter contains her signature.)

A. Yes.

(The witness is asked whether she wrote that letter and if so to whom she addressed it.)

A. To Mattie and grandma.

Q. Will you please read that letter to the jury?

A. Yes.

"Dear Mat and Grandma:—

Just a few lines to let you know I received your letter O. K. I am well and hope you all are the same. I was sorry to hear Grandma is not so well. I was up to Mount Holly yesterday and found both well and they sent their love. Why don't you go

up to see them Sundays as I can't go for a while as I expect to go to work next week. I am going to work in an office here in Riverton and we are going to sell the car so I can't go to Mount Holly as it is 18 miles by trolley and you know I can't ride the trolleys, as it makes me so sick. So I will write to them. So you try and go. Well, it is just a month from today that the trial starts. Well, I will close now. Write soon. Love.

Hazel Brunen."

Q. Did you have a friendly feeling towards Mattie Mohr and towards your grandmother when you wrote that letter?

A. I had had more towards the grandmother but not towards Mattie.

Mr. Keown: If your Honor please, I neglected to offer this first letter. May I offer it at this time?

The Court: The letters you want to offer in evidence that were read?

Mr. Keown: Yes.

The Court: The first one, and now you want to offer the second one?

Mr. Keown: Yes.

The Court: No objection, is there?

Mr. Kelsey: No objection.

(Letters marked Exhibits D1 and D2.)

(Witness shown a letter dated October 13, 1922, and was asked whether that is her signature.)

A. Yes.

(And the witness is asked whether she wrote that letter and to whom she wrote it.)

A. To Mattie and Grandma.

Q. Please read that letter.

A. "Dear Mat and Grandma:—

Your letter received and glad to hear you are all well. I just got up from a sick bed. I had tonsilitis very bad. I was in bed three days and I had a fever of 102. I sure did feel awful. The doctor was afraid it would go into diphtheria, but I feel much better. I was up to Mount Holly and found both well and they send all their love. I think it is awful of Keown putting the trial off as he has had all summer to get ready. Now they have to lay in jail two more months. It is a shame as it would be better to have it over. Don't forget, Mat, to tend to the ring, to pay the interest, as Keown said he would give it. So don't forget this. I told Mamma about the hair and she said to have it go. My opinion of Keown is very poor. I wouldn't hire him to represent me for a dog case. He don't amount to two cents. Well, I will close now, with love to all. Best from George.

As ever,
Hazel Brunen."

(Letter marked Exhibit D3.)

Q. At that time were you friendly with your Aunt Mattie and with your grandmother Mohr and with Harry and Mrs. Brunen?

A. Yes, at that time.

Q. Was that before or after you had talked to Mr. Powell that you wrote that letter?

A. It was before.

Q. Do you remember when that was that you talked to Mr. Powell?

A. It has not been over a week or two.

Q. Is that when you made your decided change against them all?

A. That is, and I put two and two together.

(Witness is shown a letter and is asked whether the signature is her signature.)

A. Yes.

(Witness is asked to whom she addressed the letter.)

A. The same as before.

Q. And will you please read that letter to the jury?

"Dear Mat and Grandma:—

Your letter received. Sorry to hear Grandma is not well. I don't know what you mean when you say that people influence me. There isn't any one who could influence me, and as far as Mother being good to me, I was always good in return, I can't go up on Sundays as I am not making much and have to clothe myself and pay board and Sunday is the only day I have and George likes to go somewhere, and so do I, and sometimes I have some extra work to do on Sunday afternons. Well, I will close. Write soon.

Hazel Brunen."

(Letter marked Exhibit D4.)

(Witness shown a letter dated November 16 and is asked if the signature is her signature.)

A. Yes.

Q. And to whom is that letter addressed?

A. To mother.

Q. And will you please read that letter? When you addressed that to mother to whom did you mean?

A. My step-mother.

Q. Your step-mother?

A. Yes.

Q. And was that sent to her while she was in prison?

A. Yes.

"Dear Mother:—

Just a few lines to let you know I am well and hope you are the same. I haven't went to work yet but expect to soon and I can't tell you how happy I will be as the days are so long and it is so hard without any money, as a person always needs something. I will be up to see you, dear Mother, as soon as I can, but you know how I am about the trolleys, and to be truthful, I haven't the money, but will be up as soon as I can, but for the present I hope my letters will help to cheer you. I am glad it is only a few more weeks and the trial will be on hand, so try and bear up the best you can. I know it is hard but do your best and everything will turn out as God has planned to be. Well, I will close for this time. Write me soon. With love and kisses I am as ever,

Lovingly,
Hazel."

Q. And at that time you were impressed with your mother's innocence?

A. Yes.

(Letter marked Exhibit D5.)

Q. At that time when you wrote that letter, when you were referring to money matters, were you geting any money at all from any source?

A. No, not then.

Q. Had you been getting money from any source while your mother was confined?

A. Yes, I did.

Q. And from whom?

A. From you.

Q. And about that time I stopped sending you money?

A. Yes, before that.

Q. How long before the writing of that letter was it that I had stopped sending you money?

A. I should judge a few weeks, a couple weeks anyway.

Q. And do you know, do you remember the occasion upon which I stopped sending you money?

A. After I had signed for a guardian.

Q. It was after you had cited your mother to file an account in the Orphans' Court; is that true?

A. I had asked for a guardian.

Q. And hadn't you signed papers then requesting a caveat to make your mother fiile an inventory in the estate while she was in prison?

A. Yes.

Q. And you had done that before you wrote this affectionate letter to your mother, had you not?

A. Yes. The reason I done it, I went to you two or three times and asked for a statement and you refused to give me one.

Q. And when was that?

A. It was several times before I even left Philadelphia.

Q. And at those times did you not then go over everything in the estate in my office?

A. No.

Q. And did I not show you the bank books and show you just how much money was in the bank?

A. You showed me how much money was in the bank but that is all. You didn't show me what was spent or what was left or what it was spent for.

Q. Did you not know what every check had been drawn for?

A. No, I didn't.

Q. Had you not seen every check that had been drawn against the estate?

A. No.

Q. Do you know what estate's money has been spent?

A. No, I don't.

Q. Don't you know what creditors have been paid from the estate moneys?

A. No.

Q. Didn't you see the checks that were drawn? Weren't you there when they were drawn?

A. No, I wasn't there.

Q. Weren't you always there when your mother signed and endorsed the checks?

A. But that was money for her personal use. That was not for creditors.

Q. You knew then that your mother had gotten an advancement from the estate?

A. Yes, I knew that she was getting money.

Q. And you knew where that money was being used?

A. In the house.

Q. And you knew how large the advancement was that your mother got?

A. I didn't know the total, no.

Q. Well, it was only one check, was it not?

A. No, she got more than one check.

Q. How many checks did she get?

A. I couldn't say how many.
Q. She got more than one?
A. Yes, more than one.
Q. Do you remember the amounts of the checks that she got?
A. No, I don't.
Q. You were with her practically all the time during that period until her confinement?
A. I should say most of the time. I don't know.
Q. You were not working?
A. No.
Q. You were going with her almost every place she went, were you not?
A. Pretty near every place.

(The witness is shown a letter under date of October 16th and she is asked whether the signature on the letter is her signature.)

A. Yes.

(The witness is asked to whom the letter is addressed.)

A. Bessie.

(The witness is asked to read the letter.)

Q. Whom are you referring to when you address the letter to "Dear Bessie"?
A. Mr. Mohr's wife.
Q. Harry Mohr's wife?
A. Yes.
Q. One of the defendant's wives?
A. Yes.
"Dear Bessie:—
I hope you are well and having a good time. I an-

swered your last letter and haven't heard from you but I heard you went to Bluefield so I waited but Aunt Mamie told me you was still there, so I thought I would write. Well, I guess you will be home soon. No doubt you are going to live in Mount Holly, as you will want to be near Harry, as the trial is so near. Dear Bessie, I can't get one cent and can't get any clothes. I don't know what to do. I was sick in bed for three days and had a doctor and Keown said he couldn't it. Bessie, have you any money you could loan me and when I get some money I would pay you back. I would need $150 if you could loan me it. I would be so glad. Well, Bessie, let me hear from you and if you can loan me that. Well, I will close now, hoping to hear from you soon. Best from George and all my love,

Lovingly,
Hazel."

Q. Whom were you referring to by the word George?

A. That is my friend.

(Letter offered in evidence marked Exhibit D6.)

Q. Now that letter was apparently written after I refused to give yon any more money, was it?

A. Yes.

Q. And may I ask why you wanted $150 from the defendant's wife?

A. To get some clothes.

Q. You were in need of clothes at the time?

A. Yes.

Q. Now the fact that Mrs. Mohr did not send you any money, did that make you feel antagonistic towards your step-mother or towards the defendant, Harry Mohr?

A. No.

(Witness is shown a letter under date of October 21, and is asked if the signature is her signature.)

A. Yes.

(The witness is asked to whom the letter is addressed.)

A. To Bessie.

(The witness is asked to read the letter.)

"Dear Bessie:—

Your loving letter received and so glad to hear from you. It sure is a shame when you think everybody gets money but me, but believe me, Bessie dear, I will get some before long, as things is going to be different. When you come home you can phone me, as Aunt Mamie has the number. I am glad I have one friend who will always stick to me and I know you will, as you always have. And Aunt Mamie is good too and my George I know will always stick to me as there isn't anything he wouldn't do for me, and I love him better than any one in the whole world. I hope you are all well. We are all fine. I was up to Mount Holly and both are well. Don't forget to write me often, as I am always glad to hear from you. Well, I guess I will close now. Answer soon. Best from George and all my love.

Lovingly yours,

Hazel."

Q. What did you mean in that letter when you said that things would be different?

A. Because I had made up my mind then to get a guardian. I had found out that there was no guardian appointed.

Q. That was after Bessie Mohr had refused to send you the $150?

A. I believe it was.

Q. And you then made up your mind that you were going to get money somehow?

A. Yes. I asked why I couldn't get money. I thought I had a guardian, but I found I hadn't, and I thought I had to get money somewhere.

(Letter offered in evidence and marked Exhibit D7.)

Q. You talked to me about the appointment of a guardian, did you not?

A. I did.

Q. And I told you that was your privilege, did I not?

A. Yes.

Q. And I also told you about the condition of the estate, being tied up by reason of the fact that your mother was incarcerated, did I not?

A. Yes.

Q. And I told you that the bonding company which was on your mother's bond refused to countersign any checks, did I not?

A. Yes, sir.

Q. When did you first talk to the Prosecutor about this case?

A. It was after I had heard from Charlie Powell's own lips the truth?

Q. And how did you come to hear from Charlie Powell's own lips the truth?

A. Well, because he had made a confession and I wanted to hear it from his own lips. I didn't want to read no statements. I would rather have it told to me.

Q. How did you get permission to see Charlie

Powell, who was confined in the prison under a charge of murder?

A. I asked Mr. Parker.

Q. And then it was when you went to Mr. Parker and you asked Mr. Parker if you could talk to Charlie Powell?

A. Yes.

Q. Now at that time had any one suggested to you that you go and talk to Charlie Powell?

A. No.

Q. It was a voluntary move on your part in going to Mr. Parker?

A. It was.

Q. Now when after you heard Powell's story was it that you changed?

A. Right afterwards.

Q. Had you had opportunities of going and talking to Mr. Parker prior to that time?

A. No, I came on once or twice. I told him then all that I could remember and I made my statement.

Q. Well, you said the first time that you talked to the Prosecutor or to Mr. Parker was after you talked to Charlie Powell; is that so?

A. I talked to Mr. Parker after I talked to Charlie Powell.

Q. But not before?

A. I had spoken to Mr. Parker but not pertaining to the case.

Q. You didn't give him any information, any facts pertaining to the case, did you?

A. No, not till I heard the truth from Charlie Powell.

Q. How many opportunities were afforded you to go tell the Prosecutor what you knew about the case?

A. In what way do you mean, Mr. Keown?

Q. In any way. Had Mr. Parker or any one under

Mr. Parker written to you and asked you to come to him and discuss the case?

A. No.

(Witness shown a letter under date of June 4, 1922, and is asked whether she received that letter.)

A. Yes, I received that letter.

Q. Will you please read the letter?

"Dear Hazel:—

I was up talking to your mother this morning and she would like you to come up the first opportunity you have and bring her some clothes up. I spoke to Mr. Parker about it and he said it would be all right. You need not have any fear of being arrested, as we have no charge against you. When you do come, come to Mr. Parker's office and he will send you up to see your mother.

I hope you will come see her soon, as she would like some clean clothes.

With best wishes, I remain,

Sincerely,
Anna E. Yoos."

Q. On whose letterhead is that note?

A. "Ellis Parker, Prosecutor of the Pleas."

Q. And did you go to see Miss Yoos in response to this letter?

A. I came up that Sunday, as I had been working, and I asked Mr. Parker if I could see my mother and he said that he would phone up. No, I didn't see Mr. Parker either. He wasn't there. I went right to the jail.

Q. Why didn't you go to Mr. Parker and get permission to talk to your mother?

A. Because he wasn't home.

Q. And did the warden at the jail give you permission to talk to your mother?

A. Sheriff Flagg did.

Q. Had you seen your mother prior to that time?

A. No.

Q. Why not?

A. Because I was working. I couldn't get up before Sunday.

Q. When was your mother arrested?

A. She was arrested just one day before my birthday, on the 12th of June.

Mr. Keown: I offer this letter in evidence.

(Letter marked Exhibit D8.)

Q. Now, Miss Brunen, what time did you arrive on the day of the tragedy?

A. At the usual time.

Q. And what time was it, do you recall?

A. I should judge about eight o'clock.

Q. And do you remember who in the household were up first that morning?

A. My step-mother and father.

Q. And was your father there when you arose?

A. No.

Q. Do you remember whether you were at home during that entire day?

A. I was.

Q. Did you go over to Mrs. Walters during part of the day?

A. I just went over for a few moments.

Q. Do you remember what time you had supper on that day?

A. I don't just remember what time, but it was early. I should judge about 5.30.

Q. Do you remember what time it was your father came home?

A. 6.30.

Q. You are sure of that?
A. About 25 after or 6.30.
Q. Can you fix that time accurately?
A. Yes, sir.
Q. Can you remember making a statement to me to send to the Prosecutor?
A. I do.
Q. Pertaining to the facts in this case?
A. Yes.
Q. You read that statement before I sent it to the Prosecutor, did you not?
A. No, I didn't read it.
Q. You were satisfied for me to send the statement along?
A. Yes, you requested me to give you a statement to send to the Prosecutor and I did.
Q. And you voluntarily made that statement?
A. Yes.
Q. And that statement was made at the same time that your mother or your step-mother and Harry Mohr made a statement and sent it to the Prosecutor, wasn't it?
A. Mr. Mohr wasn't there, no.
Q. Didn't Harry come in later, after you and your mother's statement was dictated?
A. He may have, I don't know.
Q. He didn't come in while you were there?
A. No.
Q. This statement was taken in my office?
A. Yes.
Q. And at that time did you tell me any of these things that you have told the Court today?
A. No.
Q. Why not?
A. Because at that time I didn't think anything of them. My mind was so turned against my father,

they was always going to say that other people was going to knock him off; I never suspicioned them.

Q. Who were these other people that you were suspicious were going to knock your father off?

A. Why, they named Benny Franklin and Freeman.

Q. What made you suspicious of Benny Franklin knocking your father off?

A. I was told so.

Q. By whom?

A. By my step-mother and Harry Mohr.

Q. And did your father ever talk to you about Benny Franklin?

A. I don't know. He may have.

Q. Well, now, try and think. Haven't you talked over Benny Franklin with your father on numerous occasions?

A. I may have.

Q. Now who else besides Benny Franklin have you talked over with your father as a man who had threatened to knock him off?

A. I never talked over about anybody with my father who would knock him off.

Q. You heard other people say that so and so had made threats to knock your father off?

A. I did.

Q. And you never had communicated those statements to your father?

A. I presume they were told to my father also.

Q. Well, you knew as a matter of fact that your father knew about all these names that threatened that they were going to knock him off?

A. I don't know.

Q. Did your father ever talk to you about the Freeman boys?

A. He had talked to my mother and said he was

going to take her over to New York, that he thought that they were the parties that robbed her.

Q. That was in your presence?

A. Yes, and he had got some papers from Mr. Parker to go over there.

Q. And was that the trip that your father was planning to take on the day that he was murdered?

A. No, mother was not to go that day.

Q. No, I am speaking of your father.

A. Well, if he had went about those he would have taken my step-mother with him to identify those people.

Q. Don't you know that your father knew whose those boys were in New York?

A. He said he thought they were the parties, he was not sure.

Q. But he knew them from appearance?

A. I suppose he did.

Q. Well, don't you know that he did? Hadn't he told you that he knew who they were?

A. I told you he said it was Freeman.

Q. Well, hadn't your father been on to New York before looking up these Freeman boys?

A. I think he was, yes.

Q. And he told you that he had located them and had seen them in New York?

A. He did.

Q. And he told you of a conversation that he had with the Freeman boys in New York, did he not?

A. He said he thought they were the parties that robbed my mother, and he wanted her to go over and identify them.

Q. Did he not tell you of a conversation that he had had over there, that they made a threat against him as to what he would do if he came over to have them arrested?

A. I don't remember whether he did or not.

Q. Didn't you tell me that he told you that?

A. I did not.

Q. Are you sure you didn't say that?

A. I am sure.

Q. Didn't you testify on direct examination that your father was going over to arrest these boys?

A. He was going over and have my step-mother identify them.

Q. Now do you recall what your father said when he returned home on the evening of the tragedy?

A. The only thing I recall, about his face being dirty, that he thought some one was following him.

Q. And what did he say?

A. He thought some one was following him.

Q. And that was before 6.30?

A. That was when he was washing his face to sit down to supper.

Q. And did he tell you who he thought those people were?

A. No, he didn't.

Q. What did he tell you? What facts did he tell you that made him think that they were chasing him home that night?

A. Because they were right in back of him, going fast, so he put the speed on Hortense and came home.

Q. Did he tell you what kind of a car they were in?

A. No, he didn't.

Q. Did you ask him?

A. No, I didn't.

Q. Did he call up Mr. Parker and tell Mr. Parker that those fellows had chased him that night?

A. Not that I know.

Q. Did you tell me that he did?

A. No.

Q. What time did you say it was that you and your grandmother went out to the movies?

A. Exactly twenty minutes to seven.

Q. Did you help your step-mother in cleaning up the dinner dishes?

A. From our own supper I did, yes, and was through when my father returned.

Q. When was it that you were married to Mr. Parkstrom?

A. The 18th of October, 1921.

Q. And did your mother or did your father find out about your marriage first?

A. My father.

Q. You hadn't confided in your mother that you had been married to Billy?

A. I did after I found out my father knew about it.

Q. When did you first find out that your father knew about it?

A. When he came home one evening after we had returned to Riverside.

Q. After who had returned to Riverside?

A. My father.

Q. You say your father found out about it one night after we had returned to Riverside?

A. No, my father returned to Riverside.

Q. Where were you?

A. I was home at Riverside.

Q. And where was your husband?

A. He was at winter quarters.

Q. And what did your father say to you?

A. He didn't say anything that evening; he waited till next morning.

Q. What did he say the next morning?

A. He asked me if it was the truth and I was afraid to tell him and I said no.

Q. Then he didn't know it, did he, from you?

A. No.

Q. Then what did you do the next morning?

A. Then I told my stepmother.

Q. And you told her that you had gotten married to Billy?

A. Yes.

Q. And the result was then what? You coaxed your step-mother to come along with you, did you not?

A. I asked her to come, yes.

Q. And did you communicate with Billy?

A. Yes, I phoned him.

Q. And what arrangement did you make with Billy?

A. I told him to meet us at the Broad Street station.

Q. Camden or Philadelphia?

A. Philadelphia.

Q. Did you then make arrangements to get out?

A. Yes.

Q. And how long did it take you before you were ready to go?

A. It didn't take very long.

Q. And how did you go from Riverside to Camden?

A. In a machine.

Q. Who drove the machine?

A. I don't know who, it was the taxi.

Q. Did you take your trunk with you?

A. I did.

Q. Did you communicate with your father from Broad Street station?

A. I did.

Q. And by what means did you communicate?

A. By wire.

Q. And what did you say to your father?

A. I told him that we were going to Chicago.

Q. Why did you tell your father that you were going to Chicago?

A. I didn't know where we were going at that time.

Q. I am asking you why you told him.

A. I didn't know what to wire him, so I thought I would wire him that we were going to Chicago.

Q. Why didn't you just neglect to wire him?

A. That is my personal affairs, Mr. Keown.

Q. Beg pardon?

A. That is my personal affairs.

Q. You deliberately ran away from your father and then sent him a telegram deliberately lying to him?

A. No, because I didn't know where I was going myself.

Q. Did you intend to be truthful to your father when you sent the telegram?

A. That's my own business if I want to send a telegram.

Q. How long after you sent the telegram was it that you boarded a train?

A. Why, I just couldn't say what time, or how long, I don't remember.

Q. Matters of minutes or hours or days?

A. I don't remember.

Q. And when you did board a train for what destination did you board the train?

A. Went to Jersey City.

Q. Your mother along with you?

A. Yes.

Q. Now, when you arrived at Jersey City did you wire your father and tell him where you were?

A. No, I didn't.

Q. Did anybody at your home know where you were going when you left Riverside?

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

Q. Did you not tell Mattie Mohr where you were going?

A. I don't remember.

Q. Was not Mattie Mohr supposed to be in communication with you while you were away?

A. She wrote after we were there.

Q. How would she know where to write?

A. We wrote to her.

Q. How?

A. To the Philadelphia post office.

Q. How would Mattie Mohr get a letter addressed to her at the Philadelphia post office when she was keeping house at the Riverside home?

A. Why, she would go down after it the same as anybody else would. She would go ——

Q. She would go all the way from Riverside and ask for mail at the Philadelphia post office not knowing it was going to be sent to her?

A. She knew we would write.

Q. You told in advance, then, you would write her a letter at the Philadelphia post office and tell her where you were going?

A. Yes.

Q. Now, how long after you went was it that you sent her that you wrote her the letter telling her where you were?

A. Right away.

Q. And when did you next hear from her?

A. Why, the same day that my father came after us.

Q. Had you not written to your Aunt Mattie Mohr at the Palmyra post office while you were in Hoboken or Jersey City?

A. I don't remember.

Q. Now stop and think, did you not write to her at the Palmyra post office while you were away?

A. If I did, I don't remember.

Q. If you did write to her at the Palmyra post office, under what name did you write her?

A. I would write it in her own name.

Q. Did you not ever write your Aunt Mattie in any other name but Mattie Mohr?

A. Not that I can remember.

Q. Would you have any occasion to write her in any other name?

A. I don't think I would.

Q. In what name did she write you in answering your letter?

A. My marriage name.

Q. What was that?

A. Mrs. Parkstrom.

Q. You say that letter arrived where you and your husband were the same day that your father arrived?

A. I believe I got two letters from her.

Q. Now, when did you get the first one?

A. The first one I think we got the first day we were there, and then the other letter I got was on the same day my father came.

Q. Do you remember what she wrote you in the first letter?

A. No, I don't recall any of her writing to me.

Q. Don't you recall what it was about?

A. No, don't recall what it was about.

Q. Did Harry Mohr come with John Brunen to Hoboken to hunt you?

A. I heard he did, I didn't see him.

The Court: Mr. Keown, would you prefer to go on or to adjourn until tomorrow.

Mr. Keown: I would rather adjourn, if your Honor please.

The Court: Well, we will take a recess until half-past nine tomorrow morning. Keep in mind the caution I have already given you. Something was said to me about giving a jury view. If there is any jury view it must be on Saturday morning, it couldn't be on Sunday, as suggested by one of the jurors, that wouldn't do. Now the jury may withdraw and recess until tomorrow morning at nine-thirty.

Mount Holly, N. J., December 14, 1922.

(Trial of the cause resumed at 9.30 A. M.)

HAZEL BRUNEN, resumed.

Cross-examination.

Continued by Mr. Keown:

Q. Miss Brunen, when you and your step-mother were arrested in Hoboken were you confined to prison?

A. No.

Q. Did you not, you and your step-mother, return immediately with your husband to Riverside?

A. Yes.

Q. Was there not a rejoicing time and demonstration when your father came to bring you and your husband back to your home in Riverside?

A. Yes, he forgave my mother and I both.

Q. When you returned to Riverside did your father object to your marriage to Mr. Parkstrom?

A. He did.

Q. Weren't his objections so strenuous that he compelled Parkstrom to leave?

A. Yes.

Q. Didn't Parkstrom leave after he was there in Riverside just a matter of a few days?

A. He did.

Q. Were you not cross with your father because he would not permit you to live with Parkstrom, the man that you had married?

A. No, he was not.

Q. Didn't your father threaten to put you in a reform school if you did not leave Parkstrom?

A. No, he didn't; he said that he would put me in a boarding school.

Q. Didn't your step-mother at that time take sides with you and reason with your father and seek his forgiveness for you?

A. She didn't have to seek forgiveness. I asked for forgiveness myself.

The Court: Answer the question. Did she or did she not intercede for you, that was the question that was put to you. You can answer that yes or no.

A. In what way do you mean? Will you please repeat that a little plainer?

The Court: Put the question over.

Q. Did or did not your step-mother intercede in your behalf?

A. Yes, she did.

Q. Did you communicate with Mr. Parkstrom after he left the Riverside home?

A. I did once.

Q. Was not Mr. Parkstrom later arrested, after he had returned to Perth Amboy, and was he not brought back to Mount Holly?

A. Yes.

Q. And did you not go to Mount Holly and were not arrangements made in which he had to promise to leave you alone to avoid a criminal prosecution?

A. Yes, my father had him brought here for the annulment.

Q. That was a criminal matter, was it not?

A. I couldn't say whether it was or it wasn't.

Q. He was arrested and brought here and it was in Mr. Kelsey's office the matter was adjusted?

A. I wasn't present at the time.

Q. Was there any feeling existing then between your father and you over this Parkstrom affair?

A. No, there was not.

Q. Now, Miss Brunen, as to this Christmas affair?

A. Yes.

Q. Did not your mother have Christmas dinner all ready prepared and did not your father refuse to eat dinner, and was that not because he was intoxicated?

A. Well, I don't know whether he was or not. He was a little.

Q. Did not you run between your father and step-mother and get in front of your step-mother and throw your arms up and tell your father to shoot you and not to shoot your step-mother?

A. I didn't say it that way. I said, "Just blaze away."

Q. You meant blaze away at you?

A. I was there, I couldn't help but get it.

Q. I mean to say you got in front of your step-mother and said, "Blaze away."

A. Yes, I knew that would prevent my father from firing and then my mother up and fired.

Q. Who was it that tried to take the gun away from your father?

A. Why, Bessie tried, my step-mother said. It was over Bessie the argument began.

Q. And when you say Bessie you mean the defendant Harry Mohr's wife tried to take the gun away from Mr. Brunen, your father?

A. Yes.

Q. Your step-mother was the only one received any injuries from the bullet wounds on Christmas day, was she not?

A. Yes.

Q. Do you remember what you said to the doctor

after the doctor arrived to take care of your mother?

A. No, I do not.

Q. Was not your step-mother in the pantry when she did the shooting?

A. She was.

Q. And did not the bullets all go wild in the pantry?

A. Yes, I had hold of her hand.

Q. And was not your father in the dining room at the time?

A. Yes, he ran in there.

Q. So that it was a physical impossibility for your step-mother to have shot your father had she intended to?

A. If she had got away from me she could have.

Q. Did you have hold of her?

A. I did.

Q. Who was the doctor?

A. Doctor Down, I believe his name is.

Q. Where does he live?

A. I believe he lives on Main Street, I couldn't say for sure.

Q. Riverside?

A. Yes.

Q. Did not you complain to the doctor at that time how cruel your father was to you?

A. No, I did not.

Q. Did you have any conversation with the chief of police Voshell on that occasion?

A. Only of the shooting, how it took place.

Q. Did you not tell him how cruel your father had been to you?

A. I did not.

Q. Was your father arrested about this shooting?

A. No.

Q. Was he not taken to the police station?

A. Not to my knowledge.

Q. Did not some one immediately phone to Harry Mohr about the shooting?

A. I don't think so, because we didn't know where he was, we didn't know how to reach him by phone.

Q. Where did your father go after the shooting?

A. He went home to the chief's house with him.

Q. I don't understand you?

A. He went to the chief's house with him, that is Voshell.

Q. Your father was taken out by the chief of police?

A. He went to his home to quiet down, yes.

Q. Did not Harry Mohr then return and go to see the chief where your father was and did not Harry Mohr straighten the matter out, and did not your father then return?

A. My father was there when Harry came.

Q. And did not he then return after Harry arrived with the chief and your father?

A. He returned with Mr. Parker and the chief.

Q. And Harry Mohr, the defendant?

A. I don't know whether he had anything to do with it or not.

Q. But did he return with the party, Harry Mohr?

A. No.

Q. Was not a reconciliation then effected between your step-mother and your father?

A. Me?

Q. Well, was a reconciliation effected between the family after the shooting?

A. Between my mother and father, yes.

Q. How long was your mother confined to her bed by reason of this bullet wound?

A. Only that day. She was up and around the next day.

Q. Do you not know your step-mother carries the scar of this bullet wound to this day?

A. I don't know, no.

Q. When did you last know she had it?

A. That has been some time ago.

Q. Approximately when did you last see the scar?

A. That has been months ago.

Q. That was such a scar then in all probability, in your opinion, it would always stay there?

A. Well, I couldn't say.

Q. Do you not know that Harry Mohr assisted your father in locating you and Billy Parkstrom in Hoboken?

A. No, I don't.

Q. You related about the time your father was cutting up your mother's clothes, did he not also tear up your clothes on that occasion?

A. He did not.

Q. Have you never stated that he did cut up your clothes on that occasion?

A. I never did.

Q. You say that your mother advised you not to go to Williamstown with your father, that you might get killed with him?

A. Yes.

Q. At that time did you suspect that Charlie Powell or Harry Mohr were the people that were laying for your father?

A. No, I never did.

Q. Were not the New York gunmen the people your father was in fear of?

The Court: Do you know?

The Witness: What did you say? I didn't understand that question.

The Court: He asked you whether it was the fear of New York gunmen.

The Witness: I couldn't say.

By Mr. Keown: Did you ever ask to find out?

A. I never did.

Q. Did your father ever converse with you about that?

A. Not that I can remember.

Q. Were you not curious to know who it was that your father was in fear of?

A. I had heard from Harry Mohr and my step-mother that they suspected Franklin and this Freeman.

Q. That then satisfied you as to who your father was in fear of?

A. No, sir; I never thought it would come to it, though.

Q. Did your mother ever go to the movies with you, your step-mother?

A. Yes, sir.

Q. How many times did she go with you?

A. Why, lots of times.

Q. Did you ever go to the movies with your step-mother's mother?

A. Yes.

Q. If so how many times?

A. Lots of times also.

Q. How many times have you heard Doris Brunen tell Mattie Mohr or any one else that John Brunen was afraid that he would be shot?

A. I don't remember.

Q. More than once?

A. I don't remember.

Q. Wasn't the one time at least that you heard

after John Brunen had been to New York trying to locate the New York gunmen whom John Brunen was trying to fasten the robbery charge on?

A. I don't recall it now.

Q. Didn't you hear from your father that when he was in New York he was met in the lobby of the Continental Hotel and asked what he was doing there by one of these gunmen's brothers?

A. I don't recall it.

Q. Didn't you hear your father say that he was warned to get back to Riverside and lay off, otherwise they would get him?

A. No.

Q. Were you not concerned about your father when he returned from winter quarters on the day of the tragedy after he had said that he thought some one was after him and had put his foot on old Hortense?

A. I didn't think nothing of it. I thought probably he just imagined it.

Q. You noticed the mud all over his face?

A. It wasn't mud; his face was just dirty.

Q. Did you not say that he was all splashed with mud?

A. No, that is a mistake. I didn't say mud.

Q. What did you say he was splashed with?

A. Dirt. I said his face was dirty.

Q. Well, the fact that his face was dirty would not indicate the fact that he had been driving his automobile fast, would it?

A. Well, I should think it would.

Q. How do you fix the time that you phoned to Mattie Mohr on the night of the tragedy?

A. I looked at my watch.

Q. Was there not a clock in the dining room?

A. Yes, in the kitchen.

Q. And what time did that clock say?

A. I don't know.

Q. What reason did you have for fixing the time?

A. I had no reason at all. I just remember looking at my watch.

Q. When did you first charge your memory to recall the hour that you had made the phone call?

A. I had always remembered it.

Q. And to whom was it that you first gave that information as to the time?

A. When I made my statement in Mr. Parker's office.

Q. And when was that?

A. About a week or so ago.

Q. And that was the first time that you had ever fixed to anyone the time that you had made the phone call?

A. Yes. I had often thought of it, never spoke my thoughts.

Q. And at that time didn't Mr. Parker show you records of the time of the phone call in order for you to refresh your memory as to the time it was made?

A. He did not.

Q. Have you ever seen any records through Mr. Parker as to the time that that phone call was supposed to have been made?

A. No, I have not.

Q. What did you say when you phoned to Mattie Mohr?

A. I asked her if Harry was there and she said yes, and she called him to the phone.

Q. Did you talk to Harry Mohr at Mattie Mohr's apartment that evening?

A. I just told him that dad had been shot.

Q. Will you please answer my question? Did you talk to him?

A. Yes, I did, certainly.

Q. What did you say to Harry Mohr?

A. I told him that dad had been shot, to come home at once.

Q. Were your step-mother and father on as friendly terms with the Stecher family as they were with the Walters family?

A. I believe my father was. My mother never spoke much to any of the neighbors.

Q. Hadn't your father had some misunderstanding with Mr. Stecher to your knowledge?

A. Not to my knowledge.

Q. Are you sure of that?

A. I am. I don't recall any.

Q. Were you on friendly terms with Mr. Stecher?

A. I have spoke, yes.

Q. Were you on as friendly terms with Mr. Stecher's family as you were with the Walters family?

A. No, because the Stechers were very quiet people. They never spoke much to any one.

Q. Then there was not the same feeling existing between the Stecher family and the Brunen family as was existing between the Walters family and the Brunen family, was there?

A. No.

Q. Could not this then have been the reason that your step-mother went to the Walters house instead of Stecher's house?

Mr. Kelsey: I object. How does she know what is the reason?

The Court: Well, that is a matter of opinion. That is for the jury to decide.

Q. Were you not in the Walters house on the afternoon of the tragedy?

A. Yes.

Q. Did not Mr. Belton, the coroner, arrive at the house after you and your step-mother's mother returned from the movies?

A. When who?

Q. Mr. Belton, the coroner.

A. Please repeat that whole question over.

(Question repeated.)

A. Yes.

Q. If Mr. Belton is correct in his testimony that he arrived at the Brunen house at about a quarter or ten minutes of eight, can you then be mistaken as to the time that you and your step-mother's mother returned home?

A. No.

Q. When did your step-mother state to you that she had gone out and emptied the garbage on the night of the tragedy?

A. When I came home.

Q. Do you remember how that conversation started?

A. Yes, she was relating to me what had occurred after we left.

Q. Your step-mother volunteered the statement to detective Parker on the night of the tragedy, after the tragedy, that she had gone to the back door to put the dog in the cellar, did she not?

A. Yes.

Q. Was the dog Snooky ever permitted to run at large?

A. Yes.

Q. Do you know of a complaint having been made by chief Voshell that the dog could not be permitted to run at large unless she was muzzled?

A. She always did, though.

Q. Just answer the question.

(Question repeated.)

A. I don't ever remember of hearing that, no.

Q. Are you sure that it was Harry Mohr who said that the guy who killed your father should have a gold medal?

A. I am positive.

Q. Was it not Harry Bentum that said that Benny Franklin had said that the man that killed John Brunen ought to have a gold medal?

A. It was not.

Q. You testified that Harry Mohr was home on the night of the tragedy and that he came home before five o'clock? How long before five o'clock was it that Harry Mohr came home?

A. Now I just don't remember.

Q. Could it have been as early as three o'clock?

A. Now that I don't remember, Mr. Keown.

Q. Well, how is it that you can't give us some idea as to the hour that he was in the house that afternoon?

A. Well, the only way I can figure, he came home and wrote these two letters and had a cup of coffee. I know it was before five or at five when he left.

Q. Now if you can fix the time when he left, weren't you home when he arrived home?

A. I don't remember whether I was there or at Mrs. Walters' and came over and found him home.

Q. It was about four o'clock that you were over at Walters', was it not?

A. Yes, I was over there a few minutes.

Q. Was Harry Mohr home when you went over to the Walters house?

A. I don't think he was.

Q. Have you not made a statement before that

Harry Mohr returned home on that afternoon about two o'clock?

A. I don't ever remember making such a statement.

Q. You say that he wrote two letters. Do you know to whom he wrote those two letters?

A. I believe one was to ——

Q. Just answer my question; do you know?

A. I believe I do. I am not sure.

Q. And how do you know?

A. I believe Mr. Mohr mentioned it.

Q. And what did he say about those letters?

A. I believe he said he wrote one to Mr. Coleman and one to Mr. Bentum.

Q. Did Harry Mohr leave any message when he left for John Brunen?

A. I believe he said that he was going to this here meeting.

Q. Was that a written message?

A. I don't recall.

Q. Did you not see that written message that Harry Mohr left for Mr. Brunen that afternoon when he left?

A. I don't remember, Mr. Keown.

Q. You don't ever remember seeing that letter of instructions to your father?

A. I don't remember, no, not that day. There were several times that he did leave messages for him.

Q. Did you see that message after that day?

A. I don't remember ever seeing it, no.

Q. Was not a message lying on the typewriter that Harry Mohr left, addressed to your father?

A. Not to my knowledge.

Q. Did Harry Mohr when he left that afternoon of the tragedy leave word that he was going to call upon his sister, Mattie Mohr?

A. I believe he did. We had told him that she was there.

Q. Whose automobile would John Brunen use in going to and from Riverside and Williamstown?

A. His own.

Q. Did you ever know him to use Harry Mohr's Ford car?

A. I believe on one or two occasions when his was broke.

Q. Is that the extent of the occasion that he used Harry Mohr's car?

A. As far as I remember.

Q. How many overcoats did Harry Mohr have?

A. An overcoat, and I think a raincoat.

Q. Is that all?

A. That is all that I can remember of him having.

Q. Did you not mention a gray overcoat yesterday?

A. I don't believe I did.

Q. Why was it so hard for you to identify the coat that you identified yesterday?

A. I wanted to be sure, for I sewed the coat.

Q. Had you not seen that coat before it was shown to you yesterday?

A. No, I had not, not since this accident.

Q. You mean to say that Mr. Parker has not shown you that coat ands asked you if you could identify that coat before you were put on the stand yesterday?

A. He has not.

Q. How did you remember that you had done some sewing on that overcoat?

A. I remember it very well, because Harry waited for it when I sewed it one afternoon.

Q. How long ago was that?

A. That was a few weeks before the accident.

Q. Have you not seen that coat around the house for years?

A. No.

Q. How long has it been around the house?

A. Well, all that winter, I think.

Q. And you saw it around there almost daily?

A. Not almost daily, no.

Q. Well, where did it hang in the house?

A. In his wardrobe.

Q. When was it that Mrs. Brunen said to you, "Don't mention that Harry changed overcoats"?

A. When I was getting my coat out of the closet a couple days after this happened.

Q. Did that not make you suspicious?

A. No, at that time it didn't.

Q. Why did you not tell the authorities that your step-mother had made this statement?

A. I didn't think anything wrong at that time, but now since I have heard the truth I have put two and two together.

Q. When was it that you first repeated the statement to anyone that your step-mother had made this statement to you?

A. When I made my statement.

Q. And that was about two weeks ago?

A. A week or two.

Q. Did your father ever wear this brown overcoat of Harry Mohr's?

A. No.

Q. Did he ever wear any of Harry Mohr's overcoats?

A. I don't remember.

Q. When was this overcoat given to Howard Ellis?

A. After the funeral.

Q. Did he give Howard Ellis anything else?

A. I believe he did give him some other things.

Q. Do you remember what?

A. I believe he gave him a suit and a pair of shoes and it may have been a few shirts. I wouldn't say for sure.

Q. Wasn't Howard Ellis working at the Brunen home after the tragedy?

A. He had come there to help a little, yes.

Q. And he was working there at the Brunen home after the tragedy, was he not?

A. A little, yes.

Q. Didn't Howard Ellis put this overcoat on after it was given to him and wear it in going to and coming from the Brunen home?

A. I don't recall.

Q. Do you remember what kind of an overcoat Mr. Ellis did wear when he was coming to and going from the Brunen home?

A. I do not.

Q. Did not your step-mother give away all of the old things before you broke up your Riverside home?

A. Yes.

Q. Were not many articles given to some of the men at winter quarters?

A. I don't believe they were.

Q. To whom were some other articles given?

A. I believe they were all given to my aunt.

Q. I am speaking now of your father's clothes.

A. Yes.

Q. And I am speaking of some of the old clothes of Harry Mohr.

A. Well, I don't know anything about that.

Q. Were any of them given to Fred Sheetz?

A. I don't remember of them, no.

Q. Do you know why your father did not go to New York the day of the tragedy but changed his mind to go the next day?

A. He went to winter quarters. He was worried about winter quarters.

Q. When did you first know that your father was going to New York?

A. The day before Friday, because he asked me to go with him.

Q. When was it that Harry Mohr and Doris Brunen learned that he was going to New York, to your knowledge?

A. The same day I did.

Q. You said on your direct examination that your father had made arrangements to go the day he was killed, did you not?

A. Yes.

Q. When did he make arangements to go the day that he was killed?

A. I don't just understand that, Mr. Keown.

Q. I want to know when you heard him make arrangements to go the day that he was killed.

A. He was to go the day that he was killed.

Q. Yes. Now when did you hear him make those arrangements?

A. Why, the day before, he said he was going on Friday before he was killed, and instead he went over to winter quarters and said he would go the next day. He told that to mother and she told me when I arose.

Q. In what part of the house were you when the coroner or doctor gave you your father's diamond stud and diamond ring?

A. I was in the dining room.

Q. When did you give them to Mrs. Brunen?

A. Immediately after she was through talking.

Q. To whom was she speaking?

A. If I remember correctly, I believe she was speaking to Mr. Parker.

Q. Where did she put them?

A. I believe she pinned them on her.

Q. You testified that Mattie Mohr only came to your home when your father was not there, and you gave as a reason for that to be that your father had had a quarrel with Mattie Mohr?

A. Yes.

Q. Was this quarrel over your affair, running away with Billy Parkstrom?

A. No, Mattie Mohr had a very bad habit of butting into people's affairs.

Q. Was not Mattie Mohr keeping house for the Brunen family while the Brunen family was on the road with the show?

A. Her mother was.

Q. Was not Mattie Mohr there to?

A. Yes.

Q. And was that not about the time that you ran away with Billy Parkstrom?

A. She was there all summer.

Q. And at the time that you ran away with Billy Parkstrom?

A. Yes.

Q. Didn't John Brunen order her away from the house because she was shielding you?

A. No, he told my mother that she had to go.

The Court: Never mind. You have answered the question. Don't go on and add.

Q. Did Mrs. Brunen always remain at home to have your father's supper ready when he returned from winter quarters, regardless of what time he came home?

A. If he came too late, no, then she went to the pictures with her mother and I.

Q. What time did you generally go to the pictures?

A. About twenty minutes to seven or quarter to seven.

Q. If he was not home at seven o'clock you say that she was not home to have his supper ready for him?

A. No, then she would leave it on the table.

Q. Did your father ever object to that arrangement?

A. No.

Q. You have testified that you were in New York in regard to your mother's marriage?

A. Yes.

Q. When were you in New York in regard to this?

A. In the summer . I believe it was in August.

Q. Whom did you see in New York in regard to this?

A. My mother's brothers.

Q. How long had you been living with your mother and your stepmother prior to the tragedy?

A. I believe it is eight years altogether.

Q. During all of that time has not your stepmother treated you in every way as though you were her own daughter?

A. Yes.

Q. Did not your step-mother always love you and care for you, and was she not continually making sacrifices in order that you might have pleasures and luxuries?

A. I don't know where she made any sacrifices, no.

Q. Have you not, on many occasions, told different people that your father was often unusually cruel and unkind toward you and that your stepmother always took your part against him?

A. I said my father was very strict.

Q. And you have said that to other people?

A. I have.

Q. And did not your step-mother always try to take your part against your father?

A. She did.

Q. Have you not told several people that your father was cruel and unkind to your step-mother, and that you thought it was awful for your father to treat your mother as he did?

A. I don't remember.

Q. Did you not right after the arrest of Harry C. Mohr, speak very bitterly of the authorities of Burlington County?

A. Not that I remember.

Q. Did you not, while living at 3029 Ridge Avenue, in the presence of two persons make the following statement ——

The Court: Well, who are they?

Q. Did you not ——

Mr. Keown: May I read the question again?

The Court: Yes.

Q. Did you not, while living at 3029 Ridge Avenue, in the presence of Harry Benham and Mattie Mohr, make the following statement ——

The Court: When, about when?

Q. About a month after you moved to the Ridge Avenue apartment, "And to think that they are holding Uncle Harry on the word of a dirty, drunken dope fiend"?

A. I don't remember.

Q. Do you deny that you made that statement in their presence?

A. I think I can, because I don't think I could say such a thing about Charlie Powell, because I couldn't prove it.

The Court: Strike that out. Now answer the question.

Q. My question is do you deny that you made that statement?

A. I do.

Q. Have you ever made any statement in regards to the ability of detective Parker in connection with this case?

A. Not that I can remember.

Q. Did you not say ——

Mr. Keown: Just strike that out please, Mr. Macdonald.

Q. Did you not, on several occasions, request me to give you money while your step-mother was in jail?

A. I did.

Q. You have testified that you wrote to Bessie Mohr and requested her to loan you $150? Is that correct?

A. Yes, sir.

Q. You have testified you wanted this money for the purpose of buying clothes?

A. Yes.

Q. Did you not, on several occasions, prior to writing to Bessie Mohr, request me to advance you this $150?

A. I did.

Q. And for what purpose did you tell me you wanted the $150?

A. I told you I wanted some clothes, that I needed them.

Q. Did you not become offended at me because I refused to give you the $150?

A. No.

Q. Was it before or after my refusal to give you $150 for clothes that you wrote the letter to Mattie Mohr about me?

A. I don't remember now when it was. That was after you had the trial set back, now I remember.

Q. Do you remember when it was that you asked me for the $150 for clothes?

A. No, I don't.

Q. How long ago has it been?

A. I guess some time ago.

Q. Hasn't it been only about a month or so?

A. I should judge around that time, probably longer than that.

Q. Had you not written that letter to Mattie Mohr more than a month ago saying I was not fit to represent a dog?

A. Yes.

Q. How do you account for the fact you would come and ask me to loan you money after you had made those insinuating statements about me?

A. I believe that was after I made those remarks, I don't just remember exactly, I told you so.

Q. Was it my refusal to give you the $150 that prompted you to write a letter to Mattie Mohr that you wouldn't have me to represent a dog?

A. No, it wasn't about money matters that made me mad.

Q. What prompted you to write that letter?

A. I didn't think you was capable.

Q. At that time you were anxious for the liberty of your stepmother and Harry Mohr, were you not?

A. Yes, because I didn't know the trtuh at that time.

Q. Was not the real reason that you wanted that $150 to employ an attorney to start annulment proceedings for your marriage?

A. It was not.

Q. Have you started annulment proceedings?

A. Yes.

Q. Do you remember when they were started?

A. I just don't remember the date, no.

Q. Did you not, on two different occasions, bring your step-mother to the surrogate's office at Mount Holly in connection with having her appointed administratrix of the estate of John Brunen?

A. I was there once.

Q. Will you think again if you were not there twice?

A. I don't remember being there twice.

Q. Were you not there the day that the letters were refused, and did you not then return again when the caveat was withdrawn?

A. The day that I was there was when the caveat was withdrawn.

Q. Did you not make, did you not repeatedly make slurring and worse remarks about your aunt, Mrs. Jaescke for filing the caveat against the appointment of Mrs. Brunen?

A. Because my mind was poisoned, yes.

The Court: Strike that out, "because her mind was poisoned." You will answer these questions without interjecting anything else. I have told you this more than once. I want you to heed what I say to you.

Q. Was not detective Parker present at the time the caveat was withdrawn?

A. I don't remember.

Q. Don't you remember whether Mr. Parker was here in the surrogate's office when we came here that day, your step-mother, you and Mrs. Jaeschke and myself?

A. I don't remember seeing him there, no.

Q. Don't you remember Mr. Parker going back in the vault and talking to your step-mother, and don't you recall your step-mother coming and we asking your step-mother what Mr. Parker said, and don't you remember your step-mother saying he was only talking to me about getting him a carousal. You know that is true, don't you?

A. I can't remember it.

Q. You don't remember Mr. Parker being there?

A. If I would remember it I would say so.

Q. Who was it that identified your mother to the surrogate, your step-mother, to the surrogate?

A. I don't recall who did.

Q. Miss Brunen, Mr. Knaub was at your house almost continuously for some time after the tragedy, was he not?

A. Yes.

Q. Has Mr. Knaub ever scolded you for talking disrespectfully of your father after his death?

A. I don't remember of him doing so.

Q. Will you say that Mr. Knaub has never scolded you for speaking disrespectfully of your father after his death?

A. I said I don't remember of him.

Q. Has Harry Benham ever scolded you for talking disrespectfully of your father after his death?

A. Not that I can recall.

Q. Have you ever spoken disrespectfully of your father after his death?

A. Now, if I could answer that the way I want to, I could answer it, but the Judge says I have to answer yes or no.

Q. Can't you answer that yes or no?

A. Not without explaining.

Q. You can't answer that without explaining?

A. No.

Q. Have you not, on different occasions said you were glad your father was dead so that you could now do things your father would not let you do?

A. I never did.

The Court: To whom? You ought to mention the names and about when, if you propose to contradict her. If you propose to contradict the witness you should frame your question so as to indicate to her time, and place and person.

Mr. Keown: I will withdraw that question.

The Court: And put it so, if you do call a witness afterwards, you will have no difficulty, otherwise you might find some difficulty about allowing the witness to testify.

Q. Did you not state in the presence of Mr. Benham just shortly after the tragedy that, while you were still living at Riverside, you were glad your father was dead?

A. I did not.

Q. Have you not stated in the presence of Mr. Benham on numerous occasions that you always praised Mrs. Brunen as the only pal you ever had, and that if it wasn't for her, Mrs. Brunen, your father would have beaten you?

A. I don't remember saying such a thing.

Q. Will you deny that you made such a statement?

A. I said I don't remember.

Q. Did you not state in the presence of Mrs. Brunen, after the tragedy, "Never mind now, since my father is dead, we will start life over again?"

A. I never said such a thing.

Q. Did you not say in the presence of Mr. Knaub, while you were living at the apartment house on Ridge Avenue, "What do you think of them keeping my Uncle Harry locked in the cell on the word of a dirty, drunken drug fiend like Charlie Powell?"

Mr. Peacock: That has been asked once.

The Court: He is now putting it in a precise way. Answer that yes or no.

The Witness: No.

Q. Which one of your parents showed real, parental affection, your father or your stepmother?

A. Both.

Q. Did you actually feel the loss occasioned by the death of your father at any time?

A. Always.

Q. Have you ever shed a single tear over the death of your father?

A. I certainly have, many.

Q. When did you first start to shed those tears?

A. Always did.

Q. Did you shed any tears on the day of the funeral?

A. I did.

Q. Did you or did you not fear your father?

A. To a certain extent.

The Court: What to a certain extent?

The Witness: Well, my father had a very bad temper and I wouldn't dare cross him.

Q. Now, Miss Brunen, in the past nine years that you have been under the motherlike protection of Mrs. Doris Brunen, can you remember when she was not making some sacrifice in order to make your life happier?

A. She was always good to me, I will admit.

Q. Is it not true that had I been able to give you all the money you desired from the estate you would, at this trial where your stepmother and Uncle Harry are fighting for their life and liberty, be a witness for your mother and uncle and not against them?

A. I would not.

Q. On Christmas Day, when your father pulled a gun on your mother, was that the first time?

A. I believe it was.

Q. Did you ever hear him threaten to take your stepmother's life before?

A. I believe I did.

Q. Were you afraid that your father would do you bodily harm after your marriage to Parkstrom?

A. No.

Q. Is there any selfish, mercenary motive back of your action in trying to connect your mother with this crime?

A. There is not.

Q. Prior to a month or six weeks ago did you at any time, either by word or action, manifest a desire to have your father's murderers apprehended and punished?

A. I don't believe it has been that long ago.

Q. I beg pardon?

A. I don't believe it has been that long ago.

Q. How many times have you visited your father's grave since the funeral?

A. Once.

Q. At the time of your father's death did you think of him as a kind, loving and affectionate father or did you think of him as one who caused you to tremble at the sound of his approaching footsteps?

A. I thought of him as a loving father.

Q. And never feared his approaching footsteps?

A. No.

Q. Have you ever stated to any of the following, before your father was murdered, how cruel he was to you—to Mr. Walters?

A. Not that I know of.

Q. To Mrs. Walters?

A. Not that I remember.

Q. To Doc. Knaub?

A. Not that I remember.

Q. To Harry Benham?

A. I don't remember.

Q. To Alice Purchase?

A. I don't remember.

Q. To Mrs. Doty Johnson?

A. I don't remember.

Q. To Mrs. Turnquist?

A. I don't remember.

Q. To Miss Doty Adams?

A. I don't remember.

Q. To anybody at all in Riverside?

A. Not that I remember.

Q. To Paul Entwistle?

A. I don't remember.

Q. You have been out with Paul Entwistle to the moving picture place?

A. A few times.

Q. Did you ever talk to him about the cruel treatment your father was giving you?

A. No, only said he was strict.

Q. When was the last time that you kissed Harry Mohr in prison?

A. It has been some time ago.

Q. How long ago?

A. I don't just remember how long ago.

Q. Can't you fix it approximately for this jury?

The Court: As near as you can say.

The Witness: I will just have to think a moment, your Honor. I should say two months ago.

Q. Why did you stop kissing him two months ago?

A. I haven't had the time to go up and see him.

Q. Haven't you seen him within two months?

A. I hollered hello to him once.

Q. Haven't you seen him within the last two months?

A. Not unless I am mistaken on the time.

Q. I don't want you to be mistaken, Miss Hazel, this is very important. When was the last time you were up to see Harry Mohr?

A. That is just what I don't remember.

Q. Think for a moment, won't you, please?

A. I just can't remember, Mr. Keown.

Q. Can't you approximate it for us, please?

A. As near as I can say it must be two months, probably not quite that long.

Q. Did you ever console him on your visits?

A. No, I just said if he was innocent he would get out.

Q. Did you ever call or say to him while you were visiting him about two months ago, that Powell was a dope fiend, and say that you would have witnesses for him to prove this on the day of the trial?

A. No.

Q. Did you not tell him on those occasions not to worry, that your future depended upon results, and to remember how mother was suffering and poor Mattie and poor mother, meaning Mrs. Brunen?

A. I don't remember ever saying such a thing.

Q. Will you deny that you said that to him?

A. I don't remember.

Q. Did you not tell him to brace up, that he would get out, that he was the only man left in the family to take care of you?

A. No, I did not.

Q. Did you not say to him, "Your mother cannot support herself on account of her feebleness, and your age and Mattie's eyesight, it is necessary for you to get out to take care of us"?

A. I don't remember saying such things.

Q. Will you deny that you said it?

A. I don't remember.

Q. Did you not tell him to "Cheer up, it is all Parker's invention?"

A. I did not.

Q. Did you not say, "Cheer up, Parker is telling him what to say," referring to Powell?

A. I did not.

Q. Did you not say to him, "Parker knows better, he knows you are innocent, he knows Powell is a dope fiend?"

A. I never said such things.

Q. Was anyone ever present on your visits to Harry Mohr?

A. The turnkey.

Q. There was always someone there with you?

A. Not always.

Q. Was George Ward present with you on some of your visits to Harry Mohr?

A. Yes, some.

Q. When were you first given liberty to see Harry Mohr without a guard being with you?

A. First at times they would go up, and sometimes they would leave me there.

Q. When was the first time you were given the privilege of seeing him alone?

A. That I couldn't remember.

Q. Was it after you had turned against him?

A. No.

Q. Was it after you had stopped kissing him?

A. No.

Q. Before that?

A. Long before that.

Q. What did you talk about when you went up to see him when you were there alone?

A. I couldn't remember that.

Q. Were you not consoling him?

A. All I said, if he was innocent, he would get out.

Q. You couldn't spend a half hour or consume a half dozen visits just making that statement to him?

A. I don't believe I was alone with him over once or twice.

Q. On that one occasion or on those two occasions, what did you say to him, do you recall?

A. I don't recall all, no.

Q. Were any of the authorities with you and George Ward on the occasions George Ward and you went to see him?

A. Yes.

Q. Were you friendly to Harry on the occasions that George Ward was with you?

A. Yes.

Q. Have you ever heard of any argument that

your father had with Powell about Powell testifying for him at your father's murder trial, and not getting paid?

A. I don't remember that, no.

Q. Will you deny that you have ever had such a conversation?

A. I don't remember.

Q. Have you ever heard your father threaten to kill Billy Parkstrom?

A. Not that I can remember.

Q. Have you ever made any complaint to Dr. Maul just prior to the tragedy as to the way your father treated you?

A. Not that I can remember of.

Q. Will you deny that you made those statements to Dr. Maul in the presence of Mrs. Brunen?

A. I don't remember it.

Re-direct examination.

By Mr. Peacock:

Q. Hazel, yesterday Mr. Keown asked you concerning a statement that he was taking at your house on Sunday after your father was killed. Was Mr. Keown at your house taking statements the Sunday after your father was killed?

A. I believe it was after the funeral Mr. Keown took statements.

Q. Statements concerning what?

A. Business, as far as I know.

Q. He asked you if you did not make a certain statement yesterday concerning your movements on the day of the crime. Is that not true?

A. Yes.

Q. Is that the statement that he took the Sunday after your father was killed?

A. No.

Q. What kind of a statement was he taking on that Sunday?

A. As far as I know they were business statements.

Q. When did he take statements of Mrs. Brunen and Harry Mohr and yourself concerning this murder?

A. Why, I think it was—just let me think a minute. I think it was after Harry was arrested that our statements, that is, my mother's and I.

Q. Didn't he take statements of Mrs. Brunen and Harry Mohr before they were arrested?

A. I don't remember.

Q. Do you remember him taking statements and sending them to Mr. Kelsey?

The Court: This is your own witness.

Mr. Peacock: It is a matter that was brought out by Mr. Keown.

The Court: Yes, I know, but you must not lead her.

Q. Who brought Mr. Keown to your house the Sunday after your father was murdered?

A. I believe he came with his assistants.

Q. And who was present when he came there?

A. Harry Mohr, my stepmother, my grandmother and myself.

Q. Were you present in the room where they went to consult over this matter?

A. I don't think I was Sunday.

Q. Mr. Keown asked you yesterday was it not imperative to pawn the diamonds to get money to buy funeral clothes. Was that true?

A. No, the money was borrowed.

Q. Answer yes or no. Do you know where Mrs. Brunen and Harry Mohr got the money to buy funeral clothes?

A. Mr. Keown borrowed it off a party in Camden.

Q. How much did he borrow?

A. I believe a thousand dollars.

Q. How did they pay it back?

A. From the insurance.

Q. From what insurance?

A. My father's.

Q. And when was that paid back?

A. After the insurance was received.

Q. Yesterday, in answer to one of Mr. Keown's questions you said, "I didn't just feel that way but they insulted me several times." Explain to the jury what you meant by that.

A. Read that again, please?

Q. I will withdraw that question. Mr. Keown asked you this question yesterday: "And you felt that way against Mattie Mohr and Mrs. Mohr, Mrs. Brunen's mother and Harry Mohr's mother, when you left the apartment in Ridge Avenue in August?" And your answer was, "I didn't feel just that way, but they insulted me several times." What did you mean by that, insulted you several times?

A. They both had called me a bastard.

Q. Who?

A. Harry Mohr's mother and Harry Mohr's sister.

Q. And that was how long before your father was killed?

A. That was after my father was killed.

Q. Mr. Keown asking you a question about your father saying—did anybody tell you about knocking your father off? Did anybody ever say that to you except Harry Mohr or Mrs. Brunen?

A. Not that I remember of.

Q. Were you home at the time that the robbery was committed at your house?

A. I was upstairs sleeping.

Mr. Keown: If your Honor please, I think this is a matter that was not touched upon on cross-examination.

Mr. Peacock: It is a matter that was brought out in cross-examination. That is the reason I am referring to it now.

Mr. Keown: I don't think so. I will ask Mr. Peacock to show me where it was brought out on the cross-examination.

Mr. Peacock: You asked her concerning the robbery and if her father did not cause the arrest of the Freeman boys in New York and did he ask your mother to go to New York to identify the Freeman boys.

Mr. Keown: I don't recall examining this witness on the facts concerning the robbery.

The Court: No, I don't think they are proper examination either.

Q. You testified this morning, in answer to one of Mr. Keown's questions, that your father was in fear of his life. What did you mean by that?

A. Why, he said somebody was going to knock him off.

Q. You were asked concerning going to the movies. Did your father ever go with you?

A. No.

Q. Did anybody ever go with you except Mrs. Mohr or Mrs. Brunen?

A. I went a couple times with a gentleman friend.

Q. Mr. Keown asked you if Harry Mohr did not leave a letter of instructions for your father the day of the murder when he went to Philadelphia. Did Harry Mohr ever leave letters of instructions to your father?

A. Sometimes he did.

Q. What was Harry Mohr's position?

A. He was manager, assistant manager.

Q. Mr. Keown asked you concerning the advancement of the $150. Did you ask Mr. Keown to advance that to you personally or your own share of the estate?

A. I thought I was entitled to some share of my father's estate.

Q. And is that what you asked the $150 from?

A. Yes. I needed some clothes very bad.

By the Court:

Q. Did I understand you to say that there was a litigation pending between you and the defendant regarding the property which was left by your deceased father?

A. I just don't understand you, your Honor. Please make it a little plainer.

Q. Is there a lawsuit now going on in a court, civil suit, in which you are on one side and these defendants on the other, making a claim to property which belonged to your father during his lifetime?

A. Why, yes, I believe I am entitled to a share.

Q. Well, it is not a question whether you are entitled; there is a——

A. Yes, I signed for a guardian.

Q. You are making a claim on one side and that is opposed, is it, by these defendants?

A. I believe it is.

Mr. Kelsey: I would like your Honor to go a little further with the witness. She doesn't understand you, and I think you will see it if you got a little further. I do not care to say anything more.

The Court: I don't want to leave a wrong impression on the witness' mind.

Q. You understand me? You spoke something about having applied for a guardian?

A. Yes.

Q. And a guardian, I suppose, was appointed?

A. Yes.

Q. Now, is there a conflict, do I understand that there is a conflict between you on one side and these defendants, that is, Mohr and Mrs. Brunen, on the other, as to the right to certain property which your father left?

A. Well, I believe, your Honor, that is to be settled after the trial.

Q. Well, is there a conflict between the two, one making claim of one side being entitled to it and the other side making a claim on the other side?

A. That is just it exactly. I think I am entitled to it, they think they are entitled to it, and I think we are both entitled to our shares.

Mr. Kelsey: I think the witness has answered your Honor, but——

The Court: Well, you will have a chance after Mr. Keown is through to examine her further if

you like. I will hear what Mr. Keown has to say if he wants to examine the witness. It is his witness yet.

Further cross-examination.

By Mr. Keown:

Q. In answer to Mr. Peacock's question about the $150, how long was that that you came and asked me for $150, after I had already told you that the bonding company had refused to make any further advancements?

A. I believe I asked you a couple times. I told you I needed it and that I could do with less if you could spare it.

Q. But you left the impression with the jury that you came after the $150 because you thought it was money coming to you from the estate. You at that time well knew that there had not been any money released, any of the estate's money released for five or six months, did you not?

A. Well, I just don't understand what you mean, Mr. Keown.

Q. Well, this is what I mean: you know that after your mother was arrested that there was no more money in the estate that could be spent, do you not?

A. You told me so.

Q. I told you that immediately after your mother was arrested, did I not?

A. Not immediately, sometime later you said that there was some left that you had spent, and now that that was gone you had to take from your own money.

Q. And I was taking from my own money months before you asked me for the $150, was I not?

A. I don't know that, Mr. Keown.

The Court: She would not know that. I don't see —you have been all over that.

Mr. Keown: No, the impression that has been created here is that she wanted $150 from the estate and that I would not give it to her.

The Witness: No, not from the estate, Mr. Keown. If you could spare it I thought it was up to you to give it to me; you giving funds to those and I thought you could take care of me also.

By Mr. Peacock:

Q. Who do you mean, he was advancing money to those?

A. Why, he was taking care of my stepmother and Mr. Mohr and I thought he ought to take care of me also.

AUGUST MUENCH, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Muench?

A. Riverside.

Q. Do you know where the John Brunen home is in Riverside?

A. Right close by.

Q. Were you at the Brunen home the day of the murder?

A. Yes, sir.

Q. About what time?

A. I start past the house at seven o'clock and about five minutes to seven in the evening, and then I passed it again about eight minutes after eight. And when I passed it everything was quiet, you know, and on the outside was an automobile stood. But I didn't take no attention to it; and I went home; and the next morning my neighbors said——

Q. Never mind what the neighbors said. The next morning were you near the Brunen home?

A. The next morning——

Q. If you will answer my questions, Mr. Muench, we can get along fine. Were you near the Brunen home the next morning?

A. Yes, sir.

Q. Did you find anything there?

A. I found a part of a gun.

Q. I show you part of a gun. Did you find that there?

A. Yes, sir; that is the one.

Q. Where?

A. About—I will say one hundred and fifty feet from the window where Mr. Brunen was shot.

Q. In what direction from the Brunen home, towards Riverside or towards Camden?

A. Towards Camden.

Q. Is there a field opposite the Brunen home?

A. Yes, sir.

Q. Is that the place where you found this grip?

Mr. Keown: If your Honor please, I think that is leading.

The Court: That is very leading. Let him tell where he found it. He says he found it in a field in the direction of Camden, doesn't he?

Q. Who was present when you found that grip?
A. Nobody.
Q. What did you do with it?
A. At first I went home and I looked at it and I thought to myself——
Q. Not what you thought to yourself, what did you do with it?
A. I went and took it afterwards into Brunen's place, and there was an officer, Voshell, and I showed it to him. I asked him whether——
Q. Not what you asked. Who did you give it to?
A. I gave it to Voshell, the policeman.

Cross-examination.

By Mr. Keown:

Q. Did I understand you to say that you went past the Brunen house about seven o'clock?
A. Yes, sir.
Q. And then that you went back again about eight o'clock?
A. Yes, close by.
Q. And do I understand you to say that you saw an automobile standing in front of the Brunen house?
A. Yes, sir.
Q. And about what time was it that you saw the automobile standing in front of the Brunen house?
A. I expect about ten minutes of eight.
Q. And you didn't know that there had been any disturbance?
A. No, sir.
Q. Where did you pick up that part of the gun?
A. This part? I took it right back——
Q. Where did you find it?
A. Where did I find it?
Q. Yes.

A. About—oh, I judge it was about 160 feet from the window where Mr. Brunen was shot.

Q. Where would that take you, back onto the lawn, onto the pavement, onto the street or onto the field?

A. It was on the pavement, laying on the pavement.

Q. Right out on the pavement?

A. Yes.

Q. Of the Brunen property?

A. Not on the Brunen property, on the others, on the other side.

Q. Can you show the gentlemen of the jury by going to that map about where you found that, please?

A. If I can go there I can tell you.

Q. Mr. Peacock has suggested that I explain to you the map. This is the Brunen house, this is the Brunen garage, this is Rancocas Avenue and this is New Jersey Avenue. Now, will you please point to about the place that you picked up this part of the gun?

A. Rancocas Avenue—about here (indicating).

The Court: Where does he point to?

Mr. Peacock: That is a spot on the pavement of Rancocas Avenue, opposite the Brunen garage.

Q. Are you endeavoring to point on the sidewalk along the Brunen property or are you endeavoring to point to a point on the sidewalk across the street from the Brunen property?

A. There is a line fence runs along here, you know, on Rancocas Avenue, all around the Brunen property and here where the garage is there is a——

The Court: Tell us where you found that part of the gun.

Q. The Judge says tell us where you found that part of the gun.

(Witness indicates.)

Q. This is where you pointed before?
A. Yes, that is where I found it.
Q. Is that on the sidewalk outside of the garage?
A. I found it on the other side, on this side, you know, towards Camden.
Q. Over here then, you mean?
A. Yes.
Q. And about there (indicating)?
A. About there, yes.
Q. All right. We will rub this other one out then.

LEROY HUTCHINSON, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Roy?
A. Five Points.
Q. Near what place is Five Points?
A. Near Palmyra.
Q. Did you find anything in the creek near Palmyra?
A. I found it near my home.
Q. And where is that?
A. That is about a square and a half from where I live.

Q. And when?
A. Sunday, March 19th.
Q. What did you find?
A. A shotgun barrel.
Q. I show you a shotgun barrel. Is that the barrel you found?
A. Yes.
Q. What did you do with it after you found it?
A. I took it home to my father.
Q. Did you say that was March 19th?
A. Yes, sir.
Q. What time of day did you find it?
A. I couldn't tell you the time.
Q. Morning, noon or night?
A. Afternoon.
Q. Now, where did you find it?
A. Partly in the marsh and partly on a sandbar.
Q. Near what place?
A. Near the county bridge.
Q. What county?
A. Burlington County.
Q. On the Burlington Pike, do you mean?
A. Yes.
Q. What kind of a bridge is it?
A. Concrete.
Q. Did you find this on the bridge or under the bridge?

Mr. Keown: If your Honor please, I don't like to object to leading questions. I think——

The Court: That is not leading. He asked him whether he found it on the bridge or under the bridge.

A. I found it on the ground about ten feet away from the bridge.

Q. This creek runs under that bridge?
A. Yes.
Q. What is the name of the creek?
A. Pensauken Creek.
Q. You testified this was the Burlington Pike. Where does that road lead from and to what place?
A. Camden.
Q. To where?
A. I don't know where it leads to, but it leads up towards Trenton some place.
Q. At the time you found this did you tell anybody that you had found it?
A. Nobody except my father.
Q. No one except your father?
A. No.

Cross-examination.

By Mr. Keown:

Q. Young man, will you tell me how you know that this is the barrel you turned over—or that you found in the creek that day?
A. Because I gave it to Mr. Beck, and Mr. Beck gave it to Mr. Parker.
Q. How do you know that this is the same piece that you gave him?
A. I have heard so much about it.
Q. But if I put up another piece just like this would you know then whether it was the same piece that you had given them, the same piece that you had found?
A. I believe I could.
Q. How could you tell us?
A. By the number.
Q. What is the number on it?

A. I forget about it but I know it has got a "1" and an "8."

Q. A "1" and an "8?"

A. Yes.

Q. So that is the only way you remember? So if I gave you another one that looked just like this and it had a "1" and an "8" on it you would think it was the same one?

A. Not quite.

Q. Why not, if it is just the same as this? There is no other way for sure by which you could tell that it is the same one, is there?

A. Different mark.

Q. What mark has this one?

A. Belgian make.

Q. Why is it a Belgian make?

A. Because it was made in Belgium.

Q. How do you know that? Who told you this was a Belgian make gun?

A. Nobody.

Q. How do you know it?

A. I heard it.

Q. Then somebody must have told you if you heard it, did they not? Now, how long did you have this before you turned it over to Chief Voshell?

A. I turned it over to Chief Beck.

Q. How long did you have it before you turned it over to Chief Beck?

A. I don't believe we had it half an hour.

Q. How did Chief Beck know that you had it? Did you tell somebody?

A. My little brother had a bicycle and my father handed him a note and sent him down after the chief and the chief brought him back in his car.

Q. Then you turned it over to them?

A. Yes.

Q. But you don't know that this is the same one that you picked up, do you? No way of identifying it, is there?

A. Not so very——

Q. Could you tell the jury about how wide that stream is at high tide and how wide it is at low tide where you found this gun?

A. No, not quite. I didn't pay no attention.

Q. What were you doing down there on this particular day to find the gun?

A. Fairly nothing.

Q. How did you come to see it?

A. It was laying on the marsh and the mud.

Q. But where were you standing when you first saw it?

A. I was in the marsh.

Q. Playing down in the marsh?

A. Yes.

Q. And you just happened to run across it?

A. Yes.

Q. Had you played down there before?

A. Sure.

Q. Was it at low tide or high tide that you found it?

A. I couldn't tell you quite whether it was high or low. It was not so very low or so very high.

Q. Was it sunken in the mud at all?

A. No.

Q. Was it lying on anything soft?

A. It was lying on a sandbar, and it was hard.

Q. Lying on a sandbar?

A. Yes.

Q. Was there any water over it?

A. A little bit of water around it.

Q. Was there any water over the top of it?

A No.

Q. And had you ever seen that sandbar before?
A. Sure.
Q. And does that sandbar ever get covered with water?
A. Yes.
Q. And then it was about between low and high tide that you found it, you say?
A. Yes.
Q. How far over that land does the high tide spread when it is high tide, do you know?
A. No.

THOMAS HUTCHINSON, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. You are the father of Royal Hutchinson?
A. Yes, sir.
Q. Where is your home?
A. Parry.
Q. How close is that to the Pensauken bridge?
A. Well, it is about 500 foot, our house, but not where the gun was found.
Q. Do you know where this barrel was found?
A. I saw the place.
Q. Where was it?

Mr. Keown: Wait a moment.

The Court: You showed where the gun was found.

Q. Did you see the barrel?
A. Yes, the boy brought it home.

Q. What did the boy do with it?
A. He said, "Pop"——
Q. What did he do with it?
A. He just stood it in the corner.
Q. What became of it after that?
A. Well, I looked at the barrel, and after a while it struck me it may be the barrel——
Q. Not what it struck you, what did you do with it?
A. I turned it over to Chief Beck of Palmyra.
Q. Morris Beck of Palmyra?
A. Yes, sir.
Q. How did you get word to Morris Beck?
A. Sent my son down.
Q. What was his name?
A. Leonard.
Q. How did he go?
A. On a bicycle.
Q. Did you tell anyone you had that in your possession?
A. Yes, I told several people right in the neighborhood right at that time.
Q. When did you give it to Morris Beck?
A. Immediately I found out it may be the gun wanted.
Q. Do you know what date that was?
A. 19th of March, about three o'clock in the afternoon.
Q. This year, 1922?
A. Yes, sir.

No cross-examination.

MORRIS BECK, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Beck?
A. Palmyra.
Q. Do you have any official position in Burlington County?
A. I have. I am Chief of Police of Palmyra.
Q. How long?
A. About ten years.
Q. Do you know Thomas Hutchinson?
A. Yes, sir.
Q. Were you at his place on March 19th last?
A. I was.
Q. For what purpose?
A. To look at a barrel of a gun which he had found in the creek, his boy, rather.
Q. Did they deliver a barrel of a gun to you?
A. They did.
Q. I show you the barrel of the gun. Is that the barrel delivered to you by Mr. Hutchinson?
A. It is.
Q. What did you do with it?
A. I brought it into the office and called Ellis Parker.
Q. Did you deliver it to anyone?
A. No one but Mr. Parker.
Q. Delivered it to Mr. Parker?
A. I did.
Q When did you deliver it to Mr. Parker?
A. About three-quarters of an hour after I had gotten it.
Q. The same day?

A. The same day.

Q. Did you make any search at all near the Pensauken Creek?

A. I did, the next day.

Q. March 20th?

A. Yes, sir.

Q. What did you find that day?

A. There were three of us together.

Q. Who was with you?

A. George Swain and Winfield Lamb, and we probed around with snapper hooks, and finally George Swain pulled up the stock of a gun.

Q. Is this the gun found that day in your presence?

A. Yes, sir.

Q. How do you identify it, Mr. Beck?

A. By the back of the stock and also the number. I can't see the number on this, but I could tell you the number of the stock.

Q. Was the grip attached to that stock at that time?

A. No, sir, it was not.

Q. Did you find anything else except the stock?

A. No, sir.

Q. Was the grip attached to the barrel at that time?

A. No, sir.

Q. What did you do with the stock after Mr. Swain found it?

A. I brought it directly to Mount Holly and delivered it to Ellis Parker.

Q. When?

A. Just as soon as I could get to Mount Holly from the place I found it.

Q. Did you make it public you had found those things?

A. Never said a word to anybody.

Cross-examination.

By Mr. Keown:

Q. How do you identify it from the number if you can't read the number?

A. I could identify it if you would let someone put my glasses on it, but I can tell you the number of the gun.

Q. Do you have to look at the number?

A. No, I can identify it by the stock. It had no backing on it like this (indicating).

Q. Wouldn't all stocks have no backing on them?

A. I presume they would.

Q. They would, would they not?

A. I don't know.

Q. You say you made a search. When did you make your first search?

A. On Monday morning.

Q. Was that before the stock was found or after the stock was found?

A. That was before the stock was found.

Q. Monday morning, what date was it you made your first search?

A. 20th of March.

Q. Did you search at high or low tide?

A. When I first searched in the morning it was high tide, and I went back in the afternoon when the tide was low, was when we found the stock.

Q. Your first search, was that before or after the boy had given you the breech?

A. That was after I received the breech.

Q. Had you not made a search before? Are you sure of that, sir?

A. I am.

Q. Had anyone else in your presence made a search before the boy brought you this barrel?

A. No.

Q. Did you not have a conversation with Detective Painter concerning the place where the guns might be prior to the time that the boy brought this barrel to you?

A. I did not.

GEORGE SWAIN, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Swain?

A. I live in Philadelphia, 32——

Q. Are you acquainted with Morris Beck, chief of police of Palmyra?

A. I am.

Q. On March 20th were you with Mr. Beck?

A. I was.

Q. Where?

A. Out in the creek in a boat hunting up a stock of a gun.

Q. What creek?

A. Pensauken Creek.

Q. Where is that located with reference to Palmyra?

A. It runs through West Palmyra, it is in Parry, the dividing line between Burlington and Camden County.

Q. Is that the dividing line between Camden and Burlington County?

A. It is.

Q. Who was with you beside Mr. Beck?

A. Mr. Lamb.

Q. Mr. Winfield Lamb?

A. Yes, sir.

Q. Did you find anything in the Pensauken Creek that day?

A. I found the stock of a gun.

Q. I show you a stock of a gun. Is that the stock you found that day?

A. That is the stock.

Q. How do you identify it?

A. By the chips off the stock, off the end.

Q. What did you do with it?

A. Gave it to Mr. Beck.

Q. Can you tell the jury about near what place you found this stock in the Pensauken Creek?

A. Yes, it was about twenty-five feet from the bridge on the Camden side and about twenty feet out from the road.

Q. What bridge do you mean?

A. The bridge across the Pensauken, right there on the pike.

Q. A road passes over that bridge from what place to what place?

A. From Five Points, Parry to Pensauken.

Q. What character of bridge is it?

A. Cement bridge.

Cross-examination.

By Mr. Keown:

Q. I understand that assuming the bridge is passing here (indicating), you found the stock about twenty-five feet to the right of the bridge, facing Camden, twenty-five feet out?

A. Exactly.

Q. And when you refer to it being twenty feet from the bridge, in which direction do you mean, toward Camden?

A. Toward Camden.

Q. You mean twenty feet from the end of the bridge?

A. The end of the bridge.

Q. The end of the bridge nearest Camden?

A. Yes.

Q. Was it high hide when you found it?

A. It was low tide. We went around in the morning at high tide, and I told Mr. Beck to come around about one o'clock, the tide would be low, and as he got in a machine to push out to my boat, I found the stock.

Q. Did you see the sandbar around there?

A. It is flat and marshy, flat.

Q. Is it sand?

A. No, it is mud.

Q. And at low tide could you find any sandbar there at all?

A. Not that I know of.

Q. Was there any sandbar there at all?

A. Where I picked the gun up there was about a foot and a half of water, the other end came up, I tread on it, and I found it.

Q. You didn't see any sandbar?

A. No.

Q. And it was at low tide?

A. Yes.

WINFIELD LAMB, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Lamb?

A. Palmyra.

Q. On March 20th were you at Pensauken Creek in company with any men?

A. Yes, sir.

Q. Who were you with?

A. Mr. Beck, Chief Beck and Swain.

Q. Was anything found there that day?

A. Yes, a breech of a gun.

Q. Who found it?

A. Mr. Swain.

Q. I show you a breech of a gun and ask you if that was the one found there that day by Mr. Swain?

A. Yes, sir, that is the gun.

Q. How do you identify it?

A. There was no shoulder plate on it, and the way it was cut there.

Q. Where was it found?

A. Right on the Burlington Pike and Pensauken Creek, along the edge of the creek.

Q. How far from the edge of the creek?

A. I should judge 50 feet, I should judge.

Q. What was done with it after it was found?

A. Chief Beck and me brought it to Mount Holly.

Q. Who did you deliver it to?

A. Delivered it to Mr.——

Mr. Keown: I have no objection.

Q. Parker?

A. Parker.

Cross-examination

By Mr. Keown:

Q. Now, Mr. Lamb, were you out on the boat in the morning hunting for it?
A. No, sir.
Q. You only went out at low tide?
A. Yes, sir.
Q. Now, assuming that this is the bridge, the concrete bridge, how far from the bridge was this found?
A. I should judge 1000, maybe.
Q. 1000 feet out in the water?
A. No, from the bridge toward Camden.
Q. Let's see if we understand each other. Assuming that is the concrete bridge and the road passing over it, how far out from the bridge into the water was it found?
A. Well, fifty feet, I guess.
Q. And assuming that would be to the right of the bridge facing Camden?
A. Yes, sir.
Q. Assuming this is the near end of the concrete bridge toward Camden?
A. Yes, sir.
Q. Was it found north, or I should say, east or west?
A. West.
Q. It was found toward Five Points?
A. No, sir.
Q. I beg your pardon, it was found west?
A. Yes, sir.
Q. That would be toward Camden?
A. Yes, sir.
Q. About how far from the westerly end of the bridge was it that it was found?

A. About 100 feet.

Q. In other words you say you would come about 100 feet this way and then 100 feet out there?

A. About fifty feet.

Q. And that was where it was found?

A. Yes, sir.

Q. Did you see any sandbar around there when you were working that morning?

A. No, sir.

Q. Is there any sandbar there at low tide?

A. I couldn't say, I never took notice of it.

Q. Have you ever been out in the creek before?

A. Well, I have been up the creek.

Q. Did you ever see a sandbar there?

A. I wouldn't say I have.

Q. What is the condition of the soil under the water?

A. Very loose, muddy soil.

Q. All muddy soil?

A. Yes, sir.

WILLIAM VOSHELL, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Voshell?

A. Riverside.

Q. Do you hold any official position in Riverside?

A. Chief of police there.

Q. How long have you been chief of police?

A. About three years.

Q. Were you chief of police at the time John Brunen was murdered at Riverside?

A. Yes, sir.

Q. Were you at the Brunen home that day?

A. That night, yes, sir.

Q. Were you there the next day?

A. In the morning, yes, sir.

Q. Do you know August Muench?

A. Yes, sir.

Q. On the day after the murder did he deliver anything to you?

A. Yes, sir, the hand piece of the gun.

Q. I show you a hand piece of a gun and ask you if that is the hand piece August Muench delivered to you?

A. Yes, sir.

Q. What did you do with it?

A. Gave it to Mr. Parker.

Q. Ellis H. Parker?

A. Yes, sir.

Q. Find anything else there that day?

A. Two shells out of a gun.

Q. I show you a map. At the bottom is located the Brunen home, back of that is the garage, New Jersey Avenue, Rancocas Avenue, Walters' house, an open lot and another house. Come down and show the jury where you found those two shells (witness leaves stand and indicates on map). Right in back of Ewing's Avenue, about fifteen feet from the sidewalk.

Q. You mean between the Walters house and this house up here?

A. Yes, right in between those two houses.

Q. What is between the Walters house and this double house on Rancocas Avenue?

A. Empty lot, open field.

Q. I show you two shells and ask you if they are the two shells you found in that open field the day after John Brunen was murdered?

A. Yes, sir.
Q. Are they both loaded?
A. No, sir, one of them only loaded, one empty.
Q. What did you do with those shells?
A. Turned them over to Mr. Parker.

Cross-examination.

By Mr. Keown:

Q. Mr. Voshell, will you kindly take this (indicating pointer) and indicate on the map as near as possible the point where you found these shells?
A Right in here (indicating on map).

Mr. Keown: Shall we mark that with an X?

Q. Show me where you make the X. Let me mark this with a Y, so the jury will be able to tell the difference.

The Prosecutor: What is that for?

Mr. Keown: I put the Y just where the witness indicated.

The Witness: There was about where I found the shells (indicating).

Mr. Keown: Well, we will change it.

Q. Right where the Y is?
A. All right.

The Prosecutor: I can't understand——

The Court: Mr. Prosecutor, wait until Mr. Keown gets through, then you can go ahead.

Q. Mr. Voshell, what time of the following morning was it that you found these shells?
A. About eight o'clock, as near as I can figure on.
Q. And what time did you arrive at the Brunen home that morning?
A. Well, a little before seven.
Q. And had you been investigating around the Brunen home?
A. I had just walked around the yard there.
Q. Investigating?
A. Yes.
Q. Hunting for evidence?
A. Yes.

ELLIS H. PARKER, affirmed for the State.

Direct examination.

By Mr. Peacock:

Q. What is your official position in Burlington County?
A. County detective.
Q. How long have you been county detective?
A. Twenty-eight years.
Q. Do you know Morris Beck, William Voshell?
A. Yes, sir.
Q. On March 20th, did you receive anything from Morris Beck?
A. Yes, sir.
Q. What did you receive?

A. I received the stock of a gun.

Q. The stock of a gun is shown you and I ask if that is the stock you received from Morris Beck?

A. That is the stock.

Q. Where has that been since that time, Mr. Parker?

A. In my possession.

Q. Continuously since the day you received it from Mr. Beck?

A. Yes, sir.

Q. Did you receive anything else from Mr. Beck?

A. The day before I received the barrels of a gun.

Q. I show you a barrel and ask you from whom you received that?

A. Morris Beck.

Q. Where has that been since that day?

A. In my possession.

Q. Do you know William Voshell?

A. I do.

Q. Did you receive anything from William Voshell?

A. Yes, I received a piece of a gun.

Q. I show you the hand grip of a gun and ask you if that is the grip you received from William Voshell?

A. Yes, sir, it is.

Q. Where has that been since?

A. In my possession.

Q. Did you receive anything else from him?

A. I received two shotgun shells, one empty and one loaded.

Q. I show you two shells, identified by Mr. Voshell.

A. They are the ones.

Q Where have they been since the day you received them from Mr. Voshell?

A. They have been in my possession.

Mr. Peacock: I offer the three parts of the gun and the shells in evidence.

The Court: Is there any objection? There is no objection to their admission in evidence.

(Stock marked Exhibit S26, 2 shells marked together S27, barrel marked S28 and grip marked S29.)

Dr. Jonas Edwards, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live?
A. Delanco.
Q. How long have you lived in Delanco?
A. Approximately ten years.
Q. Remember March 10th last?
A. No, sir.
Q. Remember the night John Brunen was killed?
A. Yes, sir.
Q. Where were you that night, Dr. Edwards?
A. I was in Delanco and went to Palmyra and returned to Delanco again.
Q. What time did you leave Delanco?
A. I am not positive, about quarter after seven, twenty minutes after seven.
Q. Where were you going to?
A. Going to Palmyra.
Q. And how did you go?
A. I went across to——
Q. I mean by what method of transportation?

A. By automobile.

Q. Anyone with you?

A. Yes, sir, there was three others with me.

Q. Going from Delanco to Palmyra, what road did you take?

A. We came over to Riverside and then went down by Taubel's mill and crossed over the crossing and down the Riverton Road.

Q. In taking that route, did you pass the Cambridge station?

A. Yes, sir.

Q. What kind of road passes the Cambridge station?

A. You mean asphalt?

Q. What character is the road?

A. Asphalt or macadam.

Q. Does that same road run from Riverside to Palmyra?

A. Yes, sir.

Q. About what time did you pass the Cambridge station that night?

A. About twenty or twenty-five minutes after seven.

Q. As you passed the Cambridge station did you see a car, Dr. Edwards?

Mr. Keown: I think that is leading, I object to it.

Mr. Peacock: I withdraw the question.

Q. Doctor, describe what you saw at the Cambridge station on the night in question.

A. Well, just before we reached the station, I should judge two or three hundred yards this side, it was very foggy, drizzly rain falling, and we came suddenly upon a small enclosed car.

Q. What kind of a car was that, Doctor?

A. I should say it was a Ford coupe.

Q. Yes.

A. And we came on it suddenly and I slackened my speed to keep from running into it, and the car was moving slowly ahead of me, varying from one side of the road to the other somewhat, and as we followed it for possibly a hundred or two hundred yards, I said to——

Q. Not what you said, don't give any conversation.

A. Pardon me. We followed this car until it reached the proximity of Cambridge station, and then it pulled out to one side off the road, and it stopped, and that gave me an opportunity to go by.

Q. When did you first see this Ford coupe, how close to the Cambridge station were you?

The Court: About how close?

A. I can answer that about how far, I should judge a couple of hundred yards. We followed it a short distance. It was running slowly.

Q. In which direction was it going?

A. Toward Riverton.

Q. You say was it a couple of hundred yards from the Cambridge station toward Riverside or Riverton when you first saw it?

A. Toward Riverside.

Q. How long did it continue this zigzag across the road?

A. Until the place it reached it stopped.

Q. Were there any lights on the car?

A. Not that I remember.

Q. Were there any lights on it at any time that you remember until you passed it?

A. Not that I remember.

Q. Who was in the car with you?

A. Mr. Earl Windhoven and his wife.

Q. Doctor——

A. And a small boy, Francis Conover.

Q. Is there any incident that you can recall that happened that night to place this night, the night Brunen was killed, were you going any place for any purpose?

A. We were going to Palmyra to a Masonic Association entertainment to demonstrate the wireless radio, but the only way I recall the car was that it was uncertain in its movements and I didn't know whether it was going to turn around or go on and I had to follow it up for an opportunity to go by.

Cross-examination.

By Mr. Keown:

Q. Now, will you state as a certainty that this experience you had with the car near Cambridge station was on the 10th of March?

A. No.

Re-direct examination.

By Mr. Peacock:

Q. Doctor, did you see Mr. Parker immediately after this car case?

A. No, sir.

Q. Wasn't he in touch with you?

A. Mr. Parker came to my house but I was out that evening and after a day or two following he called me up on the phone and I talked to him by phone.

Q. Are you positive it was on the night that John Brunen was killed?

A. What?

Q. This experience of yours, seeing that car.

A. Yes.

Q. You are positive of that?

A. Yes, sir.

Re-cross examination.

By Mr. Keown:

Q. Why are you positive that it was on the night that John Brunen was killed?

A. Well, the next morning when I read in the paper of this murder it didn't occur to me at that time anything about this car, until I was over in Riverside and I heard them discussing, some of the people, about a car being present at that time, and then this action of this car occurred to me at that time.

Q. In other words, you had this experience with this car and it was such a usual occasion that you dismissed it from your mind; you didn't attribute anything suspicious about it when you saw it?

A. No, I started to tell you what I asked——

Q. Just answer the question. You were not suspicious even to the extent of not remembering it, were you, and the next morning you read in the paper about John Brunen being murdered?

A. Yes.

Q. And the thought of this event occurred to you about this car, did it?

A. No.

Q. And it was only days afterwards when you heard somebody else talking about the car that was there that you volunteered this statement; isn't that true?

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A. I don't know just how long afterwards; it might have been the same day afterwards, but only after that time.

Q. But it was only after somebody had talked to you about cars that you thought about this incident?

A. Yes.

Q. Do you say under oath that it was a Ford coupe?

A. No.

Q. Will you say under oath that it had no rear light?

The Court: He is under oath, Mr. Keown.

Mr. Keown: I beg your Honor's pardon.

The Court: Don't use that.

Q. Will you say that it did not have any rear light?

A. No.

Q. And you will not say that the front lights were not on dim, will you?

A. No.

Q. And it is a certainty that the car was going in the direction from Riverside to Camden?

A. Yes.

Re-direct examination.

By Mr. Peacock:

Q. One question, Doctor, concerning the rear light. As you approached this car did you see any rear light on that car that you saw ahead of you?

A. No.

By the Court:

Q. You fix the time as 7.20 or 7.25, don't you?

A. Your Honor, we were supposed to be at this Masonic Association in time at half-past seven, and as I mentioned before, that we would probably be late, be a little after; but it was nearly half-past seven that we came through Riverside, but just what time of course I don't know.

Q. You don't know whether it was late or earlier, do you?

A. I am almost positive that it was not half-past seven, quite.

Q. You have nothing to guide you except your estimation of the time?

A. That is all.

Q. You didn't look at any watch or observe?

A. I did not. I think some of my party looked at the watch-case clock to see how much late we were going to be.

Q. Was there a trolley car on that road?

A. Yes.

Q. Well, did you observe any trolley cars there?

A. Not that I remember.

Q. Did you see any trolley car while you were on the road?

A. I don't recall any at this time.

Q. None near the Cambridge station?

A. No, sir.

Q. At the time you espied the automobile?

A. No, sir.

EARL WINDHOVEN, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you reside, Mr. Windhoven?
A. Delanco.
Q. Do you know Dr. Edwards?
A Yes, sir.
Q. On March 10th were you in company with Dr. Edwards?
A. Yes, sir.
Q. Where were you going to?
A. Palmyra Masonic Association.
Q. And where did you leave that night to go to Palmyra? What town?
A. Delanco.
Q. About what time did you leave Delanco?
A. The watch-case clock said between twenty-five minutes and half-past seven.
Q. The watch-case clock is on the watch-case factory in Riverside?
A. Yes, sir.
Q. Did you see that clock as you passed the watch-case?
A. When I was opposite the jail.
Q. That said between twenty-five and 7.30, do I understand you to say?
A. Yes, sir.
Q. And you were on your way to Riverton at that time?
A. Palmyra.
Q. What road did you take from Riverside?
A. Passed Taubel's mill and crossed the railroad and down along the trolley track.

Q. After you had passed Taubel's mills going down the asphalt road did you see a car between there and the Cambridge station?

A. Right at Cambridge station.

Q. Right at Cambridge station?

A. Yes, sir.

Q. What make of car was that, Mr. Windhoven?

A. Ford coupe.

Q. You are sure it was a Ford coupe?

A. Yes, sir.

Q. Could you see who was in that coupe?

A. No, sir.

Q. Could you tell how many men or women were in that coupe?

A. No, sir.

Q. In what direction was the Ford coupe going at that time?

A. Headed towards Camden.

Q. The same direction in which you were headed?

A. Yes, sir.

Q. Were there any lights on that Ford coupe?

A. No, sir.

Q. If there had been lights would you have seen them?

A. Yes, sir.

Q. Was there any tail light on that car at that time?

A. No, sir.

Q. What course was this Ford coupe taking? Was it going straight down the road or a zigzag course?

A. Zigzag course.

Q. How long did it continue on the zigzag course?

A. Until we passed it.

Q. Where did you pass it?

A. Right at the trolley switch.

Cross-examination.

By Mr. Keown:

Q. May I ask where the trolley switch is?

A. About seventy-five yards below the spring works.

Q. I will have to ask you now where the spring works are.

A. About thirty-five yards below Cambridge station.

Q. And you didn't see this car until you got right about opposite Cambridge station?

A. No, sir.

Q. And the car was then going towards Riverton?

A. Yes, sir.

Q. Were you driving very fast?

A. I was not driving.

Q. I mean was your car moving very rapidly?

A. No, sir.

Q. Now, what part of the car were you occupying?

A. The front seat, next to the driver.

Q. And you say that you are sure that there was no rear light on the Ford car?

A. Yes.

Q. Now, how did you see the car then in the fog if there was no lights on it?

A. We didn't until we were right on top of it.

Q. And it was going so slowly that you passed it?

A. Yes, sir.

Q. And how long did it take you to pass it?

A. From Cambridge station to the switch.

Q. Well, tell me in yards about how far it was.

A. About 100 yards.

Q. And this Ford car that you saw didn't pull up to its right to the side of Cambridge station and stop?

A. No, sir.

Q. It kept on going?

A. Yes, sir.

Q. And it kept on going and you passed it?

A. Yes, sir.

Q. Are you sure that there were no front lights on it?

A. I couldn't say.

Q. Did you turn around and look?

A. I looked in the car as we passed it and I couldn't see anyone.

Q. You couldn't see anyone in the car?

A. No.

Q. After you passed it did you turn around and look to see whether it had front lights?

A. No, sir.

Q. Then you don't know whether it had any front lights, dimmed lights, or not?

A. No, sir.

Q. And assuming that you had left Riverside, where you saw the time, how long did it take you to get from there to the Cambridge station?

A. About three minutes.

Q. You would have to drive pretty rapidly to do it in three minutes, wouldn't you?

A. Perhaps five.

Q. Well, wouldn't you have to drive rapidly to do it in five minutes?

A. No, sir.

Q. You would not in a foggy night?

A. No, sir.

Q. Now, did you see a trolley car at the Cambridge station at that time?

A. No, sir.
Q. Was there any trolley car there?
A. No, sir.
Q. Had there any trolley cars passed you when you were crossing over from the mill to the improved pavement?
A. No, sir; not to my knowledge.
Q. You don't remember seeing any trolley car?
A. No, sir.
Q. You were not held up at the crossing?
A. No, sir.
Q. Or no car passed you after you had crossed over that road until the time you got to Cambridge station?
A. No, sir.
Q. Did a trolley car approach you while you were attempting to pass this zigzagging car?
A. No, sir.
Q. Sure of that?
A. Yes, sir.
Q. Did you see any other cars there at that time?
A. No, sir.
Q. And what kind of a car were you in?
A. Ford sedan.

HOWARD ELLIS, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Ellis?
A. Maple Shade, New Jersey.
Q. What is your business?
A. Chauffeur.

Q. How old are you?
A. Thirty-one.
Q. Did you ever work for John Brunen?
A. Yes, sir.
Q. How long?
A. Altogether about six or seven months.
Q. And what kind of work did you perform for Mr. Brunen?
A. Chauffeur.
Q. How long did you work for him?
A. All together about six or seven months.
Q. Do you know Harry Mohr?
A. Yes, sir.
Q. How long have you known Harry C. Mohr?
A. Well, I judge about a year.
Q. After Mr. Brunen was killed were you at the Brunen home?
A. Yes, sir.
Q. How long?
A. Two weeks.
Q. What did you do there?
A. A little bit of everything.
Q. While you were at the Brunen home the two weeks after Brunen was murdered did you see a basket of bloody clothes?
A. Yes, sir.
Q. Whose clothes were they?
A. I don't know.
Q. What did you do with them?
A. Burned them.
Q. Who instructed you to burn them?
A. I don't remember who it was now.
Q. Will you tell the jury who told you to burn them up?
A. I say I don't remember who it was now. I never paid any attention.

Q. Well, who instructed you what to do while you were working there the two weeks?

A. Well, anybody that was around there.

Q. Where did you burn these clothes?

A. In the heater.

Q. In the Brunen home?

A. Yes, sir.

Q. While you were there those two weeks did Harry C. Mohr, the defendant here, give you any clothes?

A. Yes.

Q. What did he give you?

A. An overcoat.

Q. I show you an overcoat and ask you if this is the overcoat Harry Mohr gave you?

A. Yes, sir.

Q. When did he give you that overcoat?

A. About a week after John was buried.

Q. Did you deliver that overcoat to anybody this week?

A. Yes, sir.

Q. Who did you deliver it to?

A. The chief of police at Maple Shade.

Q. When did you deliver it to him?

A. Sunday night last.

Q. Did he give you any other clothes?

A. No, sir.

Q. Did he give you any shoes?

A. Gave me a pair of shoes.

Q. What kind of shoes were those?

A. Slippers.

Q. And when did he give those to you?

A. The same time.

Cross-examination.

By Mr. Keown:

Q. Now, Mr. Ellis, while you were around this house for a couple weeks after the tragedy did you see Mr. Parker, Chief Voshell and all of the other officials around there?

A. I don't know about Mr. Parker. I know the chief was around there, Chief Voshell.

Q. And how many days after the tragedy was it that these clothes were burned?

A. I judge about a week.

Q. And during that week the authorities had all the opportunity in the world to have taken those clothes from that basket, had they wanted them, did they not?

A. So far as I know they could.

Q. Well, they were never concealed anywhere, were they?

A. No, sir.

Q. They were always right out in the open?

A. I seen them pretty near every day.

Q. For the period of a week?

A. About that, I guess it was.

Q. And then it was that they were burned up?

A. Yes, sir.

Q. Did you wear this overcoat that Mr. Mohr gave you after he gave it to you?

A. Yes, sir.

Q. Did you wear it back and forth from the Brunen home every day while you were working there?

A. Yes, sir.

Q. Do you know whether anything else besides this coat and the pair of slippers that was given you was given away?

A. No, sir.

Q. Did you see anybody else get anything?

A. No, sir.

Q. Was anything said when this coat was given you?

A. He just asked me if I needed an overcoat. We were getting ready to move and I said, "Sure, I can use an overcoat."

Q. You said they were getting ready to move. What do you mean?

A. Well, from what I understood they were going to move in a week or so and they were getting things packed up to move.

Q. And that is when it was that this overcoat was given you?

A. Yes, sir.

Q. Where were you working when you were working for Mr. Brunen?

A. Well, I was all over. I wasn't just one place at all.

Q. In other words, you were with the show?

A. Well, not always; different towns.

Q. Well, your capacity was with the show, chauffeur?

A. Chauffeur, yes.

Q. You would go——

A. Anywheres I was told.

Q. While they were working on the show?

A. Yes, sir.

Q. Did you take Mr. Brunen around?

A .Yes, sir.

Q. Did you ever get any instructions from Mr. Brunen as to how you were to drive the car at nights when he was with you?

A. Well, he never rode at nights much.

Q. Why didn't he ride at night time; did he tell you?

A. Well, he never told me right out, but I always imagined he was afraid, from other things that he said.

Q. What did he say that led you to believe that he was afraid to ride at night time?

Mr. Peacock: Your Honor, I will object to this line of examination as not proper cross-examination. All this witness was asked was concerning that coat.

The Court: I think you are going—you may call this witness as your own witness.

Mr. Keown: I can do that, if your Honor please; but if your Honor will recall, Mr. Peacock brought out on direct examination that this man not only worked for Mrs. Brunen after the tragedy but that he worked for Mr. Brunen for nine months before the tragedy.

The Court: Now, you can cross-examine him whether he worked nine months, but you are introducing testimony which has no basis in the direct examination for a cross-examination. You can call this witness in your own behalf and offer what testimony you have. If you went on with this examination you would be bound by his answers, and it is not fair to mix up the State's case with that of the defense. It is rather embarrassing at times. I think it is better to apply the rule strictly in that regard as to cross-examination.

Mr. Keown: My only thought was that the witness—I will ask the witness to remain. I wonder if we could not make arrangements with the witness that I could notify him a day in advance of the time I want him, to save him staying around.

The Court: Yes.

Mr. Keown: You may be excused, Mr. Ellis, until you hear from me.

The Court: You are to come back when you get notice. You are still a witness and when you get notice to come here you must come without further subpoena.

CHARLES BERND, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Bernd?
A. Delanco.
Q. And what official position do you hold?
A. Deputy warden.
Q. Deputy game warden of Burlington County?
A. Yes.
Q. Is there a creek that flows past Riverside?
A. Rancocas Creek.
Q. What creek is that?
A. Rancocas.
Q. Does that flow between Delanco and Riverside?
A. Yes, sir.
Q. Is there a bridge crossing the creek at that point?
A. Yes, sir.
Q. Trolley bridge as well as vehicles?
A. Trolley bridge.
Q. How wide a bridge is that, do you know?
A. Probably twenty feet.

Q. Do you remember the first of the year 1922?
A. I do.
Q. Were you on duty near Delanco as deputy game warden?
A. Well, I was passing over there at the time.
Q. Did you find anything on the ice at that time?
A. I found a single-barreled gun, part of it.
Q. I show you part of a single-barreled gun and ask you if you found that on the ice under the Delanco bridge on January 1, 1922?
A. Yes, sir; that is the gun.
Q. What did you do with that?
A. I kept it in my possession.
Q. Did you turn it over to anybody?
A. No, sir.
Q. Have you had it in your possession all this time?
A. I had it in my possession until about the latter part of April, I think.
Q. Then what did you do with it?
A. Well, then, I notified Mr. Parker.
Q. Did you give it to Mr. Parker?
A. Mr. Cain, I believe, came down after it.
Q. Clifford D. Cain, the county detective?
A. Yes.
Q. You delivered it to Mr. Cain?
A. I did.

Cross-examination.

By Mr. Keown:

Q. How do you identify this by looking through it?
A. Why, there is a peculiarity in the barrel.
Q. Just tell the jury what that peculiarity is.

A. As if somebody had been firing ball-bearings through it, balls. At the time I thought probably somebody was after deer and the warden probably chasing him.

Q. Just tell the jury what you mean by that peculiarity.

A. Kind of a little ridge on the bottom of this gun, that is what drawed my attention to it the first time.

Q. That is unusual?

A. It is unusual for it to be in a shotgun; yes, sir.

Q. That barrel is unusal?

A. That barrel is unusual.

Q. And you found that when, did I understand?

A. About the 1st day of January.

Q. This year?

A. Yes, sir.

Q. And why did you not notify the authorities that you had found it then?

A. Well, I didn't know that it was a question of notifying the authorities then.

Q. Don't you think it is always wise to notify the authorities?

A. Well, I didn't know but what somebody had been drowned at the time, couldn't account for it at the time.

Q. It would be more important, wouldn't it, to have an investigation made if you thought somebody had been drowned in that creek?

A. Perhaps it would, yes.

Q. Was it in the water?

A. It was on the ice.

Q. Any other part of it that you found?

A. No, we tried to locate the other part but we couldn't.

Q. Couldn't find anything more?

A. No, sir.

Q. You have made quite a search?

A. We have made a search. There is a lot of cables under the bottom of the water and we couldn't make a search.

Q. When was it that you made a search for the last time?

A. Probably in April.

Q. You didn't make it before then?

A. No.

Q. Didn't make it right at the same time you made that?

A. No.

Q. Why not?

A. Well, they had no idea why the gun was there.

Q. Did you make a search to find out whether there was anybody that had been drowned?

A. No, I didn't.

Q. And you never reported to the authorities?

A. No, I never reported it.

Q. And you never turned that barrel over to the authorities until after the Brunen murder?

A. No.

Q. And no one knew that you had it until after the Brunen murder?

A. Only different neighbors. My son was with me at the time, and he went and borrowed a row-boat to get the barrels. Of course he knowed of it and his wife.

Q. And then after the Brunen murder you went and made a search of this creek again?

A. After Mr. Parker advised me to search for the stock.

Q. And you couldn't find it?

A. No, sir.

Q. You say the bridge is twenty feet wide?

A. About. I have no definite measurements.

Q. When you say the bridge is about twenty feet wide will you please measure it off by telling me when to stop from you, right here, twenty feet.

A. Further back.

The Court: Why not point out some place?

Q. Will you point out in this room?

A. Probably to that post right in front of Mr. Mohr.

Q. About twenty feet?

A. I imagine that is about the width of the bridge.

The Court: It is wide as from where he is sitting to that post there. How wide is it, gentlemen?

A Juror: About twenty feet.

Q. And that in your opinion is the width of that bridge?

A. Of that bridge.

The Court: We can have it. It is disputed about this being the barrel that was delivered to Mr. Parker by Mr. Cain?

Mr. Keown: No, that is not disputed. I will admit that if Mr. Cain was called on the stand he would testify that this gentleman turned this barrel over to him and I will admit he would state he turned it over to Mr. Parker and I will admit that if Mr. Parker were put back on the stand he would say that this is the barrel that Officer Cain turned over to him and it has been in his possession up to the time of the trial.

(Gun barrel offered in evidence and marked Exhibit S29.)

CHARLES BERND, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Were you with your father on January 1, 1922, when he found this barrel?
A. Yes, sir; down at Rancocas Creek.

No cross-examination.

RAYMOND JOHNSON, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Johnson?
A. Riverside, New Jersey.
Q. What is your position?
A. Block telegraph operator, Pennsylvania Railroad.
Q. How long have you been with the Pennsylvania Railroad?
A. Sixteen years.
Q. Were you operator at Riverside on the night that John Brunen was murdered, on March 10th last?
A. Yes.
Q. You have been subpoenaed to produce the block sheets of trains passing through Riverside that night?

A. Yes, sir.
Q. Have you those block sheets with you?
A. I have.
Q. Will you produce them?

(Witness produces papers.)

Q. Will you examine those block sheets and tell me what time trains passed Riverside at or about 7.15 and the direction of that train?

The Court: At what period was it?

Mr. Peacock: On March 10, 1922, 7.15, 7.17 or 7.20 P. M.

A. The nearest to that time is train 2576, 7.14.
Q. Train 2576, you say, arrived at the Riverside station——

Mr. Keown: I don't think he said that, Mr. Peacock.

The Court: What did he say?

(Answer repeated.)

Q. Where did that train arrive at 7.14?
A. That is departing time, not arrival time.
Q. At what point did that train depart at 7.14?
A. Riverside station.
Q. In what direction?
A. East.
Q. And would that be towards Camden or Trenton?
A. Towards Trenton.
Q. Left Riverside at 7.14 for Trenton?

A. Yes, sir.

Q. What is the next train after that?

A. Train No. 2581.

Q. What time did that train depart from Riverside station?

A. 7.23.

Q. And in what direction did that train go?

A. West, or towards Camden.

Q. The train that left Riverside at 7.23, what is the time that it was due at Riverside?

A. 7.18.

Q. And was that train late that night?

A. It was.

Q. How many minutes late was it?

A. Five.

Cross-examination.

By Mr. Keown:

Q. I understand you to say that 2576 left Riverside going to Trenton at 7.14?

A. That is correct.

Q. Now, do your records show what time it arrived at Riverside?

A. No, sir.

Q. You don't keep that?

A. We only keep the one time, which is the time the train departed.

Q. I understand you to say that train 2581 left Riverside on its way to Camden at 7.23?

A. Yes, sir.

Q. And that train was due to leave Riverside at 7.18?

A. Yes, sir.

Q. Is that right, or was it due to arrive at Riverside at 7.18?

A. Due to depart.

Q. Do you know whether there was a free track for the train that left Riverside at 7.23, after it left?

A. Yes, sir.

Q. The track was free to where?

A. As far as Riverton.

Q. Do you know or do your records show whether there were any torpedoes on the tracks as the train passed through Riverside on that date?

A. I see no reason why there should be any torpedoes on either track.

Q. I am not asking you that, I ask you if your records show any torpedoes?

A. No, we keep no records of that.

Q. The fact that the 7.23 train was late, was that any necessity for placing torpedoes on the track?

A. No, sir.

Q. Not even on the Trenton side?

A. No, sir.

Re-direct examination.

By Mr. Peacock:

Q. You say that train 2581 was due to depart for Camden at 7.18?

A. Yes.

Q. What time was that train due to arrive there?

A. There is no arrival time on any train.

Q. There isn't any arrival time?

A. Only at junction points, where there is only one time shown, that is the departure time.

Mr. Peacock: I offer these block sheets in evidence.

The Court: Well, I don't know as we want them. You have got the testimony of the witness.

Mr. Peacock: I have the testimony. That is sufficient.

The Court: It is only confusing to have them.

FRANK G. STERLING, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live?
A. Palmyra.
Q. What is your business?
A. Railroad agent at Riverton.
Q. For what company?
A. Pennsylvania Railroad.
Q. You have been served with a subpoena to produce certain telegrams in court, have you not?
A. Yes.
Q. Will you produce that telegram?

(Witness produces telegram.)

Q. This is the original telegram?
A. Yes, sir.
Q. Dated February 22, 1922, to Harry C. Mohr, Sherman Hotel, Chicago, Illinois, signed "John"?
A. Yes.

Mr. Peacock: I offer that in evidence.

The Court: Is there any objection?

Mr. Keown: No, that telegram has already been read in the record.

Mr. Peacock: I said it was in this morning and he said it had not and he would not consent to it. That is the reason I offered this witness.

The Court: I don't remember examining about it.

Mr. Keown: That telegram has already been read in the record.

Mr. Peacock: Will there be any objection to the witness taking the original back to the office and the copy be put in the record?

Mr. Keown: It is already in the record.

Cross-examination.

By Mr. Keown:

Q. Had there been any other telegrams passed between these parties at your office between three or four days before this telegram and three or four days after this telegram?

A. No, sir.

Q. You have no record of any other telegrams?

A. Well, I haven't looked for any record, but to my personal knowledge this was the only one sent.

Mr. Keown: If your Honor please, may we make an arrangement with this witness at this time that in the event of my needing him I will get him on the telephone and he will not have to wait?

The Court: Yes. Which witness is that?

Mr. Keown: Mr. Sterling, that just left. I may want him to produce other telegrams.

The Court: Mr. Sterling, if you are asked to produce other telegrams you will come here.

The Witness: If I am directed by the Court to produce other telegrams I will do so.

The Court: You will be called over the phone.

The Witness: Yes, phone 325W.

HARRY W. ENO, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Eno?
A. Camden.
Q. And what is your occupation?
A. District Manager Bell Telephone Company.
Q. How long have you been district manager of the Bell Telephone Company?
A. About twenty years.
Q. You have been served with a subpoena to produce in this court the records of telephone messages from the Brunen home on March 9th, 10th and 11th. Can you produce such tickets, sir?
A. Yes, sir.
Q. Will you produce them?

The Witness: Your Honor, the rules of the company forbid me to furnish this unless first called to produce them by the Court.

The Court: Well, I order you to do so, then.

(Witness produces tickets.)

Mr. Peacock: I offer them in evidence. They will be connected up by other witnesses, each telephone call.

The Witness: This is the only record, of course, we have, and I suppose they will be kept intact here.

Mr. Peacock: I am not offering this evidence at this time, but ask that they be delivered to the clerk of the court, to be called for at the time we need them.

The Court: Yes.

Q. I will ask you, Mr. Eno, to explain these tickets to the jury.

The Court: Let us have an explanation from the witness so that you may afterwards use them.

A. These are tickets covering daily calls made from 27J, Riverside, N. J., the home of John Brunen, on March 9th, 10th and 11th. These tickets will give the telephone number, 27J, is in the body of the ticket and you will notice the letters J, M, R and W; the letter of that line making the call is kept. J shows that that is J, Camden, No. 13. This is the number of the telephone in Camden called, and this signifies the time of day. This particular call was

made at 12.40, disconnected at 12.44, four minutes later than 12.40, which is the time consumed, four minutes, and P means P. M. and A means A. M.

The Court: Now you will be able to understand that. I would suggest, in order to save time, to have Mr. Eno go over these messages and give where these calls are from and where they were to and the time. Will you do that, Mr. Eno?

Q. Start on the 9th and just go through them.

A. Yes, I will arrange them right in the dates. Here is a call made on March 9th from 27J, Riverside, to Poplar, 5020, A. Y. A. Y. means anyone to the telephone.

Call made on the 10th from Riverside, 27J, to Camden, 10.45.

Q. What time?

A. 10.06 P. M. I can save time by just not repeating Riverside, 27J, every time. These are all from the same place.

By the Court:

Q. Can you tell who sent them?

A. Your Honor, only the telephone number. There is no name.

Q. Well that is all.

Mr. Peacock: They are all from the Brunen home?

The Witness: Another one on the 10th, Camden 955, 9.46 A. M.

On the 10th, to Mount Holly, 144, 8.41 P. M.

On the 10th, to Moorestown, 346, 7.52 P. M.

On the 10th, to Poplar 5020, Philadelphia.

By Mr. Peacock:

Q. What time?

A. Passed at 8.51 P. M. There are lots of little initials and things on the back of this that do not mean anything any more than the operators—it is a code we work by.

Q. We are taking your explanation.

A. On the 11th, to Mount Holly, 144, 10.00 P. M.

On the 11th, to Camden, 965, 10.07 A. M.

On the 11th, to Camden, 2576J, 2.13 P. M.

On the 11th, to Camden, 1524M, 8.47 A. M.

On the 11th, to Camden, 13, 12.40 P. M.

On the 11th, Williamstown, No. 7, 4.25 P. M.

On the 11th, Trenton, 220, 11.30 P. M.

On the 11th, Wilkes-Barre, Pennsylvania, 832, at 11.29 A. M.

On the 11th, to Baltimore, Madison 0153W, 1.29 A. M.

Q. On that Baltimore is any party called for?

A. Not at all. They are all what we call a station to station call, no names on them.

On the 11th, to Reading, Pennsylvania, 2860, 12.38 A. M.

Q. Mr. Eno, will you look at the phone call from the Brunen home on the night of March 10th at 8.51 P. M. and say if there is a party called for there?

A. To where?

Q. The call at 8.51, Poplar.

A. Poplar 5020?

Q. Yes.

A. Yes.

Q. Any party asked for?

A. No, just what we call a station to station call on there.

By the Court:

Q. That closes them all?
A. There are two more—one more. One from Reading, 452R, to Riverside 27J, 9.59 A. M. That is a reversed call, comes from Reading to Riverside.
Q. Is that all?
A. That is all of them.

The Court: Now of course those are not to go in evidence, and they are not admitted as establishing anything at present, until you connect them up.

Mr. Peacock: Yes, sir.

The Court: You want to understand that.

Mr. Peacock: I do, sir.

Mr. Keown: Yes, sir; in other words, if they are not connected up your Honor will tell the jury to disregard them?

The Court: Well, I will strike out the evidence.

Cross-examination.

By Mr. Keown:

Q. You referred to one call there to Wilkes-Barre. Will you please give me that date and time and see whether that was just a straight call.
A. Just a straight call to Wilkes-Barre, 8.32, what we call a station to station call.
Q. And it was Wilkes-Barre, and what was that date?
A. On March 11th.

Q. And what is the hour?
A. 11.29 A. M.

Mr. Kelsey: May it please the Court, in order to keep the records clear the telegram that Mr. Keown referred to as having been already in, it is not marked and I ask to have it marked.

The Court: Well, if it is in evidence it will be marked.

(Telegram marked Exhibit S30.)

Recess to 1.40 P. M.

(Trial of the cause resumed at 1.40 P. M.)

JAMES F. CANNON, sworn for the State.

Q. Where do you live, Mr. Cannon?
A. Riverside, N. J., 132 Fairview Street.
Q. And where are you employed?
A. Taubel, Scott & Ketzmueller Hosiery Manufacturers.
Q. Do you remember the occasion of John Brunen being killed?
A. Yes, sir.
Q. Do you know where his home is?
A. Yes, sir.
Q. With regard to his home where do you live?
A. At that time I lived on Fairview Street, possibly on an airline, possibly 200 yards from his residence.

Q. 200 yards from his residence?

A. 200 or 300.

Q. Do you remember the night before he was killed, Thursday night?

A. Yes, sir.

Q. Where were you that night?

A. I worked at Taubel's mill till eight o'clock.

Q. You left Taubel's mill at eight o'clock. Where did you go to?

A. Went right home.

Q. In going to your home would you pass the Brunen home?

A. I would if I continued down New Jersey Avenue.

Q. Did you continue down there?

A. No, sir.

Q. How close to the Brunen home were you?

A. I crossed the street at the Ridgway's crossing and went down on the right-hand side of the pike.

Q. At that time did you see any men at that point where you crossed the street?

A. No, sir; not at that point, but further on down.

Q. How much further from where you were towards the Brunen home did you see anybody?

A. When I met them it was right opposite.

Q. Right opposite what?

A. Right opposite the Brunen homestead.

Q. On the same street or on a side street?

A. On the other side of the railroad and trolley tracks both.

Q. Describe those two men.

A. One was a real big and went up very broad on the shoulders. He had on what I would say a Fedora hat. The other man was inclined to be short and he had on a hat which might have been a derby, but the crown was turned in.

Q. Did they have overcoats on?

A. The big man had, sir.

Q. Go on and describe how both men were dressed.

A. The big man had an overcoat on, but I don't think the little man had.

Q. Could you tell what color that overcoat was, Mr. Cannon?

A. No, sir.

Q. How much taller was the big man than the short man?

A. Well, sir, it was dark and I couldn't say in regard to actual height, although I realized that one man was much bigger than the other.

Q. What were they doing?

A. Well, they were going up the road, and the man accompanying myself, he was also a presser, was going home to our supper, having worked continuously from one o'clock until eight. They were going up the road and we were going down on the right-hand side. Instead of passing us in the road they passed to the left, or just as we came opposite, then I stopped, or I think the larger man stopped and he stepped in such a way that I was under the impression that he was going to ask a question, such as direction or something else. I also slowed down some, slowed up in the same way. In the meantime we had got towards home but he didn't say a word and the other man that was with him, he apparently looked back and looked as if he wanted us. Then we continued home.

Q. Did you see this other man do anything that evening, that night?

A. Yes.

Q. What did he do?

A. After we had proceeded on our way towards home, possibly I would say thirty or fifty yards,

curiosity, or opportunity of speaking to Taylor, I said to him ——

(Objected to.)

Q. Don't say what you told Mr. Taylor; just tell us what you saw these two men do.

A. Well, when we had gone that distance sort of turned back, and by the light of the crossing I could see an arm extended, pointing apparently across the railroad. At that time, sir, they had went across the road and were standing on a line about with the trolley track.

Q. Opposite what place?

A. I should say they was opposite Brunen's homestead.

Q. In what direction did they point?

A. Pointed apparently directly, as near as I can judge, across the railroad, with arm extended.

Q. Toward or from the Brunen home?

A. To the Brunen homestead. They were on the opposite side of the railroad and trolley.

Q. Who was pointing, the big man or the short man?

A. The big man, sir.

By Mr. Keown:

Q. Did you see an automobile there, sir?

A. No, sir.

MICHAEL HANDLEY, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. You live in Riverside, Mr. Handley?
A. Yes, sir.
Q. Where are you employed?
A. Taubel's mill.
Q. Do you remember the occasion of the Brunen murder?
A. Yes, sir.
Q. Where did you live at that time?
A. 135 Rancocas Avenue.
Q. Were you employed at Taubel's at that time?
A. Yes, sir.
Q. Do you remember the night before the murder?
A. Yes, sir.
Q. Where were you working then?
A. I was home that night.
Q. Were you near the Brunen home the night before the murder?
A. Yes, sir; right home.
Q. Were you near the Brunen home the night before?
A. No, I was right home, my home.
Q. Were you near John Brunen's home a week prior to the murder?
A. No, sir.
Q. Were you near there three or four nights before the murder?
A. No, sir.
Q. You were not there?
A. No, sir.

Q. The night before John Brunen was killed were you on Rancocas Avenue?

A. I live there.

Q. You live on Rancocas Avenue?

A. Yes, sir.

Q. Did you see any men ——

Mr. Keown: Now, if your Honor please ——

The Court: Well, let him ask the question. Don't answer it.

Q. Did you see any strange men near the Brunen home or in the neighborhood of the Brunen home on this night?

A. No, sir; not the night before the murder.

Q. Prior to the night before the murder?

A. I couldn't tell you if it was prior or a week before. I seen two men.

Q. Where was that?

A. I couldn't tell you exactly.

Q. How long before?

A. I imagine it was a week or so.

Q. Where did you see those two men?

A. Oh, they were about four squares from the Brunen home.

Q. What kind of men were they?

A. I couldn't tell you.

Q. Tall or short men?

The Court: That is leading.

A. I didn't look at them that much.

No cross-examination.

JOHN T. POTTER, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. You live at Camden, Mr. Potter?
A. Yes, sir.
Q. What is your occupation?
A. Traffic officer, Camden Police Department.
Q. Where are you stationed?
A. Now at Marlton Avenue and Federal.
Q. Do you remember the occasion that John Brunen was killed, March 10th?
A. I do.
Q. Where were you stationed at that time?
A. 26th and Federal.
Q. In Camden?
A. In Camden.
Q. Did you see Hary Mohr on that night?
A. I did.
Q. Describe to the jury the time and place you saw Harry Mohr and what he did.
A. I saw Harry Mohr on the evening of March 10th, sometime between 5.30 and 5.50, going west on Westfield Avenue. He passed me, and in passing waved his hand to me.
Q. What kind of a car was he in?
A. Ford coupe.
Q. Now did you see him again that night?
A. I did.
Q. What time?
A. Twenty-five minutes of ten.
Q. Were you still on duty at that time?
A. I was.
Q. What did he do that time?

A. He drove up to me, right up to the post where I was standing, and stopped. I was just about ready to find out why he ran so close to me when he opened the door and called me over and asked if I knew where he could find detective Stanley. He then told me that Mr. Brunen had been shot.

Q. What did you tell him?

A. I told him about where I thought he could find Stanley and I also described Stanley's home; that is, the location of his home.

Q. At twenty-five minutes of ten you say Mohr told you Mr. Brunen had been shot?

A. Yes.

Q. Where did Mohr go to from there?

A. Why, to Mr. Stanley's home.

Q. Well, did he continue on out?

A. Out Federal Street.

Q. And where did Mr. Stanley live?

A. He lives on Carman Street, which is the first street south of Federal, between 28th and 29th.

Q. Did you have any conversation with him, ask him where he had been?

A. Yes, there was the fact mentioned there that he had been attending an American Legion meeting.

Q. What time did you report off that night?

A. About five minutes of ten.

Q. And where did you go to then?

A. To the station house, Third District station house.

Q. Did you see Harry Mohr any more that night?

A. Yes.

Q. Where?

A. I called Mr. Stanley up and told him about the affair and he said that Mr. Mohr was at his home.

Q. What time was that?

A. I judge about three mintues of ten.

Q. What else did you do?

A. They said they were going down to the station house, and naturally I waited there to hear the details, and after that, after they had phoned I believe to Mr. Parker and also to Williamstown, they went from the station house to Captain Schregler's office.

Q. Who called Williamstown?

A. If I remember rightly I think Mr. Mohr called Williamstown, or Mr. Stanley called and Mr. Mohr talked. I won't be sure on that point.

Q. Do you know who they talked to in Williamstown?

A. No, I don't.

Q. Did Mr. Mohr tell you the particulars of this crime?

A. No, he didn't.

Q. I understood you to say you were waiting for the particulars.

A. I was waiting to hear something about the crime, but I didn't hear any particulars at that time.

Q. How long were you there?

A. Well, I should judge, all told, about a half hour, probably forty-five minutes.

Q. About what time did they go to Captain Schregler's office?

A. Well, about, I would say, about ten minutes of eleven.

Q. Did he tell you what he was going there for?

A. Why, I understood from the conversation that I heard there that there had been a couple of men picked up in Camden.

Q. And did they go down to Schregler's office for that purpose?

A. To see these men.

Q. Did you go to Schregler's office with them?

A. I did not.

Q. At this time did Harry Mohr have any con-

versation with you regarding the meeting earlier in the evening?

A. No conversation, but I believe it was myself that mentioned the fact at the time it was stated that Mr. Brunen had been shot somewheres around about 6.15 or 6.30, or something to that effect, and I mentioned the fact, "It could not have been long after you passed me then."

Q. What did Mohr say when you told him that?

A. I don't remember whether he made any answer to me then or not.

Q. Are the streets so arranged in Camden going out or coming in where they can go out a square and go around a block and go around you so you couldn't see them?

A. Very easily, yes.

Q. Either going to Camden or going out?

A. Going out.

Cross-examination.

By Mr. Peacock:

Q. Mr. Potter, how long have you been a police officer in Camden?

A. Eleven years.

Q. How long have you known Harry Mohr?

A. Well, I should say about three weeks or so prior to the murder.

Q. How did you get acquainted with Harry Mohr?

A. Through an arrangement of a carnival.

Q. Of whom?

A. For the Twelfth Ward Republican Club.

Q. How many times had you seen him in this three weeks?

A. Well, I suppose I had seen him about possibly four or five times.

Q. Had he ever stopped on the corner there and spoken to you about the proposed carnival?

Mr. Peacock: I object to that as not cross-examination.

The Court: Yes, it is.

(Question repeated.)

A. Yes.

Q. How many times?

A. Well, I can't be positive of how many times. It was more than once I know.

Q. Did you speak to Harry Mohr when he passed you in the evening?

A. I waved my hand to him.

Q. And he waved to you? You recognized him?

A. I did.

Q. What time do you say that was?

A. Sometime between 5.30 and 5.50.

Q. You are sure of that time?

A. I am.

Q. How do you fix that time as being between 5.30 and 5.40?

A. From the fact that it was just shortly before I went to my evening meal.

Q. And what time did you go to your evening meal on that day?

A. 5.50.

Q. Were you on duty there after you returned from your duty that night?

A. Until ten o'clock.

Q. What time did you return from your dinner?

A. I should say about 6.40.

Q. And were you there at that post continuously from 6.40 until ten o'clock?

A. I was.

Q. Did you see Harry Mohr or Harry Mohr's car pass your post more than once on that evening?

A. Not in between the time first mentioned and the time that he came back at twenty-five minutes of ten.

Q. You were there all the time?

A. All the time.

Q. Had you heard of John Brunen having been shot before Harry Mohr returned to your post?

A. I had not.

Q. Did you have occasion to observe the actions of Mr. Mohr on that night?

Mr. Peacock: That is objected to. That is a matter of conclusion.

The Court: He asked him if he had any occasion to observe. Did you?

The Witness: I did not have any particular occasion to observe. He acted just in the ordinary manner.

Q. What were the last words?

A. In an ordinary manner, I didn't see anything unusual.

Q. In your opinion as a police officer, having been a police officer for eleven years, was there anything suspicious about his actions?

Mr. Peacock: I object to that.

The Court: That question is improper and ruled out.

Mr. Keown: Does your Honor rule that question

is improper at this time or that it will be improper throughout the trial?

The Court: I am only ruling at this time. I am now ruling that it is an improper question to put to this witness at this time. I don't say what I will do when the testimony is offered on the direct by you if you see fit to do it?

Mr. Keown: Well, then, I will discontinue my cross-examination of the witness at this time and ask the witness to be in touch so that I can get him on the phone if I desire his attendance later.

Marie Powell, sworn for the State.

Direct examination.

By the Prosecutor:

Q. Mrs. Powell, are you the wife of Charles M. Powell?

A. I am.

Q. One of the parties that is indicted for the murder of John Brunen?

A. Yes, sir.

Q. How long have you been married to Charles Powell?

A. Two years.

Q. Did you live in Wilkes-Barre?

A. Yes, sir.

Q. When did you live in Wilkes-Barre?

A. Last winter the first of last winter.

Q. Where did you live in Wilkes-Barre?

A. Twenty West Jackson Street.

Q. Was your husband there?
A. Yes, sir.
Q. What was he doing?
A. He was first working for the James Bell Company with a bazaar and then he was booking church contests later.
Q. Had you knew Harry Mohr before you lived in Wilkes-Barre?
A. Yes, sir.
Q. Was Harry Mohr in Wilkes-Barre?
A. Yes, sir.
Q. While you were there?
A. Yes, he was.
Q. How many times, do you know?
A. Twice.
Q. Where did you see him?
A. The first time he came to our house late one night.
Q. Alone?
A. Alone, but Charlie was with him when he came, and the next time he came in the daytime after his wife had came.
Q. You saw his wife, Bessie Mohr?
A. Yes, sir, I met her at the train.
Q. You met her at the train?
A. When she came to Wilkes-Barre.
Q. Did you ever see any telegrams?
A. Yes, sir.
Q. That was received by your husband from Harry Mohr?
A. I did.
Q. Did you see any money orders or telegrams?
A. Yes, I saw the telegrams.
Q. For money, I mean?
A. Yes, for money.
Q. Who were they from?
A. From Harry Mohr.

Q. To your husband?
A. To Charlie.
Q. Do you remember the amounts of those?
A. Well, I remember one amount, that was $50.
Q. Now when did you leave Wilkes-Barre?
A. In December, about the 14th.

The Prosecutor: Can the jury hear?

A Juror: Not very well.

The Prosecutor: If you will speak a little louder, Mrs. Powell.

The Witness: We left Wilkes-Barre to come to Camden about the 14th of December.

Q. Why did you leave?
A. Why, Mr. Mohr wanted Charlie to come to Camden.
Q. How did you know?
A. He sent telegrams all the time telling him to come, and this time Charlie said he wouldn't leave me at home and I should go with him.
Q. Where did you go from Wilkes-Barre?
A. We went to 45 Cooper Street in Camden, or went to Philadelphia.
Q. From Wilkes-Barre to what place?
A. Philadelphia.
Q. Who met you in Philadelphia, if anyone?
A. Mr. Mohr met the train we came on.
Q. From there where did you go?
A. To Camden.
Q. Who took you to Camden?
A. Mr. Mohr took us to Camden.
Q. Who did he take, you said he took you and who else?

A. Charlie and our baby.
Q. How did he take you?
A. In a little automobile of his.
Q. And where did he take you?
A. 45 Cooper Street.
Q. What did he say when he took you to Camden?
A. Well, he didn't say anything.
Q. Relative to the place where you were going was anything said?
A. He only said he had us a room in Camden, light housekeeping rooms.
Q. After you arrived in Camden, what did you do or what did he do, I mean, when you arrived at the apartments?
A. He and Charlie went out to eat.
Q. What say?
A. He and Charlie went out to eat as soon as we left there.
Q. Whose place did you go to in Camden?
A. Mr. Earnest.
Q. What arrangements was made, Mrs. Powell, relative to the rent of those rooms, if you know?
A. Well, I don't know as there was any arrangement made, but Mr. Mohr paid the rent.
Q. Did you see him pay the rent?
A. Yes.
Q. And how long were you there, Mrs. Powell, in Camden?
A. Until Charlie was arrested. I stayed there two or three weeks after he was arrested.
Q. Who paid the rent during the time you were there?
A. Well, Mr. Mohr, he gave Charlie the money to pay for that.
Q. Well, did Charlie pay Mrs. Earnest or did Harry Mohr pay Mrs. Earnest?
A. Well, I think Charlie did.

Q. How about the first time you were there, the first time it was paid?

A. Mr. Mohr paid the first rent that was paid.

Q. Did you see Harry Mohr after that first day you were there?

A. Yes.

Q. Well, how frequently did you see him?

A. Why, most every day.

Q. Where would you see him?

A. At our house.

Q. Will you tell us—describe how he came there and what was done, in your own language, Mrs. Powell, now just what occurred from day to day?

A. Well, at first when he would come there, when we first came to Camden, he always came upstairs when he would come, but later he wouldn't come upstairs, he would just blow the automobile horn and Charlie or one of us would go to the window, and he would say, "Tell Charlie to come downstairs."

Q. And how long would he stay there?

A. Well, sometimes he stayed a good while, sometimes not very long.

Q. Did Charlie go away with him on any occasions?

A. Oh, plenty of times.

Q. What say?

A. Charlie was with him most all the time.

Q. What time, through the day or night?

A. Sometimes through the daytime, sometimes in the night.

Q. Now, how long did this continue, these meetings between Harry Mohr and your husband, that is from the time you moved to Camden up until the time of the murder of John Brunen?

A. All the time, only when Mr. Mohr would be away.

Q. Are you acquainted with Doris Brunen?

A. I only saw her twice.

Q. When was the first time that you saw Doris Brunen?

A. Well, I had been out to the drug store in Camden, and when I came home, she was sitting in our house.

Q. Do you know what time that was?

A. That was before Mr. Brunen was killed.

Q. And do you recall anything that occurred there at that time?

A. No, only she said she came to see the baby and Charlie sent a telegram for her to Mr. Mohr.

Q. Now, tell us just what took place and what she said at that time, Mrs. Powell.

A. Well, she said she came to see the baby. Charlie introduced us at first, and he went out. She said she had come to see the baby, and it was a nice baby and she came to see if Charlie knew where Mr. Mohr was.

Q. How did she come, do you know?

A. Well, she walked away, I don't know how she came there.

Q. Was anything said about how she was to get home or when?

A. Yes, she said she wanted to hurry back, she was going back on the trolley, I believe it was the trolley.

Q. Now, you said that when you were out at the store—did I understand you to say ——

A. I was at a drug store for medicine.

Q. And when you came back she was there?

A. Yes.

Q. When was the other occasion when you saw Mrs. Mohr?

A. The next morning after Charlie was arrested I went to Riverside.

Q. Mrs. Mohr—Mrs. Powell—did you ever see Harry Mohr give Charlie anything, any moneys?

A. I saw him give him money.

Q. When did he give him money, that is, the first time?

A. Well, the first time was when we first came there to Camden, well, he was always giving Charlie money, that's how we lived.

Q. About how many times did he give him money?

A. Well, I couldn't say how many times.

Q. Well, was it many times?

A. Plenty of times.

Q. And where was the money given?

A. Well, sometimes it would be up in the room and sometimes it would be out, of course, I didn't see him give him the money when he was out.

Q. Did you see him give him any money after the murder?

A. Yes.

Q. Well, where was that?

A. The first time he gave him money after the murder was down in front of the house.

Q. Where were they then?

A. He was in the car and Charlie was standing the side of the car.

Q. Where were you?

A. I was upstairs peeking out the window like I always did when they were together.

Q. What did he give him that time, how much?

A. He gave him the money and when Charlie came back upstairs he had fifty dollars, a fifty dollar bill.

Q. What was the next time?

A. The next time I believe was Monday night after Mr. Brunen was killed.

Q. And what time was that?

A. It must have been about one o'clock.

Q. One o'clock?

A. Night.
Q. Day time or night?
A. Night.
Q. Where did he give it to him then?
A. It was in the kitchen, I didn't see him give it to him then.
Q. Did you see Harry Mohr?
A. I saw Harry Mohr that night at our house.

The Court: What did you say about giving him something?

(Answer repeated.)

The Court: Give him what?

A. Give him the money, $100.

By the Court:

Q. You didn't see it given to him at all?
A. No, but I saw it after it was given to him after Mr. Mohr went away.
Q. You mean to say you saw your husband have $100?
A. Yes.
Q. You have no knowledge of your own where he got it from?
A. He got it from Mr. Mohr, he said.
Q. You can't tell what he told you. Have you any personal knowledge where he got the money from?
A. No, I didn't see it, Mr. Mohr gave it to him.

The Court: Don't state anything that your husband told you. You must only testify to what you saw yourself.

By the Prosecutor:

Q. Now, Mrs. Powell, tell us what happened that night?

A. Mr. Mohr rapped on the door of the bedroom and Charlie let him in. We were in bed and Charlie let him in and started to turn on the light, and Mr. Mohr said, no, don't turn on the light, it might bother me, and we will go in the kitchen, and they went in the kitchen and talked about an hour, and he went out the kitchen door.

Q. How was Charlie dressed that night?

A. Well, he was in bed.

Q. Now, when Charlie came in, after he had seen Harry Mohr, what did he have?

A. He had two $50 bills.

Q. Now, when was the next time you saw Harry Mohr, that is, after that?

A. I don't remember the next time I saw him.

Q. You say you saw Harry Mohr the day after the murder?

A. Yes, sir.

Q. What time did he get at your house?

Mr. Keown: If your Honor please, I think that is leading. The witness hasn't said he was at the house.

The Prosecutor: Yes, I think so.

Mr. Keown: I don't remember, I apologize if she said that.

The Court: Why do you insist upon leading questions? Why can't you ask when and where she saw him?

The Prosecutor: She has already said the next day she saw the fifty dollar bills.

The Court: You musn't ask the question over again. Follow it up.

The Prosecutor: Yes, I intend to follow it up.

Q. What was said by Harry Mohr, what did he do in your presence?

Mr. Keown: Is this on the day after the tragedy?

Mr. Peacock: Yes, the morning after the tragedy.

By the Court:

Q. When and where did you see him the morning after the tragedy?

A. I saw him in my room the morning after Mr. Brunen was killed?

Q. What time?

A. It must have been between six and six-thirty in the morning, it was before I had gotten out of bed.

Q. From that point on tell us what he said and did.

A. When he came in he said that Mr. Brunen had been killed and asked me where Charlie was. I told him at the grocery, and he said, all right, he had to be back, he had to go send some telegrams and he would be back. He had $50 for Charlie, he wanted to clean matters up and he wanted to get him ahead of the show, out ahead of the show, because since Mr. Brunen was killed, Mr. Mohr would have plenty to do, plenty to do at home.

By the Prosecutor:

Q. Did he come back?
A. Yes, sir.
Q. Was Charlie Powell, your husband, there?
A. He was.
Q. Tell us what happened then?
A. Charlie went downstairs to him and Charlie and him drove away. They had been around the corner, around the square.
Q. Now, on the night of the murder, March 10th, were you home then?
A. I was.
Q. Were you in the house all evening?
A. Yes, I was sick.
Q. Were you sick in bed?
A. Yes.
Q. Did you see Charlie?
A. Yes.
Q. What time?
A. I can't remember what time it was, but he said he was going to the armory.
Q. And what time did he leave the house?
A. Well, I can't remember what time he left.
Q. How long was he gone?
A. Well, he wasn't gone so very long.
Q. And what time did he come back, do you know?
A. I don't remember when he came back, but I thought it was around seven.
Q. You were in bed asleep?
A. I was in bed asleep.
Q. Now, from the time you were in Camden, you came to Camden, until the time of this murder how many times, if you know, or how often did Harry Mohr come to your house?
A. Most every day, only when he was away.

Q. Do you know whether Charlie went to the funeral of Doris Brunen, John Brunen, I mean?

A. He did not.

Q. Do you know whether he sent anything?

A. He did.

Q. What was it?

A. He sent some flowers.

Q. Did you ever go to Riverside to the Brunen home?

A. The morning after Charlie was arrested I was at Riverside.

Q. Do you know what date that was?

A. That must have been the 7th of April.

Q. After Charlie was arrested?

A. After Charlie was arrested.

Q. Who did you see?

A. I saw Mrs. Brunen, Mr. Mohr, Mrs. Mohr, Mr. Mohr's mother and Hazel.

Q. Did you have any conversation with Harry Mohr and Doris Brunen?

A. Yes.

Q. What was that conversation, what was said?

A. Well, when I went to the house no one was up, so Mrs. Brunen was the first one that came to the door, and I told her that somebody had kidnapped Charlie and she said, "S-sh. I don't want Bessie to hear that," and she went upstairs and got Mr. Mohr. He came downstairs and said he thought maybe Mr. Parker had him, and I asked him why Mr. Parker would have Charlie, and he said because he was arresting everybody that had been on the show.

Q. What was said further than what you have already stated?

A. Well, I couldn't see why he would arrest Charlie, because I didn't think Charlie did that.

Q. Did you get any money that day?

A. Yes, he gave me $10.

Q. Now how long did you stay at the Brunen home?

A. I had my breakfast there. I didn't stay very long, and Bessie went home with me. We had our lunch at my house.

Q. Where did you go then?

A. Well, Mr. Mohr was supposed—Bessie was supposed to go home, and Mr. Mohr was supposed to call her and tell her if he heard anything about Charlie, and she was supposed to come and tell me.

Q. Did you see Harry Mohr again that night?

A. He sent Mr. Benham up to me. I went around to the corner and we got in his car and we went to the police station.

Q. Where was the police station?

A. In Camden, but I don't remember what street it is on.

Q. Who did you see in the police station?

A. I saw the chief of police, I believe it was, and told him my story, I thought Charlie had been kidnapped.

Q. When was the next time you saw Mr. Mohr?

A. Well, he told me to meet him at Keown's office, he told me to meet him at Mr. Keown's office, but I don't remember what day that was, but I met him there.

Q. Now you say you met him at Mr. Keown's office?

A. Yes.

Q. Who did you meet there?

A. Mr. Mohr.

Q. Harry Mohr?

A. And I believe Mr. Benham.

Q. Where did you go from there?

A. I went home from there.

Q. What was the next thing you did, Mrs. Powell?

A. Well, I used to meet him plenty of nights at the Camden restaurant down by the ferry, but I can't remember all these times I met him.

Q. What was your conversation with him on those occasions?

A. Well, he would ask me how Charlie was.

The Court: Conversation with whom?

The Prosecutor: With Harry Mohr.

The Witness: He would ask me how Charlie was, and one time he asked me if he looked like he was nervous.

The Court: Just answer the questions, what the conversations were, that is what they are inquiring about.

Q. Who did you meet, did you meet anyone else with Harry Mohr at the ferry?

A. Yes.

Q. Who else?

A. Mr. Benham and Doctor Knaub would be there sometimes and Mr. Thomas.

Q. Who?

A. Mr. Thomas.

Q. Did you have any conversation with Dr. Knaub in Harry Mohr's presence?

A. Yes.

Q. What was said?

A. Well, one time I heard Dr. Knaub say real low to Mr. Mohr, "If anything comes of this let me be out of this altogether."

The Court: Well now, how is that testimony competent?

The Prosecutor: It was a conversation between Mr. Mohr and Dr. Knaub, in her presence.

The Court: Well, it was something Dr. Knaub said about Harry Mohr.

The Prosecutor: In her presence.

The Court: Suppose he did say it. Did Harry Mohr have anything to say? Let her show what Harry Mohr said on that occasion.

The Prosecutor: I am trying my best.

The Court: Tell her to state it. Let's get the entire conversation.

Q. Did Harry Mohr send any messages by you to your husband?

A. He did, one.

Q. What was that message, if you know?

A. He told me to whisper to Charlie that the Masonic Lodge, I forget the name of his lodge, but he told me to whisper the name of that lodge.

Q. How much money did Harry Mohr give you or give Charlie that you know of after the murder of John Brunen?

A. Well, alogether he gave me ninety dollars.

Q. He gave you ninety dollars, personally?

A. Yes.

Q. How much did he give Charlie that you know of?

A. He didn't give Charlie after the murder after he was arrested.

Q. But this particular ninety dollars after he was arrested, he has given to you?
A. Yes, after he was arrested.

Cross-examination.

By Mr. Keown:

Q. Mrs. Powell, you remember distinctly the night your husband was arrested?
A. I did.
Q. And do you know where your husband had been on the night that he was arrested?
A. Well, he was on business over in Philadelphia, concerning a show.
Q. Do you know with whom he was?
A. He didn't tell me just who he was with.
Q. And what time was it that your husband returned home on the night that he was arrested?
A. It must have been about one-thirty, but he didn't get in the house.
Q. How near to the house did he get?
A. Right at the curb of the street.
Q. And did you see him at the curb?
A. I did.
Q. What did you see at the curb?
A. I saw two men rush out and each took him by the arm.
Q. Did you do anything?
A. I did.
Q. What did you do?
A. I screamed and ran down the street.
Q. Where did the men go with him?
A. Put him in an automobile.
Q. Did you get there before the automobile left?
A. I did.
Q. Did you have a conversation with them?

A. I did not.

Q. Why not?

A. They hurried away too soon, I tried to get the number of the car and I couldn't.

Q. Then they did get away before you got there?

A. They did.

Q. Then you went on back to bed?

A. I did not, I went back to the house.

Q. And then early the following morning went to Riverside?

A. I went to Riverside.

Q. You arrived at Riverside before the folks were up?

A. I did.

Q. Was Bessie Mohr there when you arrived at Riverside?

A. She was, but she was in bed.

Q. And that was the time you say Mrs. Brunen said to you, "S-sh, I don't want Bessie to hear"?

A. That's the time she said it.

Q. Did Bessie later come downstairs?

A. She did.

Q. Did you continue to converse about your husband having been arrested?

A. We had already quit talking right then, but finally we began talking some more.

Q. Then you did talk about your husband being arrested in the presence of Bessie Mohr?

A. About him being away.

Q. Well, about him being kidnapped, as you call it?

A. Yes.

Q. So Bessie Mohr heard all about it in the morning you were out there?

A. They didn't talk very much about it.

Q. Never mind about that, she did hear all that was said while you were there?

A. She heard all we said when she was downstairs.

Q. In other words, she heard that your husband had been kidnapped or arrested about half-past one of that morning, did she not?

A. She heard all we said when she came downstairs. She heard all that was said after she came downstairs.

Q. And there was no effort made to keep it a secret from her then?

A. She didn't know all that was said.

Q. There was no effort to keep it a secret?

A. Not that Charlie was away, not that Charlie was gone.

Q. So you immediately came back to Camden?

A. I came back after breakfast.

Q. Who brought you back?

A. Bessie and I went back to Camden together.

Q. Did you and Bessie talk continuously on your journey to Camden about Charlie having been arrested or kidnapped?

A. Oh, we didn't talk much about it.

Q. Wasn't that the only thing that was on your mind?

A. Yes, but I didn't tell everybody my business.

Q. You had gone out to Brunen's to report the fact your husband had been arrested?

A. Because Charlie and Mr. Mohr were supposed to be good friends.

Q. And Bessie Mohr, the girl coming in with you, was Mr. Mohr's wife?

A. Yes, she was.

Q. Just answer my questions. When you got into Camden where did you go?

A. We went to the grocery and to the meat market and then up to my rooms.

Q. Did you see Harry Benham later that day?

A. I did.

Q. Did Harry Benham come to your home?

A. He did.

Q. And did Harry Benham bring you around to my office?

A. I believe I came to the office myself.

Q. How did you come to come to my office that morning?

A. Because Mr. Mohr told Mr. Benham to tell me to meet him at the office.

Mr. Keown: If your Honor please, that is not responsive.

The Court: She has told you how she happened to go there.

Q. Mr. Benham told you to come to my office?

A. Mr. Benham told me and Mr. Mohr told me to come to your office. I don't remember whether I came myself or with Mr. Benham.

Q. And you said you saw me?

A. I did see you.

Q. And I had a talk with you?

A. You didn't have very much of a talk, you asked me if I had heard anything about Charlie yet.

Q. I had a talk with you?

A. That's about all you asked me.

Q. Did I make any phone calls?

A. Not while I saw you.

Q. From my conversation with you, had I made any phone calls before you arrived?

A. You didn't say anything to me about phone calls.

Q. What did I say to you when you came to my office?

A. You asked me if I had heard where Charlie was.

Q. Then in parting, what did I say to you ?

A. Why, I don't remember anything that you said.

Q. Is that all you remember my saying to you, if you heard anything of Charlie?

A. It is.

Q. Didn't I say any words to console you or any words of encouragement to you?

A. Not that I remember.

Q. They are the only words you recall my using?

A. They are the only words I recall.

Q. Did you not know that a phone call had been made to the city hall in Camden inquiring about your husband?

A. I didn't know that you sent one, but I know that I had a policeman to send a telephone call there the night he was arrested.

Q. Did you not know I had phoned to Prosecutor Kelsey?

A. I did not.

Q. Did not I tell you that?

A. You did not.

Q. Did anyone tell you that?

A. They did not, nobody told me that.

Q. Did you not know that your husband was not in the city hall at Camden nor was he in the Mount Holly jail at Mount Holly?

A. I knew that he wasn't in Camden, because a policeman that night that Charlie was arrested called and told me he was not in Camden.

Q. Did you not also know that he was not in the Mount Holly jail?

A. I did not.

Q. Did not anyone tell you that?

A. Nobody told me, he wasn't here. Nobody told me he was here.

Q. Do you not know as a fact that the Burlington County authorities were communicated with as to whether he was here or not?

A. I do not.

Q. When did you first locate where your husband was after his arrest?

A. I came to Mr. Parker and he came to me Sunday at my home and told me.

Q. Now, how long was that after your husband was arrested that Mr. Parker came down and told you that your husband was in the Burlington County prison?

A. I think it must have been two days.

Q. And you hadn't been able to locate your husband's whereabouts in those two days.

A. I had not.

Q. Nor had any of your friends, had they?

A. No.

Q. You still thought your husband had been kidnapped?

A. Yes, I didn't know what had happened to him.

Q. But when you had been unable to locate him in any prisons, you assumed that he had been kidnapped, did you not?

A. Well, I thought he had either been kidnapped or something happened to him, I didn't know what.

Q. How soon after Mr. Parker told you that he had your husband in the Burlington County jail before you saw him?

A. I came to see him Monday after Mr. Parker told me Sunday.

Q. Did you have a conversation with him?

A. Not very much. I only spoke to him and stayed there only about ten minutes.

Q. Do you remember what you said to him?

A. Only I told him I thought he would be out of there not before long, Mr. Parker was standing there right by us.

Q. Why did you tell him that?

A. Because I hadn't thought he could have done anything like that.

Q. You hadn't been suspicious that he could have done it?

A. I had not.

Q. Why did you and your husband come to Camden?

A. Because Mr. Mohr wanted Charlie to come to Camden, and Charlie wouldn't come away and leave me and I came with him.

Q. Why did your husband tell you he was coming to Camden?

A. To see about church bazaars.

Q. So that was a perfectly legitimate purpose about which to come to Camden?

A. I guess it was, I always went where he did.

Q. How long was your husband supposed to stay in Camden when you came?

A. I didn't think that we were going to stay very long. We didn't bring any of our things, only one suit case. I didn't even think we would stay a week.

Q. Did you think it would be possible to put over the church bazaars in less than a week?

A. They could get churches, yes, sir, and start a church bazaar, and then we could go back to Wilkes-Barre, yes, sir.

Q. How could that be conducted if your husband went back to Wilkes-Barre?

A. Mr. Mohr would have been there, wouldn't he?

Q. Oh, the understanding was your husband was just to come down and they were to get church bazaars and Mr. Mohr was to do the work?

A. He didn't tell me any of his business.

Q. Who didn't.
A. Only he was to get church bazaars.
Q. And you only expected to stay a short time?
A. We didn't expect to live in Camden.
Q. You only expected to stay a short time?
A. I said that once before.
Q. Beg pardon.
A. I said that once before.
Q. Now, did they get any church bazaars?
A. Well, they told me, Charlie told me all the time they was getting churches.
Q. Did they get any?
A. I do not know. I don't think they did.
Q. At the end of the first week when you found out your husband was not taking you back home, did you say anything to him about it?
A. Of course, I wanted to go back to Wilkes-Barre, but we couldn't get the money then.
Q. Did he not ask Mr. Mohr to loan him some?
A. Mr. Mohr wasn't supposed to have any.
Q. Did you try to borrow some money from Mr. Mohr?
A. I don't transact the business so I don't borrow from anybody.
Q. It was not unusual for Mr. Mohr to give you and your husband money, was it?
A. I didn't ask anybody for any money.
Q. And that would have been a way to have gotten back to Wilkes-Barre?
A. If Mr. Mohr didn't have any money enough to send us back we couldn't have got back. He wasn't supposed to have the money.
Q. If he had the money to send you back would you have gone back to Wilkes-Barre?
A. Yes, we would.
Q. And your understanding was then that you

were to go back to Wilkes-Barre as soon as you got enough money to go back?

A. Yes.

Q. Then I understand your husband returned to Wilkes-Barre?

A. He did.

Q. Did he have any business there?

A. He did.

Q. Was that producing any money?

A. It was.

Q. Why wouldn't that have sent you back to Wilkes-Barre?

A. Because we didn't have the money. The money was in Wilkes-Barre in the churches.

Q. Your husband was getting no income from his bazaars in Wilkes-Barre?

A. He would get the money when he went back to Wilkes-Barre, but he hadn't went back.

Q. He wasn't making any money in Camden?

A. No.

Q. What was the understanding you had with your husband when he went back to Wilkes-Barre?

A. He was to come back to Camden.

Q. Why was it you were not to return to Wilkes-Barre when he got the money?

A. I don't know why we wasn't going back.

Q. You were anxious to get back to your quarters at Wilkes-Barre?

A. I wanted to go back, and Mr. Mohr said I wouldn't tell him I wanted to go back.

Q. No matter what Mr. Mohr said, you wanted to go back?

A. That kind of changed my mind.

Q. You let Mr. Mohr change your mind where your home was in Wilkes-Barre, and where your husband had business? Now, your husband left and went back to Wilkes-Barre?

A. He did, he went back to settle up with the church and to get the rest of our things.

Q. Oh, then he decided before he left Camden that he was coming back?

A. Of course he did. He wouldn't go away and leave me and not come back.

Q. Only temporarily?

A. Of course.

Q. There was no understanding that he was to go to Wilkes-Barre and get money and then have you go on to Wilkes-Barre, was there?

A. No.

Q. Did that meet with your approval, that you were going to stay in Camden?

A. I do what he tells me to.

Q. Did it meet with your approval?

A. Anything he tells me is all right.

Q. Did you approve of it?

A. If he did.

Q. You had given up your thoughts of going back?

A. I did.

Q. How long was your husband in Wilkes-Barre on that trip that he made?

A. I can't remember how many days, but it wasn't very long.

Q. Did he bring any money back home with him?

A. He did.

Q. How much?

A. I can't remember just how much.

Q. How is it you can remember so distinctly these other amounts of money and you can't remember this amount of money. You were broken financially?

A. Yes.

Q. Mr. Mohr had no money?

A. Wasn't supposed to have any.

Q. So far as you were concerned he had none, and you were getting no help off him?

A. He was giving Charlie money every day, fifteen or twenty cents, sometimes sixty cents, sometimes a dollar.

Q. You were practically broken when your husband went back to Wilkes-Barre?

A. Charlie took a gun from Mr. Mohr's and pawned it.

Q. You didn't see him do that?

A. No, he told me.

Q. You were practically broken when your husband went to Wilkes-Barre?

A. He gave me seventy-five cents or a dollar, I don't know which.

Q. And then were you not anxious to find out how much money your husband was going to bring back home?

A. I wasn't anxious.

Q. Did you find out how much he brought back when he returned?

A. I don't remember just how much he brought back. I know he got $100.

Q. You only know that from what he told you, don't you?

A. Well, he didn't tell me a lie.

Q. We are assuming that he didn't, but how much money did he actually bring back and tell you he had in his hands?

A. I don't remember how much.

Q. Can you give the jury some idea as to the amount?

A. It wasn't $100.

Q. Can you give the jury some idea as to how long that money lasted you?

A. It didn't last very long.

Q. For what purpose was it spent, do you know?

A. Why, to live on, of course.

Q. And that was the only purpose it was spent for?

A. All that I know of.

Q. Now, did your husband get any work to do?

A. He tried.

Q. What kind, to your knowledge?

A. He tried at the Victor Talking Machine Company.

Q. I thought your husband was going to try to get churches?

A. I thought so too.

Q. What happened to that?

A. I don't know.

Q. What did you say to your husband when you found he had brought you from your home down here to Camden on the pretext he was going to canvass church bazaars and didn't do it?

A. I didn't say anything, I always do what he tells me.

Q. You know your husband could have made a good living had he gone out and solicited church bazaars?

A. If he had stayed in Wilkes-Barre, yes.

Q. You had the same privilege in Camden?

A. We was making money in Wilkes-Barre, we didn't make any in Camden.

Q. Did you know whether your husband did canvass for any in Camden?

A. He told me he was, he told me they were going to, he told me they were sometimes when they went out.

Q. When you found out he wasn't getting bazaars in Camden as readily as he was in Wilkes-Barre, did you make any complaint and ask him to go back to Wilkes-Barre?

A. I wanted to go back to Wilkes-Barre at first,

and when we didn't go I didn't say another thing about going back to Wilkes-Barre.

Q. Why not? You knew that was a prosperous field, your husband had been successful?

The Court: Mr. Keown, I don't see what the object of these questions is. It seems to me they are endless.

Mr. Keown: It is only for the purpose of attacking this witness' credibility.

The Court: You have gone over it in several ways, I think there ought to be some limit.

Q. Do you know whether your husband got any employment at all from the time you landed in Camden up until the time he was arrested?

A. I think he did. He was selling burglar alarms.

Q. Why did you say you didn't think he did?

A I said I think he did.

Q. I beg your pardon. How long was he selling those burglar alarms?

A. I don't remember how long, but he was selling burglar alarms and he also worked for another firm.

Q. How long did he work for the leather firm?

A. I didn't say leather, I said another firm.

Q. What was the nature of the other?

A. I can't remember the name of it.

Q. How long did he work for the other firm?

A I don't know how long he worked.

Q. Approximately?

A. I don't remember.

Q Well, was it a day, a week or month?

A. I don't remember because I was sick at that time.

Q. Well, wouldn't that be all the more reason why you would know where your husband was working if you were home sick?

A. I know where he was working. I told you where he was working.

Q. How long was he working at this other concern?

A. I told you I do not remember.

Q. You know whether it was a day or a week?

A. It was, of course, more than a day.

Q. Was it more than a week?

A. I believe it was.

Q. Do you know what your husband's wages were at that other concern?

A. Well, it was according to how many of the burglar alarms he sold.

Q. We are talking about the other concern.

A. The other was the same way, according to how many of the machines he put in the theatres. I don't know just what kind it was.

Q. Wasn't it burglar alarms?

A. I told you he sold burglar alarms, but he wouldn't put burglar alarms in the theatre.

Q. What kind of machine was it he was putting in the theatre?

A. I don't know what kind it was, I don't know the name of it.

Q. Did you ever see it?

A. No, I did not.

Q. Beg pardon?

A. No, I never saw one.

Q. Now, when was it that Mr. Mohr came to Wilkes-Barre?

A. The first time he came was one night.

Q. When was that?

A. I can't remember the date.

Q. Approximately when?
A. I can't remember the date.
Q. Give us some approximate idea.
A. I said I couldn't remember the date.
Q. How long did he stay that first trip?
A. Well, I don't know just when he arrived there, but it was real late when he and Charlie came to our house and he didn't stay over an hour at the house until he went away by himself, said he was going back.
Q. When did you next see him?
A. It must have been about a week later.
Q. And then on that occasion his wife arrived before he did?
A. She did.
Q. You had an engagement to meet her at the train?
A. He sent a telegram telling Charlie to meet him, meet Bessie at the station.
Q. Did you meet Bessie at the station?
A. I met her.
Q. Did you engage rooms for Bessie?
A. Charlie did; she stayed at our house the first night.
Q. But your husband engaged rooms at Wilkes-Barre for the Mohrs?
A. Yes.
Q. Now, how long did they stay in Wilkes-Barre on that second occasion?
A. Mr. Mohr stayed about a week.
Q. And what was he and your husband doing that week?
A. He was out with the churches.
Q. And how many bazaars did they have?
A. They didn't have any.
Q. Well, what was Mr. Mohr there for?

A. He was supposed to get some, Charlie and him was supposed to get some, too, but Charlie had church bazaars.

Q. How many did your husband have?

A. I don't remember, two or three.

Q. How do you know Mr. Mohr didn't get any?

A. Because they didn't get any.

Q. Were they partners together up there in those bazaars?

A. They were going to be.

Q. Had they bought any supplies for the bazaars?

A. I think they bought punch boards.

Q. Were those punch boards delivered to your home?

A. I think they were after Mr. Mohr came back to Camden.

Q. Isn't that the reason Mr. Mohr came back to Camden to buy them and send them on?

A. I don't know whether he came to Camden.

Q. But when he did come on those punch boards followed and were delivered to your home in Wilkes-Barre?

A. I don't remember much about them.

Q. Did they come to your home?

A. They were there.

Q. Did they come there from Mr. Mohr?

A. I don't know.

Q. Don't you remember the address on them?

A. I don't remember. They didn't come to me.

Q. Was there any silverware sent to Wilkes-Barre from Philadelphia?

A. Yes.

Q. And who bought that, do you know?

A. I don't know.

Q. What did your husband do in Wilkes-Barre after your husband came back to Camden?

A. He still kept on with his churches.
Q. How many did he have then?
A. I told you two or three.
Q. And he was making money?
A. He was.
Q. Had you saved any?
A. We couldn't save any.
Q. Beg pardon.
A. We didn't save any.
Q. What date was it that you left Wilkes-Barre to come to Camden?
A. It must have been about the 14th of December.
Q. Now, did you have any money when you and your husband came to Camden?
A. Didn't.
Q. Did your husband have, to your knowledge?
A. Well, he must have had a little bit, because he gave a dollar of the room rent.
Q. Is that all he had, a dollar to pay toward the room rent?
A. It must have been.
Q. And Mr. Mohr paid the balance?
A. Yes.
Q. Now, did you ever complain about Harry Mohr coming around there at nights?
A. I did.
Q. To whom did you complain?
A. To Charlie.
Q. What did he say?
A. He said they were just taking rides.
Q. Did that satisfy you?
A. It did not.
Q. Did you and your husband quarrel about it?
A. We didn't quarrel. Charlie wouldn't quarrel with me.
Q. And you never quarreled with him even though——

A. I have, yes.

Q. Even though he went out?

A. I have quarreled.

Q. What excuse did Charlie give you?

A. He said they were taking automobile rides sometimes, he said they were going to winter quarters.

Q. Was that during the time your husband was working in Camden?

A. It was before he was working in Camden and after he was working in Camden, and sometimes while he was working in Camden.

Q. Now, will you kindly tell us the conversation you had with Mrs. Brunen that she came to your house?

A. She said she came to see the baby. She had never saw the baby. I had never saw her before, either. She said she came to see the baby and also to know whether Charlie knew of Harry's whereabouts.

Q. Was your husband there when she came in?

A. Yes.

Q. You had been to the drug store?

A. Yes.

Q. And when you walked in the room Mrs. Brunen said, "I came to see the baby"?

A. When I walked in Mrs. Brunen was sitting there and Charlie introduced us. I didn't know who she was.

Q. Mrs. Brunen said she came to see the baby?

A. Said she had come to see our baby.

Q. Had Charlie gotten the baby for her to see it?

A. The baby was lying on the bed.

Q. Was she looking at the baby?

A. She was sitting on a chair and Charlie on another.

Q. Was she looking at the baby?

A. She might have been.

Q. When you came in, was she?

A. She was not.

Q. When you came in, did you get the baby and show it to her?

A. I did not, I didn't have it to show it, she had saw the baby and she could see it.

Q. How do you know?

A. It was lying in the bed, and if she had eyes she could see it.

Q. And then she went on to talk about some trouble at home?

A. She didn't tell me any of her troubles at home.

Q. Did you not hear her ask Charlie to put a telegram in for Mr. Mohr?

A. I didn't hear her ask Charlie, but she told me she had come to see if Charlie knew of Harry's whereabouts, and the telegram came back to our house.

Q. Did you not know he had went out?

A. I knew he went out, and he had sent the telegram, he said, for Mrs. Brunen.

Q. You knew where he was going?

A. I told you once before, I didn't.

Q. Was there no conversation before Charlie left as to where he was going?

A. There was not, not with me.

Q. Mrs. Brunen did tell you, though, that she had come to find out where Harry Mohr was?

A. If Charlie knew where Harry was.

Q. Now, when was the first time that you think that Harry Mohr gave your husband some money after the tragedy?

A. It was the morning after Mr. Brunen was shot.

Q. And that was the time that he came to your house about 6.30 in the morning?

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A. Yes.

Q. And he knocked on your door?

A. Yes.

Q. And your husband went down to the kitchen?

A. My husband was out. He was at the grocery.

Q. Your husband had gotten up and was out to the grocery store?

A. He was.

Q. What conversation did Mr. Mohr have with you on that morning at half-past six?

A. He told me somebody had killed Mr. Brunen.

Q. And didn't he ask you where your husband had been the night before?

A. He did not.

Q. Are you sure he didn't?

A. He didn't ask me where Charlie had been the night before, no.

Q. What did he ask you about Charlie?

A. He asked me where Charlie was at that time.

Q. He didn't ask you where Charlie had been the night before?

A. I said he didn't.

Q. Did Charlie come home while you were there or while Mr. Mohr was there?

A. He did not.

Q. Did Mr. Mohr go out before Charlie returned?

A. He did.

Q. And did he tell you he was going to send some telegrams and would be back later?

A. He did.

Q. Did he come back later?

A. He certainly did.

Q. Did he talk to Charlie then?

A. Yes, Charlie went down to the automobile and Mr. Mohr and he talked.

Q. Didn't Mr. Mohr and he come in on that morn-

ing and ask Charlie where he had been the night before?

A. Not before me he didn't.

Q. Was it still dark?

A. Still dark? It was in the morning, at 6.30. Was it dark at 6.30 then?

Q. I don't know. Won't you please tell me, Mrs. Powell? You were there.

The Court: This was in April, wasn't it?

The Witness: It was in March.

Q. Was it dark?

A. It wasn't.

Q. Mr. Mohr was sitting in the car and your husband was standing alongside of the car?

A. Yes, sir.

Q. Now, could you see what Mr. Mohr did in the car?

A. He handed Charlie something.

Q. Do you know what he handed him?

A. Charlie had $50 when he came back upstairs.

Q. Do you know what Mr. Mohr handed him?

A. He must have handed him the money.

Q. Could you see what he handed him?

A. I could see green money he handed him.

Q. It was green money?

A. Yes, but I couldn't see, of course, the number.

Q. But you could see from up there through that window?

A. I could see from that window. I had my head right at the window.

Q. On the second floor?

A. On the second floor.

Q. Down to the car?

A. Down to the car.

Q. Mr. Mohr in the car and your husband outside the car?

A. Yes, sir.

Q. You could see him slip him something?

A. He didn't slip him something, he handed it to him.

Q. Which looked green?

A. I saw him hand him a greenback.

Q. Now, when did you next see Harry Mohr after 6.30 that morning?

A. I believe it was the next Monday morning. It was Monday morning after that, after Mr. Brunen was killed.

Q. And when did you see Mr. Mohr on that occasion?

A. In our house.

Q. Where?

A. 45 Cooper Street.

Q. In what part of your house?

A. He came into the bedroom door and he and Charlie went into the kitchen.

Q. Did Mr. Mohr have a conversation with your husband at that time?

A. He did.

Q. As to where your husband had been on the night of the tragedy?

A. Not that I heard. They were in the kitchen and I was in bed.

Q. Did Mr. Mohr ever have a conversation with you as to where your husband had been on the night of the tragedy?

A. He asked me if I didn't think Charlie was home.

Q. And what did you tell Mr. Mohr?

A. I know he was home the night Mr. Brunen was

killed, but I don't know that he was home when Mr. Brunen was killed.

Q. But you do know that you told Mr. Mohr that your husband was home on the night that Mr. Brunen was killed, do you not?

A. Of course.

Q. Why did you tell him that he was home?

A. He was home. He didn't stay out all night.

Q. How long was he out on the night that Mr. Brunen was murdered?

A. I don't remember just how long he was out.

Q. Did you not tell Mr. Mohr that your husband was home from half-past seven on?

A. I don't remember just how long he was home.

Q. It is not what you remember, it is what you told Mr. Mohr.

A. I don't remember that I told him that.

Q. Now, wait a minute, please. Did you not tell Mr. Mohr that your husband had gone to the post office, had returned at half-past seven and had not left the house after that?

A. I told him that Charlie had brought me a letter from mamma and a newspaper. He told me he had been to the post office. He wouldn't tell me if he was going to kill somebody, would he?

Q. I am not asking you that; I am asking you what you told Mr. Mohr about your husband's whereabouts on the night of the tragedy.

A. I told him he went to the post office and brought me a letter from mamma and also brought a paper. I don't know where he was.

Q. What time did you tell Mr. Mohr your husband was in the house?

A. I think it was 7.30.

Q. You told Mr. Mohr it was 7.30, did you not?

A. Not that I know of.

Q But you thought it was 7.30; isn't that true?

The Court: That is what she says.

Q. When was it that you told Mr. Mohr that your husband was home on the night of the tragedy?

A. I don't remember.

Q. How long after the tragedy was it?

A. I don't remember.

Q. Wasn't Mr. Earnest and Mrs. Earnest brought down in your presence to confirm the statement that you made and your husband made, that your husband was in the house at half-past seven on the night of the tragedy?

A. When?

Q. Any time.

A. Not that I remember.

Q. Didn't Mr. Earnest and Mrs. Earnest in your presence say that your husband was home between half-past seven—from half-past seven on that evening?

A. Mr. Earnest will be here and testify. You will have to ask him.

Q. I am asking you if that conversation did not take place in your presence.

A. Not that I remember.

Q. Did you ever make a statement to anyone that your husband was home on the night of the tragedy?

A. I made a statement.

Q. To whom?

A. Made a statement to Mr. Parker.

Q. That your husband was home on the night of the tragedy?

A. He was home on the night of the tragedy, of course he was.

Q. How long was he home on the night of the tragedy?

A. Well, after he came home he was home all night.

Q. What time did he come home on the night of the tragedy?

A. I don't remember what time he came home.

Q. What time have you said that he came home before?

A. I don't remember.

Q. But what is your recollection now of the time that your husband came home on the night of the tragedy?

A. I don't remember.

Q. A few moments ago you said you thought it was 7.30, did you not?

A. I did at that time.

Q. Why have you changed your mind if you thought it was 7.30?

A. I was in bed and I didn't look at the clock.

Q. Why have you changed your mind to saying that you thought it was 7.30, and now don't know what time it was? Answer the question. When did you first change your mind from your original story that it was 7.30?

Mr. Kelsey: Your Honor, I am perfectly willing to go on, but it seems to me over and over again it is the same thing. She said she didn't know.

Mr. Keown: She has not answered the question yet.

The Court: Why don't you answer directly one way or the other?

A. I don't remember that, just exactly what time it was. I was in bed. I said I thought it was 7.30, but I don't remember.

The Court: That is what she stands by.

Q. Now, I am asking you when you first changed your mind that it was 7.30, or do you still say to the best of your knowledge it was 7.30 on that night?

A. I don't say it, because I don't know it. I was in bed and I thought it was around 7.30.

Q. Do you still think it was around 7.30?

A. I didn't say I thought it now, because I believe what Charlie has said.

Q. You don't think now it was 7.30?

A. I don't know what time it was.

Q. You are willing to be guided by what your husband says as to what time he came in?

A. Well, he might have been the one that looked at the clock. I didn't get up and look at the clock.

Q. That is the question. You say you are willing to accept your husband's word as to the time?

A. Always willing to believe his word.

Q. What time did he tell you he came home the night of the tragedy?

A. I don't remember him telling.

Q. Then how do you know what time he arrived home?

A. I said I thought it was around 7.30.

Q. What time do you think it was now?

A. I don't know what time it was now.

Q. You are not even thinking?

The Court: Well, now, she says she thought it was 7.30. She has not changed her thought on that point, as I understand it. And whatever anybody told her as to the time is not any evidence. She is guided by what she remembers. She says she thought it was about 7.30.

The Witness: I don't know what time it was now.

The Court: And if she has changed her mind

since by what somebody told her, that is a matter for the jury. She has changed her testimony.

Q. May I ask this one question: have you ever talked with Mr. and Mrs. Earnest about the time that your Charlie was home on the night of the tragedy?

A. I don't know that I have.

Q. You won't say that you haven't talked with them, will you?

A. Why, I stayed there three weeks after Charlie was arrested.

Q. Then in all probability you did talk with them about the time that your Charlie was home on the night of the murder?

A. I might have.

Q. How long was your Charlie out on the night of the tragedy?

Mr. Peacock: I object. This girl has gone over that half a dozen times, and the same question at least twenty-two times, and he has been over it six times that I have counted.

The Court: Yes, you have been over that.

Mr. Keown: I don't believe I ever got an answer to that question. I am willing to not ask that question if Mr. Peacock can show me anywhere in the record where that question has been answered.

Q. How long was your husband out?

The Court: Ask it this time and we will find out. We are consuming too much time.

A. I don't remember just what time it was, but I suppose it was about 1.30 then.

By the Court:

Q. 1.30 in the morning?
A. Yes, sir.

The Court: There is your answer.

Mr. Keown: I don't think it is fair to the witness. I don't think she understands my question.

Q. My question is how long was Charlie out on the night of the tragedy?
A. Well, I don't remember just what time when he went out, if that is what you are talking about.
Q. Regardless of the time that he went out or the time he came back, will you just tell me how long he was out?
A. How could I tell that? I didn't count the hours.
Q. You can't tell?
A. I didn't count the hours. Of the tragedy? I don't know just exactly how long he was out, because I was sick in bed.

By the Court:

Q. You say you don't know?
A. I don't know. It might have been about two hours.

Mr. Peacock: There is no question now, Mrs. Powell.

Q. What was it that you said that Mr. Mohr told you to whisper to your husband?

A. I forget the name of the lodge he told me to whisper. He told me to whisper the name of a lodge to Charlie.

Q. And that was all he ever told you to say to Charlie?

A. That I remember right now.

Q. Who else besides Harry Mohr contributed towards your support while your husband was in jail?

A. The Camden Courier gave me $10.

Q. Any one else?

A. Mr. Mohr gave me $5 one time and he said it was from Dr. Knaub.

Q. Did Harry Bentum ever give you any money to help you get along?

A. No.

Q. Did anyone else ever give you anything?

A. The morning Mr. Mohr was arrested he was supposed to meet me at the restaurant and give me money, but Mr. Thomas instead gave me two dollars.

Q. Roy Thomas?

A. Yes.

Q. Do you know anyone else that has ever given you or helped you out up to the time that Mr. Mohr was arrested?

A. I think that was all.

Q. They were all very friendly to you, were they not, all the show people?

A. I don't know all the show people.

The Court: What has that got to do with it? I would like to know on what branch of the case you think this testimony is competent.

Mr. Keown: To check up the $90 that was given to her, she says, between the time when her husband

was arrested and the time that Mr. Mohr was arrested.

The Court: To check up $90?

Mr. Keown: Yes.

The Court: She says she used it up.

Mr. Keown: I want to find out now when it was, at what period it was Mr. Mohr gave her this $90, or whether she is referring to the amount that all of them gave between the time her husband was arrested and Mr. Mohr was arrested. That was my point, but I will not press it.

The Witness: I didn't know that they all gave me money.

The Court: There is nothing before the Court now.

WALTER LEROY EARNEST, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Where do you live, Mr. Earnest?
A. 45 Cooper Street, Camden.
Q. Do you know Harry Mohr?
A. Yes, sir.
Q. Did Harry Mohr rent any rooms from you?
A. He came there and rented them from my wife.
Q. Were you present?
A. No, sir; not at the time.

Mr. Keown: I move that be stricken from the record.

The Court: That will be stricken from the record.

Q. Were you there later?
A. Yes, sir.
Q. Did you see Harry Mohr at any time?
A. Yes, sir.
Q. Who paid the rent for the rooms?
A. The first time?
Q. If you know, yes, from the first time or the first time that you know.
A. Mr. Mohr.
Q. How many rooms were engaged?
A. Two rooms.
Q. What was the rent of the rooms?
A. Why, seven dollars, I think; not positive. I am pretty sure that was it.
Q. Who occupied those rooms?
A. Mr. Powell and Mrs. Powell and their daughter Charlotte.
Q. Mr. Powell, what Powell do you mean?
A. Charlie Powell.
Q. This defendant?
A. Yes, sir.
Q. And when did they first come to occupy the rooms?
A. What date?
Q. Yes.
A. I don't exactly know.
Q. Were you present when they came?
A. No, I was not.
Q. Where is your wife, Mr. Earnest?
A. She is home.

Q. Is she unable to be here?
A. Very much so, yes, sir.

Mr. Kelsey: May it please the Court at this time I desire to make a motion—we will have to get the testimony of Mr. Earnest's wife in Camden. I understand she has a young baby and is unable to be here. I want to make that at this particular time, notice to Mr. Keown, and we will have to make some preparation to take her testimony.

The Court: You can't do it without consent of Mr. Keown. The defendant has a right to take her testimony but not the State as I understand it. The statute gives the defendant that power, to examine witnesses who cannot be produced at the trial and to have their depositions read. But I do not know of any statute which permits the State to do that, because the defendant is entitled to be confronted with the witnesses.

Mr. Kelsey: It was my purpose at this time, just having been apprised of this fact, to ask Mr. Keown.

The Court: That will be another matter which may afterwards be arranged. I won't make Mr. Keown say either yes or no at the present time.

Q. How long was Mr. Powell and his wife and daughter in your house or occupying these rooms?
A. As far as I can recollect about five months.
Q. Did you see Harry Mohr often at the house?
A. Yes, sir.
Q. Who did he come to see?
A. Why, I couldn't state that; I don't know who he came to see, but he came there and usually went out with Charlie.

Q. Usually went out what?
A. With Charlie Powell.
Q. How would he go out with Charlie Powell?
A. Sometimes they would go afoot and sometimes in Mr. Mohr's machine.
Q. What kind of machine did Mr. Mohr have?
A. A Ford coupe, closed car.
Q. Did you ever see Harry Mohr in the house?
A. Yes, sir.
Q. How often, how many times did you see him there?
A. I couldn't state that positively.
Q. You say you don't know how many times?
A. No, sir; I never kept that much track.
Q. Would you say fifteen times?
A. Yes, that many anyhow.
Q. And possibly more?
A. Possibly more, possibly less.
Q. Now did you know when John Brunen was murdered, about the time?
A. Only from newspaper reports.
Q. Well, you know about the time?
A. Yes.
Q. Did you see Mohr at your house after the murder?
A. Yes, sir.
Q. Where was it?
A. What do you mean, daytime or night time?
Q. Yes, and how soon after the murder, if you can fix the time.
A. I think it was only two or three days the first time; as far as I can recollect it was at night, evening, early part of the evening.
Q. Early part of the evening?
A. Yes.
Q. About what time?

A. That I wouldn't want to say. I don't recollect.

Q. Where did he go then when he went to your house?

A. Went upstairs in Mr. Powell's rooms.

Q. How long was he there, do you know?

A. The times that I mean, the first time, he was only there a short while, I don't believe he sat down the first time.

Q. Did you have any talk with Mohr while he was there?

A. Yes, sir.

Q. What did he say?

A. Why, he was stating his doubt as to Charlie's doing it, him being arrested, that was all.

Q. What did he say?

A. He says he don't believe he done it at that time.

Q. Who said that?

A. Mr. Mohr said this.

Q. He didn't believe that Charlie did it?

A. Yes, sir.

Q. And was that all he said?

A. No, that was not all that was said, but that is all I remember distinctly. I do remember that.

Q. Do you remember anything else that was said, if not distinctly, as near as you recollect.

A. I remember him saying it couldn't be possible that he did it because, "You know," he says, "he was home that evening." I remember that.

Q. Do you know whether he was home that evening?

A. I know he was home, yes, sir.

Q. What time?

A. Why, it was at least 7.30 if not later. It could have been but it was no earlier than

7.30 in the evening. It could have been later, it could have been ten minutes to eight, it could have been five minutes to eight, it could have been eight o'clock.

Q. Did you ever see any money exchanged?

A. Never saw any, no, sir.

Q. Did you ever see any one give Charles Powell any money?

A. No, sir; not actually seeing the passing of money.

Q. What did you see?

A. I didn't see anything in that way.

Q. Tell me what you saw.

A. The only thing I know about money is ——

Mr. Keown: Don't tell us unless you have seen it.

The Court: If you didn't see it you must not tell what anybody told you.

Q. Do you know whether Charles Powell purchased any clothes shortly after the murder, a suit of clothes?

A. Only what was told me by them.

Q. Only what was told you by who?

A. Mr. Powell and Mrs. Powell.

Q. Mr. Mohr didn't tell you anything?

A. No, sir.

Cross-examination.

By Mr. Keown:

Q. Now Mr. Earnest, what time did you return home from work on the 10th of March?

A. Why, I was done, I think my run was done at 6.55.

Q. 6.55?

A. Yes, sir.

Q. And where did you finish work at 6.55?

A. Public Service car barn, Newton Avenue.

Q. And how far is that from your home?

A. Why, to me it is about ten minutes walk.

Q. And what time did you arrive home on the night of March 10th?

A. It was after half-past seven anyhow.

Q. Now how near to half-past seven was it, Mr. Earnest?

A. Why I wouldn't state. I don't know.

Q. Did you go directly home?

A. Yes, sir.

Q. And if you went directly home after quitting work at 6.55 what time did you arrive home?

A. It all depends.

Q. Depends upon what?

A. If I had my day cards straight to put in, what receipts I had to turn into the receiver's office at the car barn.

Q. And how long does it generally take you to make out those cards?

A. Ordinarily, without any trouble, for just a little run like I had, half an hour to three-quarters of an hour sometimes.

Q. Have you any way of fixing on the night of March 10th what time you did arrive home?

A. Not exactly, no, sir.

Q. How much later than 7.30 in your opinion could it be?

A. Not later than 8 o'clock anyhow.

Q. Now when you arrived home the night of the tragedy was Mr. Powell home?

A. Yes, sir.

Q. And where was Mr. Powell?

A. In the other bathroom on the second floor.

Q. And did you see him as soon as you entered your home?

A. When I got to the foot of the stairs, yes, sir.

Q. Did you have a conversation with Mr. Powell?

A. A little bit.

Q. Will you please tell his Honor and the gentlemen of the jury what the conversation was that you had with him at that time?

A. My baby got out into the hall and as I came in the house I seen him in the hallway and I says, "What are you doing here?" and Mr. Powell just came out of the bathroom and he says, "Are you speaking to me?" I says, "No, I am speaking to my little baby." He says, "Oh, I thought you were speaking to me." And at that time he was in his stocking feet, had just come out of the bathroom.

Q. Where did Mr. Powell go?

A. Went on into his room.

Q. Did you see him later that evening?

A. That I can't say, whether I did or not.

Q. Did you later have a conversation with Mr. Powell?

A. Yes, sir.

Q. About seeing him on that particular evening?

A. Yes, sir.

Q. When did you have that conversation with him?

A. As far as I can recollect it was only three or four nights afterwards.

Q. What was that conversation that you had with Mr. Powell about having seen him on the night of the tragedy?

A. He said to me, he says, "You remember the

other night when you came in, don't you?'' I says, ''Yes.'' He says, ''You remember seeing me here, don't you?'' I says, ''Yes.'' He said, ''Have you any idea as to what time it was?'' I says, ''No, not exactly. As far as I can judge it was in the neighborhood of half-past seven or quarter of eight.'' I says, ''Somewhere around there, it may have been a little later.'' He says, ''Well, you know I am connected with the circus and,'' he says, ''this here murder has happened and we are all cast under suspicion, any one connected with the circus and,'' he says, ''will it be anything to you to state if I was home that night?'' I says, ''Sure. I know you were.''

Q. Did you ever have a conversation with Mr. Powell in the presence of Mr. Mohr about Mr. Powell being home on the evening of March 10th between 7.30 and a quarter of eight?

A. I don't believe so.

Mr. Keown: I want to recall Mr. Earnest later. May I make an arrangement to get him on the phone the day before I need him?

The Court: Yes, he will call you up, Mr. Earnest the day before and then you must come here.

Mary Bauer, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Where do you live, Mrs. Bauer?
A. I live in Cambridge.

Q. And where do you live as compared with the Cambridge station? You live toward Camden or toward Riverside?

A. Towards Camden.

Q. On March 10th last in the evening where were you?

A. In the evening—well, I came from work, then I was going back to church.

Q. What time did you get home from work?

A. About twenty-five minutes after five.

Q. And then you said you went to church?

A. Was going to church, yes, sir.

Q. Now in going to church which direction did you go from your home?

A. Towards Riverside.

Q. Now where is the church, in Riverside?

A. In Riverside, yes.

Q. Do you pass Cambridge station?

A. I do.

Q. Did you pass Cambridge station that night?

A. I did.

Q. What time did you leave home, do you know?

A. About twenty minutes after seven.

Q. And about what time did you reach Cambridge station, if you know?

A. Well, I guess it took me almost five minutes to walk there.

Q. When you got to Cambridge station what did you see?

A. I seen a man running towards me.

Q. From which direction was he running?

A. From Kinsinger's field.

Q. What way did he go?

A. He came right towards me and across the railroad.

Q. Where did he go when he crossed the railroad?

A. He went in a little car that was waiting for him the other side of the railroad.

Q. Tell us just what you saw happen at that time.

A. When I came up near the station I seen the man running towards me and I got frightened, but I thought, "Well, there is a car on the other side, I won't be afraid." So I got right to the station, I seen this little car come up from this little street on up on this road and stop there, and this man kept running. He ran right across the railroad, right in this car, and this man held his door open for him to get in this car, and turned around and went towards Camden.

Q. Did you hear anything?

A. I heard them talking but I don't know what was said.

Q. Were there any lights on the car?

A. No, no lights.

Q. What kind of a car was it?

A. Why, it was a small car, it was only a one seat car, just enough for two.

Q. Well, was it ——

Mr. Keown: Now I don't want you to lead this witness.

Q. Where did you go then?

A. I kept right on walking towards Riverside to the church.

Q. Now in going to the church did you pass the Brunen home?

A. I did.

Q. Now tell me what you saw in front of the Brunen home if anything.

A. Well, I didn't see anything in front, but on the porch there was two ladies, one was standing in the door, the other was out on the porch.

Q. How were they dressed?

A. Well, the one in the doorway, it seems she had a light dress on, no doubt was a house dress; the other was dressed for the street. She had a coat on with either a fur collar or fur neckpiece around it.

Q. Do you know what time it was when you passed the Brunen house?

A. Well, it was after half-past seven.

Q. How much after half-past seven?

A. Well, I couldn't tell you that.

Q. Did you walk frequently from the Cambridge station by the Brunen house?

A. Yes, I do.

Q. Well, how long do you think it would take you to go from the Cambridge station to the Brunen house?

A. Oh, it don't take so long. I just couldn't tell you. About three or four minutes, no more than that—about five minutes, I guess.

Q. How long was it when you got to the Brunen house after you saw the man run across the road and get in the car?

A. I say four or five mintues to get from the station to Brunen's home.

Q. Now do you know what time it was, can you fix the time by anything that happened, the exact time? Where were you going?

A. When?

Q. Where were you going when you went by the Brunen house?

A. To church. I was going to church.

Q. What church?

A. Why, the Catholic Chuch, right there in back of Brunen's home.

Q. Well, did you get there before services?

A. Oh, no, I was very late.

Q. And what time does church begin, do you know?

A. Half-past seven.

Q. Did they ring the church bell?

A. Supposed to ring at half-past seven.

Q. Did you hear the church bell?

A. Yes, I did.

Q. Where were you when you heard the church bell?

A. Why, I was between Chester Avenue and Lippincott Avenue when the church bell rang.

Q. Where is Chester Avenue and Lippincott Avenue? How far is that from the Brunen home?

A. About a square.

Q. In which direction?

A. Towards Riverside.

Q. What kind of a night was it, do you remember?

A. Yes, it was raining that night.

Q. Did you have anything with you to protect you from the rain?

A. Yes, I had an umbrella.

Q. How close did this man that ran across the road in front of you, how far was he from you?

A. About from over here to that distance from me to you.

Q. What kind of a man was he? Could you give any description as to his height?

A. Well, he wasn't very high and he wasn't very thin. He was a set fellow.

Q. Were there any cars in front of the Brunen home when you passed?

A. No, sir.

Mr. Keown: I hate to object to him suggesting the answers. He can say what there was in front of the Brunen house.

The Court: I don't see any harm in that. He has spoken about the man going over towards the station.

Mr. Keown: He is now asking the question was there any car in front of the Brunen home. I say that is leading. That is a new subject he has taken up, and he asks the question in that form, which certainly makes the witness know what the answer should be, and it is that I object to, the form of the question.

The Court: You ought not to ask leading questions.

Q. Did you see anything in front of the Brunen home along the street?
A. Going to church?
Q. Yes.
A. I did not.

Cross-examination.

By Mr. Keown:

Q. Had you passed the Brunen home on your way to church before you heard the church bells ring?
A. Had I passed the Brunen home before the church bell rang? No, not before the church bell rang.
Q. How far were you from the Brunen home when you heard the church bells ring?
A. About half a block.
Q. You said nearer Riverside?
A. Yes.
Q. Is that what you mean or don't you mean nearer Riverton?

A. Oh, no; Riverside.

Q. In going from your home do you pass through Riverside before you get to the Brunen home?

A. I do. I have to pass the Brunen home to get to Riverside.

Q. No, that was not my question. My question was, in coming from your home do you pass through Riverside before you get to the Brunen home?

A. Oh, no.

Q. Then in going from your home you must pass the Brunen home before you get into Riverside?

A, That is right.

Q. Then you hadn't yet gotten into Riverside before you passed the Brunen home, had you?

A. I suppose when you pass Chester Avenue you are in Riverside.

Q. Oh, I beg your pardon. Now where is Chester Avenue in relation to the Brunen home?

A. Why, that is about one block down.

Q. Nearer Camden?

A. Yes

Q And what side of the street were you walking on?

A. On the right-hand side going up.

Q. On which side of the railroad?

A. On the right-hand side of the railroad.

Q. And is there a sidewalk or a path?

A. Yes, it is a path.

Q. Just a moment, please; from Cambridge up to Chester Avenue?

A. Yes, that is the path.

Q. And what kind of a path is it?

A. Well, I suppose it is what we call a street. We all walk through that path.

Q. Well, it is not improved, is it?

A. No.

Q. It is just walking practically on the outskirts of the lot, isn't it?

A. Yes, a field.

Q. The improved street is on the other side of the tracks?

A. That is the road.

Q. Now just where were you when you saw this man runing towards you in relation to Cambridge station?

A. Well, about twenty feet away from the station.

Q. And were you on the same side of the street then that you later were?

A. On the same side of the street this man was, yes.

Q. No, my question was were you then on the side of the street which was unimproved?

A. Unimproved, yes.

Q. Now how far is it from Cambridge station house to across the railroad tracks?

A. Just across the trolley track.

Q. Well, you first have to leave the station, you go across the trolley track, do you not?

A. Yes.

Q. Then you also have to go across two railroad tracks?

A. The railroad track first, then was the trolley track.

Q. You mean in going from Cambridge station over to where you were?

A. Yes.

Q. Don't you pass the trolley track first?

A. No, not off of this road. You pass the railroad first.

Q. In going from where you were to Cambridge station you first pass the railroad?

A. I don't pass no railroad, because I come right on up this side of the street.

Q. I am trying to help you estimate the distance between the Cambridge station house and the place where you were when you saw this man running. Would you kindly point out here in this courtroom about how far it is from Cambridge station to where you were standing when you saw this man running towards you?

A. Where I was standing it was not very far. It was like right here like.

Q. You mean the man was that near to you?

A. That near to me, yes, when he crossed the tracks.

Q. How far were you and the man then from the Cambridge station house?

A. Why, about 50 feet then.

Q. Will you point out in this courtroom here about how far it is?

A. That is, I guess, the whole across the room.

Q. The whole across the room?

A. Yes, about that.

Q. Would it be any further than that?

A. Well, I don't thing it would be very much.

Q. Now were you on the road that crosses the railroad crossing there?

A. On the road, yes. I was on the road, yes, but not on the highway. I was on this side where there was no improvement.

Q. How far from you was the man when you first noticed him running in your direction?

A. Well, he was further than this room when I first noticed him.

Q. And it was foggy?

A. Yes, it was foggy.

Q. You had your umbrella down over your head?

A. No, I didn't have it down very low.

Q. You were holding it naturally over your head?
A. Yes.
Q. And picking your way out along this dirt road?
A. No, sir; I wasn't, because I was in a hurry and I walked through everything.
Q. Did the man come right towards you?
A. He did.
Q. He didn't seem to be frightened to see you there?
A. I suppose he didn't see me till he got near me.
Q. But when he saw you did he appear to be frightened or did he continue right along his way?
A. He kept right on running.
Q. Did he have anything in his hand?
A. That I couldn't tell you. That I didn't see, his hand.
Q. When he passed you did you continue to keep on going?
A. No, I stopped and watched this car. He got in this car.
Q. Now where was the car parked?
A. Why, in that little street right there across the station.
Q. Was it parked over on the improved street or was it over on the side of the railroad crossing you were on?
A. No, on the other side, on the improved street.
Q. On the improved street?
A. Yes.
Q. And in what direction was that car facing?
A. Riverside.
Q. The same direction that you were walking?
A. Yes, same direction.
Q. And upon what part of the street, the improved street, was it?
A. Yes.
Q. On what part of the improved street was it?

A. On the left-hand going up.

Q. It was parked on the left-hand side of the street going towards Riverside?

A. Towards Riverside.

Q. And there were no lights on it?

A. No lights on it.

Q. How could you see it from where you were?

A. Well, I stopped. I didn't know what it was, but I seen all those things.

Q. When the man passed you he ran and he got into this car?

A. Yes, sir.

Q. The door was open for him?

A. Yes.

Q. Which door, the nearest door to him or did he go around the car and get in?

A. No, this side he didn't go around the car.

Q. Now, what did the car then do?

A. Why, as soon as he got in the door slammed shut and they turned around as quick as they could and to Camden they went.

Q. Did they turn around by going forward or by going backward?

A. I didn't take particular notice of that.

Q. If you saw them turn around you can tell us whether they turned around by going forward or by going backward?

A. Let me think; the back went back in that little street, so they must have turned around this way again.

Q. Would that be forward or going?

A. Backward.

Q. Then, in which direction did it go?

A. Toward Camden.

Q. Did you watch it any longer?

A. I watched it until it got to the spring works.

Q. How far was that from where you saw it start?
A. About two blocks.
Q. You could see it?
A. Yes, I think—let me think, I just don't know exactly from the station to the spring works, it is not very far, no, I don't believe it is quite two blocks from the station to the spring works.
Q. The spring works is nearer your home?
A. No, that is along the railroad.
Q. Coming from the Brunen home it is between the Brunen home and Camden?
A. Yes.
Q. How far is it approximately from where you saw the car start?
A. Well, I guess it would be a block, if not more.
Q. Then you took your eyes off the car?
A. Yes.
Q. And you continued to go toward the church?
A. Riverside.
Q. Now, did I understand you to say you saw someone standing on the Brunen porch?
A. You did.
Q. The front porch or side porch?
A. The front porch.
Q. What description did you give of those parties?
A. I said there was a stout lady with a light dress on, no doubt a house dress. She was standing in the doorway and the other lady was standing out on the porch.
Q. Was the porch lighted?
A. No, it was dark, the only light was in the house.
Q. There was a light in the house?
A. Yes.
Q. It isn't possible that other figure that was dressed could have been a man?

A. No, I took notice of that. I took notice of her fur piece.

Q. Why?

A. Because I always like a fur piece, and I noticed it.

Q. You noticed it because you are fond of furs?

A. Yes.

Q. What did they do, if anything?

A. I don't know, they was talking.

Q. Talking so you could hear them?

A. No.

Q. You didn't stop?

A. No, I kept right on going.

Q. Then you went to church?

A. I went to church.

Q. I understand you heard the church bells ringing, did you, before you got to the Brunen home?

A. I did.

Q. And then you passed the Brunen home; do you know the Walters home?

A. Yes, I do.

Q. You would have to pass the Walter home before the Brunen home?

A. Yes.

Q. Then do you know the Stecher home?

A. Yes.

Q. Were you going to the Polish church around the corner?

A. Yes, sir, around the corner.

Q. That would mean, this being the Walters' house? (Indicating on map.)

A. Yes.

Q. And this being the Brunen house, and this being the Stecher house—(indicating). Don't let that confuse you, because that isn't supposed to be the Stecher house, that is supposed to be a drawing of

this house. You would continue around the corner to go to the Polish church?

A. Yes.

Q. And you say you were quite late for the services?

A. I was.

Q. Did you see any other automobiles at Cambridge station when you saw this one there?

A. I did not, only this one.

Q. And you kept watching and saw no other automobile?

A. Only this one.

Q. Did you see a trolley car there at the time?

A. I did not.

Q. Is it possible a trolley car could have been there without you seeing it?

A. I don't think so, because I don't think trolleys were due at that time.

Q. Regardless of the time the trolley is due, would it have been possible for a trolley car to have escaped your observation?

A. No, I don't think so.

RUTH MAY HAINES, sworn for the State.

Direct examination.

By the Prosecutor:

Q. Where do you live?

A. Riverside Park.

Q. Do you know Mr. Mohr?

A. I didn't know him to speak to but I knew him when I seen him.

Q. Do you see him here in the court room?

A. Yes, sir.
Q. Where is he?
A. (Witness indicates with finger.)
Q. Do you remember the night that John Brunen was murdered, you know when it was, don't you?

The Court: You can answer yes or no, don't shake your head.

The Witness: Yes.

Q. Where were you the night before?
A. Home, lying on the couch.
Q. Did you see Harry Mohr that night?
A. Yes, sir.
Q. Now, where did you see him? Tell us where you saw him and what you did see. Take that chewing gum out of your mouth; the jury would like to hear you.
A. I seen Harry Mohr and Powell in Harry Mohr's coupe.

The Court: What?

The Witness: I seen Harry Mohr and Powell in Harry Mohr's coupe.

Q. Where did you see them?
A. They were crossing the railroad tracks.
Q. At what point?
A. At King's corner.
Q. Where?
A. At King's corner.
Q. Where is King's corner?
A. Down on Riverside and back on Chester Avenue.
Q. How far from where John Brunen lived?

A. About a square.

Q. In which direction? I mean, is it this way or the other way?

A. It is up that other way (indicating).

Mr. Peacock: Toward Riverside.

Q. What time was it, Ruth?

A. Between five and six, around that time.

Q. What were you doing when you saw them there?

A. I was lying on the couch sick, and I was looking out the window.

Q. Do you know Charles Powell?

A. When I see him.

Q. Do you see him here?

A. Right there (indicating).

Cross-examination.

By Mr. Keown:

Q. When did you first see Charles Powell?

A. He was in the car with Harry Mohr.

Q. That is the first time you ever saw him?

A. Yes, sir.

Q. How do you know it was Charles Powell?

A. I didn't know it was him.

Q. When did you next see Charles Powell?

A. I seen his picture.

Q. And you remember that that was the man you had seen in a Ford car?

A. Yes.

Q. And when did you see his picture?

A. I think it was one of Parker's men brought it.

Q. Had you told anybody about seeing Powell before one of Parker's men brought the picture to you?

A. No.

Q. And what did they say to you when they brought this picture to you?

A. They asked me if it looked like the man I saw.

Q. Nobody at that time had even known you had seen the man, had they?

A. I don't—I don't think so.

Q. So somebody deliberately came to you and asked you if you ever had seen that man before; wasn't that so?

A. Yes.

Q. And did they suggest to you that might have been the man that was in a Ford car?

A. No.

Q. Well, what then caused you to think that was the man that had been in the Ford car?

A. Well, I wasn't sure it was him, but I thought it was.

Q. But you are not sure it was Mr. Powell that was in the Ford car?

A. No.

Q. Now when had you seen Harry Mohr before that time?

A. He used to come over to the garage next door to us to get gasoline.

Q. You knew him?

A. I just knew him when I saw him.

Q. Who suggested to you Harry Mohr might have been in that car that you saw?

A. Because I knew it was Harry.

Q. In other words, you saw Marry Mohr in a car the day before the murder?

A. Yes, sir, at night time.

Q. Did you not say between five and six o'clock?

A. Well, between five and six.

Q. Was it dark?

A. Well, it was starting to get dark.

Q. And that was on March 9th?

A. Yes.

Q. And you are sure it was between five and six o'clock?

A. Yes, sir.

Q. Now, how far was the car from the window that you could see through from the couch that you were lying on?

A. About two lots.

Q. And how wide are those lots?

A. I don't know.

Q. Well, point out in this room, if this room is large enough, from a point where you were lying on a couch to the place where you saw the Ford car.

A. From about there to there (indicating).

Q. Where do you mean when you say there?

A. The whole length.

Q. You mean to say it was just the length of this room from your window to the road where you saw the car?

A. Yes, sir.

Q. Now, where is it you live?

A. Riverside Park.

Q. And I want your house number.

A. We have no house number.

Q. Well, you just try to tell me so I can go and find your house.

A. There is a store on Chester Avenue.

Q. Chester Avenue?

A. Then you walk up.

Q. Up where?

A. There is a store, then comes King's house, and a bungalow next to a garage.

Q. What street do you live on?

A. I think it is called Railroad Avenue.

Q. And what is the nearest cross street to Railroad Avenue?

A. Chester Avenue.

Q. And how many houses from Chester Avenue is your home?

A. A store and then a house.

Q. The store, then a house, then comes your house?

A. Yes, sir.

Q. Now, what room were you lying in?

A. The kitchen.

Q. And you looked through the kitchen window from the back of your house across the two lots between your house and the house next to you and saw out on what street to see this car?

A. There is a lot between us and the house.

Q. Is that the lot that you looked across?

A. Yes, and I looked down the crossing and just noticed them going across.

Q. The car you saw pass, passed the corner of Chester Avenue and Railroad Avenue?

A. Yes, sir.

Q. And you could see all that distance and see who was in the car?

A. Well, they rode right past our house and crossed the corner.

Q. Where did you see the car, when it crossed the crossing or passed your house?

A. It passed our house, that's when I seen it, and it crossed the corner.

Q. When did you notice who was in it?

A. When it passed our house.

Q. Can you see from your kitchen window to the road in front of your house?

A. Yes, sir.

Q. When an automobile passes?

A. Yes, sir.

Q. Is your kitchen in the rear of the house or in

the back or in the front, there? Does your house face Railroad Avenue?

A. Yes, right along the railroad.

ALBERT E. FLETCHER, sworn for the State.

Direct examination.

By the Prosecutor:

Q. Where do you live, Mr. Fletcher?

A. In Beverly.

Q. And Beverly is which side of Riverside, is it toward Burlington or the other side?

A. Toward Burlington.

Q. Do you remember March 10th last?

A. I do, sir.

Q. In the evening?

A. Yes, sir.

Q. Did you go anywhere that night?

A. I do, I did every Friday night last winter, I did.

Q. On this particular night I am talking about?

A. I did.

Q. Where did you go?

A. I went to Camden.

Q. What time did you leave home?

A. I couldn't exactly say the minute I left home. We left home by our clock said seven o'clock. Sometimes it is a little slow, sometimes fast.

Q. Which direction did you go?

A. Riverside.

Q. And do you know what time it was when you went to Riverside?

A. When I got to Riverside the gates was down at the crossing. I waited until the train was proceeding toward Trenton went on. When the gates lifted we crossed the street and stopped the car almost in front of the police station. It was a new car, so the wife was a little bit nervous and it was running, and I said, "I will get out and see how much gas we got." I hadn't put it in only twice during the week. She said, "What time is it?" I looked up at the clock at the Watch-Case Company, and it said fifteen minutes past seven. I know those clocks don't run regular, they jump every few minutes to tell the time.

Q. What did you do then?

A. I took out the gasoline stick, took off the cap and measured the tank. I was going to turn around to McCoy's if we needed gas. I said, "We don't need no gas." I went across the drug store and got some headache pills and got in the car and proceeded toward Camden.

Q. Did you pass the Brunen home?

A. Not on the one side of the track that crosses at Taubel's, we went on the good side.

Q. You were on which side of the railroad track, toward the Brunen home or the other side?

A. On the opposite of the railroad track from the Brunen home.

Q. On the improved road?

A. Yes.

Q. Tell us what happened when you got there?

A. Well, we didn't leave Riverside at fifteen minutes past, we probably stayed there four or five minutes, probably longer. We didn't look at the clock the second time, because clocks, especially tower clocks, which I build, they do not build them to run, they jump every few minutes to tell the

time. As we got towards opposite the Brunen home, which is a hedge there, my boy said ——

The Court: Never mind what your boy said.

Q. As a result of what your boy said ——

The Court: No, what did you see?

The Witness: I heard something like a shot. The boy said, "There goes your tire."

The Court: One moment, don't say what your boy said.

The Witness: Well, I heard a shot go off and I stopped the car and got out thinking I had a tire blowed up, and I looked at them all and I saw no tire blowed up. I was going to King's corner, if it was, and proceeded to Camden. We went there slow. I had to keep wiping the windshield. We didn't see anything at the Cambridge station. We had to pick our way, and we didn't see anything until we got opposite the first part of Dreer's Nursery. There is a switch. As we were passing on the nursery part of that a Ford coupe passed us at traffic speed.

Q. Terrific speed?

A. Yes, sir, going in the same direction. In order to avoid hitting us, my wife grabbed my hand. I said, "That's all right, the fool ain't got no lights."

The Court: That will be stricken out. If you do this thing again after I have admonished you, I will commit you.

Q. Did you notice whether there were any lights on the car or not?

A. There was none, not in the rear.

Cross-examination.

By Mr. Keown:

Q. Mr. Fletcher, have you been interviewed concerning this case by someone associated with me?

A. I have.

Q. Did they tell you who they were?

A. They did not tell me who they were.

Q. They told you they were investigating the case in my behalf?

A. They said nothing to me.

Q. How did you know who they were or where they were from?

A. My wife opened the door and they told a lie, and they got in the door.

Q. After they got in, did they tell you what they wanted?

A. They said the chief of police of Riverside had told them where I lived, and they came up to interview me in regard to the Brunen case.

Q. You knew they were not representing the State of New Jersey?

A. I did.

Q. You granted them an interview?

A. Yes.

Q. And did you not tell them ——

The Court: Who were "them"?

Mr. Keown: Mr. Breacker, Mr. Herman.

The Court: Who else?

Mr. Peacock: I ask the time be stated.

Q. This is the only interview they had with you, isn't it?

A. It is.

Q. And did you not upon that only interview that you had with Mr. Breacker and Mr. Herman tell them that you were in front of McCoy's garage on the night of the tragedy?

A. In front of McCoy's garage?

Q. Yes.

A. I did not.

Q. McCoy's station, gas station?

A. Yes.

Q. You told them that?

A. That I was in front of there early in the evening.

Q. Did you not tell them that you looked up at the clock and saw the time?

A. I did.

Q. Did you not tell them that the clock said seven-three?

A. I did not.

Q. Did you not tell them that you left immediately, because you did not need gas?

A. I did not.

Q. Did you not tell them that you would have arrived at the Brunen house about seven-seven?

A. I did not, I never knew nothing about the Brunen house.

Q. Well, you know about the Brunen house now?

A. I didn't then, I didn't know it from one house to the other.

Q. The interview you had with them was only just a week ago?

A. I guess it was longer than that.

Q. You knew about the Brunen case before then?

A. About that.

Q. You had made a statement to the authorities?

A. I did.

Q. You had been shown around and shown the Brunen house?

A. I did not, I never went any closer than the tracks.

Q. How do you know you had the blow-out there?

A. Because I was 350 feet from the corner, King's corner and at the improved hedge.

Q. Who measured that?

A. Nobody, I know the distance.

Q. You only know you were in front of the Brunen house because you were 350 feet from a road.

FRED SCHEETZ, sworn for the State.

Direct examination.

By the Prosecutor:

Q. Where do you live, Mr. Scheetz?

A. 600 Rancocas and Jersey Avenue.

Q. What town?

A. Riverside.

Q. Where did you live on the 10th day of March, the same place?

A. Philadelphia.

Q. Where were you on the 10th day of March, last?

A. In the city in the morning.

Q. Where at night?

A. Coming on the way to Riverside.

Q. How did you go to Philadelphia that day?

A. In a car.

Q. Automobile?
A. Yes, sir.
Q. Who with?
A. Harry C. Mohr.
Q. This defendant?
A. Yes, sir.
Q. What time did you get back?
A. I left Camden half-past six and was in Riverside half-past seven at Lippincott Avenue.
Q. Who do you stay with?
A. Walters.
Q. Mrs. Walters?
A. Yes, sir.
Q. How close is that to the Brunen home?
A. About 170 some feet.
Q. In what direction?
A. Well, it is from the west.
Q. Toward Camden?
A. I come on the Camden side, they live on the east side.
Q. What time did you get home that night?
A. I got at the crossing half-past seven, and was in the house about a couple of minutes for the time being.
Q. Anybody home?
A. Nobody home.
Q. Any lights in the house?
A. No, sir.
Q. How did you come home?
A. I came home in a trolley car.
Q. What time did the trolley car ——
A. The trolley car was at Lippincott Avenue at half-past seven. It might be later or earlier, I couldn't tell you exactly, but I say half-past seven.
Q. Did you notice any bells or anything happen that night?
A. At the time I came home, no sir, I did not.

Q. What did you do when you got home?

A. Run in the house and seen nobody was home, and I took a glass of tea.

Q. How long were you in the house?

A. About five minutes.

Q. Who came in the house?

A. Mrs. Brunen.

Q. What time?

A. Twenty-five minutes of eight.

Q. How do you fix that time?

A. Well, I give myself a couple of minutes to walk over from the crossing to the house, about two minutes.

Q. What did she say?

A. She came in and hollered, "Barbara" three times.

Q. Who did she mean?

A. That is the Mrs. of the house.

Q. Mrs. Walters?

A. Yes; she wasn't there.

Q. Then what did she do or say?

A. She said, "Oh, my, John is shot."

Q. Tell us just exactly what she said and what you did.

Mr. Keown: I think the witness has said just exactly what she said.

A. When she came in she kind of fainted and laid to the floor, and I hollered at her to come to, but I didn't get no answer, so I felt if her heart was beating.

Q. Did she ask you for anything?

A. So she put her arms around my neck and I picked her up off the floor.

Q. What did you do then? Tell us everything that happened.

The Court: Tell the whole thing, go ahead.

The Witness: When I picked her around I give her a drink of wine, about that much (indicating). So then she said, "Come on over to the house." She said, "Come on over." I said, "I will, wait." So we went on over with her, so when she opened the door she called the dog in.

Q. Where was the dog?

A. She was outside. The both of us came over. I don't know whether inside or outside.

Q. What was the dog's name?

A. Snookie.

Q. Then you went in the house?

A. Went in the house.

Q. And called the dog in?

A. The dog was called in.

Q. Now what part of the house did you go in?

A. The front door.

Q. The front door?

A. Yes.

Q. Any light in the house?

A. Light in the house.

Q. In the front part of the house when you went in?

A. No, no light.

Q. When you got in the house what did you do?

A. I went on right back to the kitchen. I stood from here to that table away from the man that was dead. So when I went in and looked at him I came out again and I told Mrs. Brunen he was dead. She says, "Oh, no, he ain't dead." So I changed the subject. So I walked backwards and forwards in the room with the woman and she called up the doctor.

Q. What did you do?

A. Just as the doctor came in I went out to the moving pictures after Hazel and her grandmother.

Q. Now you said you put the dog in the house. What did you do with the dog?

A. Put it down in the cellar.

Q. Did you go in the cellar?

A. No, sir; I didn't; just opened the door, just let the dog down in the cellar.

Q. From the inside of the house?

A. From the inside of the house, the dining room.

Q. You said you saw the man dead in the chair?

A. Yes.

Q. Did you know John Brunen?

A. Oh, yes, I knew him.

Q. Who was the man that you said was dead in the chair?

A. John Brunen.

Mr. Keown: I have no cross-examination at this time. I will ask Mr. Scheetz to be around so when I want to call him.

MRS. ELIZABETH STECHER, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Mrs. Stecher, where do you live?

A. Riverside, New Jersey.

Q. What is your husband's name?

A. William Stecher.

Q. Is he the former sheriff of the county?

A. He was; yes, sir.

Q. And where do you live, Mrs. Stecher, relative to the John Brunen home?

A. Next door.

Q. In which direction, towards Riverside or towards Camden from the Brunen home?

A. Towards Riverside.

Q. On the 10th day of March last, the night of the John Brunen murder, were you home?

A. I was, sir.

Q. Who was present at your home that night?

A. My son-in-law, my daughter and my sister-in-law, Mr. Stecher's sister.

Q. Did you know the Brunen family, that is, John Brunen and Doris Brunen and Hazel Brunen?

A. I knew them a little bit, not a whole lot.

Q. How long had you know them?

A. I guess about two years, that they had been there.

Q. And how close is your house to their house?

Mr. Keown: If your Honor please, I think it may be confusing. The map shows the exact distance. I think we have got that in evidence. Why go over that same ground?

Q. Is there any obstruction between your house and their house?

A. At some times, when the trees are in bloom.

Q. Was there any on March 10th?

A. Well, there was a misty evening, it was a poor, misty evening, very dark.

Q. Did you hear anything that night?

A. I heard a shot.

Q. Did you hear any outcry or anything else after the shot?

A. No, sir.

Q. Where were you when you heard the shot?

A. On the back porch, towards the Brunen home, hanging up towels, tea towels, or supper towels, you might say.

Q. Did you notice whether there were any lights in the Brunen house?

A. I didn't notice.

Q. Do you know what time you heard the shot?

A. I didn't pay any attention to the time.

Q. Did you hear any train?

A. I heard a train, didn't notice which way it went. I heard a train.

Q. Well, how near to the time that you heard the train did you hear the shot?

A. Well, I don't know.

Q. Well, was it anywhere near the same time?

A. Pretty close.

Q. You said your house was lighted up?

A. My house was all lit up.

Q. Was your husband home?

A. No, sir.

Q. Where was he?

A. He had gone to his office up in Riverside.

Q. What time did he leave for his office, do you know?

A. No, I couldn't say.

Q. How did he go to his office?

A. I didn't pay any attention; I wasn't out front, I had gone in the home.

The Court: There is no dispute that there was a shooting there. She can't fix the time. What difference does it make whether her husband was home or was away?

Mr. Kelsey: I think it is, your Honor. It is important at this particular time.

Q. You say you don't know how he went to his office?

A. I didn't pay any attention. I went right in the house from the porch. I got frightened.

Q. Well, I mean how does your husband go to his office?

Mr. Keown: If your Honor please, it doesn't make a bit of difference how he goes.

The Court: The objection is sustained.

Q. Did Mrs. Brunen ever come in to see you, to your house?

A. Well, sometimes, when they first came to Riverside.

Q. What did she come to your house for, do you know?

A. The use of the telephone.

(Objected to.)

The Court: Well, she has answered it. That is harmless.

Q. You were friendly to one another?

A. Always, sure.

Mr. Keown: I have no questions on cross-examination. I will want to use Mrs. Stecher later and I will make arrangements to get her on the telephone when I want her.

CHARLES WOODS, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Where do you live, Mr. Woods?
A. 31 Lafayette Street, Riverside, New Jersey.
Q. What is your business?
A. Sergeant of police for the Pennsylvania Railroad.
Q. And how long have you had that position? How long have you been in that position?
A. Two years down at Riverside.
Q. Do you know Harry Mohr?
A. Yes, sir.
Q. How long have you known him?
A. Well, ever since I have been stationed down there, about a year and a half, a little over a year and a half.
Q. Do you know Charlie Powell?
A. I have met the gentlemen.
Q. Where did you meet him, Mr. Woods?
A. I think I met him and Mr. Mohr at Lippincott's crossing one night.
Q. When was that, do you know?
A. I can't recollect the date.
Q. Now just tell us what happened when you met them.
A. Well, Mr. Mohr introduced me to this gentleman as Mr. Brown.
Q. Introduced him as Brown?
A. They were waiting for the trolley car.
Q. Where were they?
A. Standing on Lippincott's crossing, Riverside, New Jersey.

Q. How were they standing, on the outside?
A. Just standing there; yes, sir.
Q. Just tell me what happened.
A. Well, we all three of us started to walk down. They were waiting for the trolley car. The trolley car just came in sight and they both went up to the crossing, and this gentleman here jumped on the car and Mr. Mohr went away.
Q. How did he go away?
A. Went across Lippincott's crossing.
Q. Where to, do you know?
A. I didn't pay any attention. I suppose most likely ——
Q. Just walking?
A. Just walking; yes, sir.

By the Court:

Q. When was this?
A. I couldn't recollect the date. I couldn't keep track of it.
Q. Well, was it in March or June or when?
A. Well, I couldn't tell you.

By Mr. Kelsey:

Q. Was it before the murder of John Brunen?
A. Oh, yes, sir.
Q. How long before?
A. Oh, I couldn't answer. I couldn't keep track of it.
Q. Was it a month?
A. It might have been a month, might have been more than a month.
Q. Could it have been two months?
A. That I couldn't answer.
Q. Have you seen them any other time together?

A. No, sir.

Q. You say you never saw them together after that?

A. Not to my memory, no.

Q. How many times have you seen Harry Mohr?

A. Well, that would be impossible to say. I might see him three or four nights a week.

Q. How would you see him? Where would you see him?

A. Well, most likely I would be up around looking my territory over and just happen to see him going and might walk down and sometimes walked up to the station with him.

Q. Ever see him riding around?

A. I have seen him in the Ford coupe.

Q. Did you ever see anyone with him in the Ford coupe?

A. I have seen people with him; yes, sir.

Q. Well, who have you seen with him in the coupe?

A. A gentleman.

Q. Did you ever see this gentleman? (Indicating Mr. Powell.)

A. Not to my knowledge; no, sir.

Q. Do you know who the man was with him?

A. No, sir.

Q. You say you have walked with Harry Mohr down to the station?

A. Yes.

Q. Did you have a conversation with him?

A. About different things, yes, about the show business and things like that.

Q. Where did you have this conversation?

The Court: Why is that important?

Mr. Kelsey: I think it is important. I am trying to confine him to a certain conversation.

The Court: Well, it has got to be some conversation that has some relation to this issue.

Mr. Kelsey: I am trying to prevent leading questions.

Q. Was John Brunen ever discussed in your walk with Harry Mohr?

A. Was he ever discussed? With Harry Mohr; yes, sir.

Q. Now will you tell us what was said at that time?

Mr. Keown: I think the time should be fixed.

Mr. Kelsey: Yes, I am trying to fix the time also.

Q. When was that time?

A. I couldn't say; it must have been at night time, that was the only time I could see Mr. Mohr.

Q. Was it before or after the murder?

A. It was after the murder.

Q. How long after the murder?

A. That I couldn't say.

Q. Would you think it was a month?

A. Might have been and might have been less.

Q. Where was it? Where did you meet Harry Mohr on this particular occasion?

A. That would be impossible to say. I would meet him all over.

Q. Did you walk down home with him?

A. I have walked down home; yes, sir.

Q. Was that the occasion when you walked down home with him?

A. It might have been, yes, to the best of my memory.

Q. Well, now, what was said?

A. All Mr. Mohr said was, he says, "It is too bad about John getting shot," and I says, "Yes." He says, "I would like to get the people that done it."

Q. What else did he say?

A. Nothing more to my knowledge; just walked up as far as the house and I said, "Good night, Harry," and walked away.

Q. Was anything said as to how he was shot, what he was shot with?

A. No remarks; no, sir.

Q. Was anything said about being afraid to walk home?

Mr. Keown: Now, if your Honor please, isn't that unfair?

The Court: No, Mr. Kelsey, you must not do that. You can ask him if he had any other conversation any more than what he has stated. You can't lead him this way.

Q. Was there any other conversation that you had with Harry Mohr that you can recall?

A. No, sir; I cannot.

No cross-examination.

BARBARA WALTERS, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Where do you live, Mrs. Walters?
A. 600 New Jersey Avenue, Riverside.
Q. Fred Scheetz, did he board with you?
A. He comes there, yes, sir; he is boarding with me.
Q. Do you recall the night that John Brunen was murdered?
A. No, sir. I was to church.
Q. Well, you know he was; I mean you recall the night that he was murdered?
A. Yes, sir.
Q. Now two nights before he was murdered, Wednesday night, were you home?
A. I was going out of the house, going to church on Wednesday night.
Q. Just tell us what you saw on that Wednesday night.
A. I was going out of the house and going up to church you know, and when I got to the corner I happened to look on Mrs. Brunen's porch and seen a strange man there and it kind of struck me, it kind of scared me ——
Q. What did he do?
A. Nothing. He just was on the porch, up on the porch.
Q. Did you say anything to Mrs. Brunen about it?
A. The next morning I says to Mrs. Brunen, "There was a strange fellow on the porch, he kind of scared me a little." She says, "Perhaps it was a gentleman asking for work from John."

Q. What porch was it?

A. The back porch, where the back door is, the side of the house.

Q. Towards your house?

A. Towards our house, yes, sir.

Q. Is that the side porch?

A. Side porch, yes, sir.

Cross-examination.

By Mr. Keown:

Q. Do you know Harry Mohr?

A. Yes, sir.

Q. You know Harry?

A. Yes, sir.

Q. It could not have been Harry Mohr that you saw?

A. I don't know who it was. It was a strange man. I didn't see.

Q. If it was a strange man it could not have been Harry Mohr, could it?

A. No, I don't think it was him. I said it was a strange man.

Q. Now could it have been this man sitting here? (Indicating Powell.)

A. No, I wouldn't say either, couldn't say.

Q. Did it resemble that man in any way?

A. No, sir.

CLARENCE J. GRANT, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Where do you live, Mr. Grant?
A. Riverside.
Q. What is your business?
A. Tire salesman.
Q. In March last year, this last March, what business were you engaged in?
A. Tire salesman, same line.
Q. And have you a service station there at your house or place of business?
A. Where I work, yes.
Q. What do you sell there?
A. Tires, accessories, gasoline, oils.
Q. Do you know Harry Mohr?
A. Yes, sir.
Q. How long have you known him?
A. About a year, I think. I am not sure.
Q. Do you know Charles Powell?
A. Yes, sir.
Q. How long have you known him?
A. Why, I met Charles Powell between December 15, 1921, and January 19, 1922.
Q. How did you meet him?
A. Harry Mohr introduced me to Charles Powell.
Q. Where?
A. In front of our place of business in the street.
Q. What did he say when he introduced you to him?
A. Why, Mr. Powell was sitting in the car and I was on one side of the street and Harry came around the other and he says, "Whitey, I want you

to meet a friend of mine. Mr. Grant, shake hands with Mr. Powell."

Q. How many times have you seen Harry Mohr and Charles Powell together?

A. Three times.

Q. Where?

A. In Riverside.

Q. Where were they when you saw them?

A. Why, Mr. Powell was always in the car.

Q. Whose car?

A. I don't know.

Q. What kind of a car?

A. A small car.

Q. Well, what make?

A. Ford.

Q. Who had the car?

A. Mr. Mohr.

Cross-examination.

By Mr. Keown:

Q. Did you have a conversation with Mr. Powell on the day that Mr. Mohr introduced you to him?

A. No.

Q. Didn't you talk to him at all?

A. No.

Q. Have you ever conversed at all with Mr. Powell?

A. No, sir. About three or four weeks ago, I think.

Q. No, I mean on these occasions that you met him in Riverside.

A. No.

Q. And was it daytime or night time when you saw him there?

A. In the morning.

Q. In the daytime?
A. Yes.
Q. On all of these occasions or times that you saw Mr. Powell with Mr. Mohr in Riverside?
A. Yes, sir.
Q. And on all three of these occasions was it between December 15, 1921 and January 19, 1922?
A. Yes, sir.

LAWRENCE DOYLE, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. How old are you?
A. Twenty-three.
Q. You have been convicted of crime, haven't you?
A. Yes.
Q. When?
A. The 8th of March, 1922.
Q. What for?
A. Forgery of a $30 check.
Q. And served time?
A. Yes, sir.
Q. Do you know Harry Mohr?
A. Yes, sir.
Q. Know Charles Powell?
A. Yes, sir.
Q. How long have you known them?
A. Almost two years.
Q. Where did you first become acquainted with them, Mr. Doyle?
A. Pottstown, Pennsylvania.
Q. When?

A. In May, 1921.
Q. Have you ever been in Wilkes-Barre?
A. Yes.
Q. When were you in Pottstown?
A. In May, 1921.
Q. Did you see Harry Mohr at that time?
A. Yes ,sir.
Q. Where did you see him?
A. On the show grounds.
Q. When did you next see him?
A. Seen him all the season.
Q. Were you with the show when they were at Salamanca, New York?
A. Yes, sir.
Q. What happened there between Harry Mohr and John Brunen?
A. They had a fight the first day they came in there.
Q. Tell us just what happened between Mohr and Brunen.
A. This happened right in front of the tent I was working for, the show I was working for; and Harry Mohr was standing right in front of the whip and Mr. Brunen came down the midway and he says, "I am running this show and not you." He says, "Get off the lot or I will kick you to the hell off."
Q. Who said that?
A. Mr. Brunen.
Q. Who to?
A. Harry Mohr. Harry says, "I wont," and Mr. Brunen says, "Get off, or I will throw you off." And Harry says, "All right, I will get this show sooner or later." Down the midway he goes and back of the merry-go-round and Mr. Brunen after him.
Q. Did he say anything else to you regarding Mr. Brunen, make any remarks to you?

A. No, sir.
Q. He would get the show sooner or later?
A. Yes, sir.
Q. Now in November, 1921, did you see Harry Mohr again?
A. Yes, sir.
Q. Where did you see him?
A. On the train.
Q. Where?
A. He got on at Pottstown, Pennsylvania.
Q. Where did he go?
A. Wilkes-Barre, Pennsylvania.
Q. Were you in Wilkes-Barre?
A. Yes, sir.
Q. Were you on the same train with Harry Mohr?
A. Yes, sir.
Q. Did you go on that same train to Wilkes-Barre with Harry Mohr?
A. Not with Harry Mohr, with myself.
Q. On the same train that Harry Mohr was on?
A. Yes, sir.
Q. How long were you in Wilkes-Barre?
A. I was in Wilkes-Barre for pretty near two months.
Q. After you arrived at Wilkes-Barre did you see Harry Mohr there?
A. Yes, sir.
Q. Where did you see him?
A. In a Greek restaurant right across from the Reading Hotel.
Q. Who was with Harry Mohr at that time?
A. Charles Powell.
Q. What were they doing when you saw those two men in the restaurant opposite the Reading Hotel?
A. Talking by theirselves.
Q. How long did they continue talking?

A. For an hour and a half.

Q. Did you see Harry Mohr and Charles Powell after that together any time?

A. Seen them at the bazaar.

Q. Where?

A. Wilkes-Barre.

Q. How many times did you see them in Wilkes-Barre?

A. Only seen them once.

Q. Did you hear Harry Mohr say anything?

A. In the restaurant.

Q. In the Wilkes-Barre restaurant?

A. Yes.

Q. What did you hear Harry Mohr say?

A. He says, "I can't do it myself."

Q. Did you hear Powell make any reply?

A. Yes, sir.

Q. What did Powell say?

A. "Don't make too much noise. Somebody will hear us."

Q. Where were they sitting at that time, Mr. Doyle?

A. Away down at the end of the counter.

Q. How close were you to them?

A. About seven feet away from them.

Q. In what part of the restaurant were they sitting?

A. Up towards the cashier, at the door.

Q. Did you see them any other place after you left Wilkes-Barre?

A. Williamstown, I think it is.

Q. And when did you see them in Williamstown?

A. Is that the name of a town?

Q. Williamstown, New Jersey.

A. Williamstown, New Jersey?

Q. Yes; was that after or before you saw them at Wilkes-Barre?

A. After.
Q. How long afterwards?
A. Two months after.
Q. Where were they?
A. Williamstown, New Jersey.
Q. Where did you see Harry Mohr and Charles Powell at Williamstown?
A. I seen Harry Mohr at the winter headquarters.
Q. Did you see him with Charles Powell?
A. Not on the grounds.
Q. Where did you see them?
A. Seen Charlie in the restaurant.
Q. Did you see Mohr and Powell together at any time?
A. Yes, sir.
Q. Where?
A. Going into Williamstown.
Q. Were they walking or riding?
A. In a Ford coupe.

Adjourned till December 15, 1922, at 9.30 A. M.

VOLUME II

Mount Holly, N. J., December 15, 1922.

(Trial of the cause resumed at 9.30 P. M.)

LAWRENCE DOYLE, resumed.

Mr. Keown: May I at this time offer an exemplified copy of the record of this witness' conviction?

The Court: You do not have to do that. The witness has admitted that he has been convicted of forgery, and that is as far as the statute of this state allows any question to be put. You do not have to produce the record of his conviction where he admits it. And it is only—the admission of his conviction, I should say, affects his credibility.

Cross-examination.

By Mr. Keown:

Q. Mr. Doyle, were you paroled from an institution in Pennsylvania for the purpose of coming here to testify?

A. Yes, sir.

The Court: Do I understand he is still serving?

Mr. Kelsey: The parol has expired.

The Court: Well, that is enough.

Q. Mr. Doyle, what was the date that you met Mr. Mohr at Wilkes-Barre?

A. About November 13th.

Q. Had you ever spoken to Mr. Mohr before November 13th?

A. Only to say hello to him.

Q. Had he talked with you?

A. A few times, not much.

Q. Did you speak to him when you saw him in Wilkes-Barre on November 13th?

A. I said hello once.

Q. And where was it that you said hello?

A. Going into the restaurant.

Q. And did you shake hands with one another?

A. No, sir.

Q. Did he say hello to you?

A. No, sir.

Q. He didn't seem to recognize you?

A. Didn't recognize me.

Q. You didn't go up and say, "I am Mr. Doyle. Hello, there, Harry; I know you"?

A. No, sir.

Q. Was Mr. Powell with him on that day?

A. Yes, sir.

Q. When he went into the restaurant?

A. Yes, sir.

Q. And did you know Mr. Powell at that time?

A. Yes, sir.

Q. Were you friendly with Mr. Powell at that time?

A. No, sir.

Q. Had you ever been friends with him prior to that time?

A. I didn't know him well enough, just to see him.

Q. Then you had seen him where, please?

A. Wilkes-Barre.

Q. Well, I mean before Wilkes-Barre.

A. With the show.

Q. Where?

A. On the grounds, all season long, pretty near.

Q. Where?

A. Different towns.

Q. Do I understand you to say that you had been with the show——

A. One year.

Q. Pardon me just a moment. Do I understand you to say that you had been on the show with Mr. Mohr and with Mr. Powell for the season previous to the time that you saw them in Wilkes-Barre?

A. Yes, sir.

Q. And you were friendly with Mr. Powell?

A. No, sir.

Q. And had you ever spoken to Mr. Powell?

A. No, sir.

Q. In other words, you were on the show all the season with Mr. Powell but you had never spoken to him?

A. Why, not spoken to him; I said hello once, I believe, all the season.

Q. Did he recognize you?

A. I couldn't say.

Q. At Wilkes-Barre?

A. I don't know.

Q. Did you not speak to him in Wilkes-Barre?

A. They were both together. I said hello to both of them.

Q. Did either one of them say hello or not to you?

A. No, sir.

Q. Did you say anything to Mr. Powell, that, "I know you, Mr. Powell, I am Doyle; don't you remember me?"

A. I didn't say a word after that.

Q. Now, they took their seats in the restaurant and you took a seat in the restaurant; is that right?

A. Yes.

Q. How long did you stay in the restaurant?

A. Almost an hour and twenty minutes.

Q. You didn't go over and sit with those boys and say or tell the boys, "I remember you from the show?"

A. No, sir.

Q. Took a seat alone?

A. Yes, sir.

Q. And they sat together?

A. Yes, sir.

Q. And how far from them did you sit?

A. About seven stools away.

Q They never looked over and noticed you there?

A. I didn't pay no attention.

The Court: Point to the distance in this room.

The Witness: From here to the end of that table.

Q. Were there many other people in the restaurant?

A. Only one man.

Q. During the whole hour and a half were there only four people in that restaurant?

A. The waiter, a man sitting at the counter between us.

Q. The waiter, the man sitting between you and these three men?

A. Yes, sir.

Q. That would be five people?

A. Five people.

Q. And there were only five people in that restaurant during the entire hour and a half?

A. Until I went.

Q. And you have told us all that you heard them say on that particular occasion?

A. Yes, sir.

Q. Did they seem to notice you sitting there?

A. I couldn't say.

Q. Did they ever look in your direction?

A. I don't know.

Q. Were you not looking at them?

A. I looked at them once when I heard them say those few words.

Q. What were you doing to spend an hour and a half at the restaurant?

A. I was just sitting there eating.

Q. Eating for the hour and a half?

A. Not exactly, just sitting, passing the time away.

Q. And you didn't want to pass the time away with your friends?

A. They were sitting in conversation. They perhaps didn't want me. I don't butt in anybody else's business.

Q. You were not sitting there purposely to hear what they said?

A. No, sir.

Q. When was the next time you saw either Harry Mohr or Charlie Powell?

A. At the bazaar.

Q. Where was the bazaar?

A. At some church there.

Q. What church?

A. Queen's Catholic Church.

Q. And how long was that after you saw them in the restaurant?

A. About a week I seen them.

Q. And what occasion had you to go to this church affair?

A. I was singing.

Q. And what occasion had Mr. Powell or Mr. Mohr to be at the affair?

A. I don't know.
Q. Were they conducting the affair?
A. I don't know.
Q. Were you not interested enough to find out?
A. No, sir.
Q. Did you speak to them at that occasion?
A. No, sir.
Q. Did either one of them speak to you?
A. No, sir.
Q. When was the next time you saw them?
A. Williamstown, New Jersey.
Q. And when was that?
A. About two weeks before Mr. Brunen was killed.
Q. What were you doing?
A. At the winter headquarters trying to get booked out.
Q. Who did you see that day to get booked out with Mr. Brunen?
A. Mr. Brunen.
Q. And where was Mr. Mohr and Mr. Powell on that occasion?
A. I seen Mr. Mohr on the grounds.
Q. Did you speak to Mr. Mohr?
A. No, sir.
Q. You knew Mr Mohr's connection with the show?
A. Yes, sir.
Q. You knew Mr. Mohr was the man who employed the help?
A. No, sir.
Q. Did you get a position with Mr. Brunen?
A. He told me to stay around and he would fix me up.
Q. How long did you see either Mr. Mohr or Mr. Powell on that occasion?
A. I have only seen them twice in Williamstown.
Q. How long intervened between the first time and the second time?

A. About three days after.

Q. Did you ever have any conversation with Mr. Powell or Mr. Mohr at Williamstown?

A. No, sir.

Q. Will you please give me the date of your arrival at Williamstown?

A. I don't remember.

Q. Approximately can you fix it?

A. In February, some time.

Q. Can you fix the date of your leaving Williamstown?

A. I don't know whether it was two days before Mr. Brunen was killed or three, I don't remember.

Q. And how long had you been in Williamstown altogether?

A. About three weeks.

Q. And you were around winter quarters where Mr. Powell and Mr. Mohr were for those three weeks?

A. Yes, sir.

Q. And never spoke to either one of them?

A. I have only seen them twice in Williamstown.

Q. Do you know John Hennessey who was in the restaurant in Wilkes-Barre that night?

A. I don't know anybody in Wilkes-Barre.

Q. Don't you know John Henry, who was in the restaurant on the night Mr. Powell and Mr. Mohr were there?

A. No, sir.

Q. You were working for Lew Walker during the 1921 season, is that correct?

A. Yes, sir.

Q. Were you living in Wilkes-Barre at the time you saw Mr. Powell and Mr. Mohr there?

A. I was staying there.

Q. On business?

A. Yes, sir.
Q. Where were you staying?
A. At the Sterling Hotel, I stayed there one night.
Q. Now, will you tell me the night that you stayed at the Sterling Hotel?
A. I don't remember.
Q. Can't you give me the date?
A. No, sir.
Q. Was it the first day that you arrived there?
A. The first day I stayed at another hotel.
Q. What was the name?
A. I don't remember, it is about a block from the depot.
Q. Give me the names of all the hotels at which you stayed while in Wilkes-Barre.
A. Just the Sterling is the only one I remember.
Q. That is the only one?
A. Yes, sir.
Q. Did you register under your own name?
A. Yes, sir.
Q. How long were you at the Sterling?
A. Just one day.
Q. And that was around November 13th?
A. Yes, sir.
Q. 1921?
A. Yes, sir.
Q. November, 1921?
A. 1921.
Q. Where did you stay when you were at Williamstown?
A. Right on the grounds.
Q. With whom did you sleep?
A. A fellow that was working for the snake show.
Q. And what is his name?
A. I don't remember his name.
Q. Will you describe that man?

A. Thin and tall.

Q. The snake show was at winter quarters and you slept with a tall, thin man?

A. Yes, sir.

Q. And what did you call him?

A. I don't know whether it was Arthur or Robert or something.

Q. Well, you slept with this man, you certainly remember by what name you addressed him, don't you?

A. I don't know which name it was. I didn't know his name, very few people on the show I know.

Q. Well, this man you buddied with for three weeks?

A. Yes.

Q. Do you know where his home town was?

A. No, sir.

Q. Do you know what his last name was?

A. No, sir.

Q. What did the rest of the men around the winter quarters call him?

A. I don't know.

Q. Did you ever hear anybody speak to him by name?

A. No, sir; when I would go out I would go in town.

Q. He never spoke to you at nights as to his name or where he come from or anything like that?

A. No, sir.

Q. And you don't remember whether you called him Arthur or Robert?

A. I called him Arthur. I don't know what his name was.

Q. Who else did you see down at winter quarters during this period that you know?

A. Mike, the electrician, Whitey, the man that had

charge, the fellow that fed the lions and animals, and there was three other men there working.

Q. What were their names?

A. I don't remember.

ARTHUR STECHER, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. You live in Riverside, Mr. Stecher?

A. I do.

Q. What official position do you hold there?

A. Postmaster.

Q. Do you know Harry C. Mohr, the defendant?

A. Do I? Yes.

Q. How long have you known him?

A. Well, I judge about—to date about a year and a half.

Q. How long have you been postmaster?

A. Well, this—I am now on my fourth year.

Q. Do you remember the occasion John Brunen was killed?

A. I do.

Q. A day or a few days after did Harry Mohr call at the post office?

A. Well, I can't say that.

Q. Well, can you state the time after that?

A. Would you mind repeating that question?

Mr. Peacock: I will withdraw these questions.

Q. Did Harry C. Mohr come to the post office after John Brunen was murdered?

A. Yes.

Q. Now can you tell me about what time?

A. Of the day?

Q. Yes, approximately how many days after?

A. Why, I should judge about one month, off and on.

Q. Did you have a conversation with him?

A. No, only officially.

Q. Did he hand any money over to you for any purpose?

A. Yes, I believe that he secured several money orders there a few days after that.

Q. What was the denomination of the money he gave you?

A. If I remember right there were two fifty dollar bills.

Q. Any marks on those bills?

A. Well, one was a gold note and the other was a bank certificate of some kind, I don't remember.

Q. Anything on these bills to attract your attention?

A. Yes, they appeared to be blood-stained.

Q. Did he have a post office box there?

A. He did.

Q. What was the number of that box?

A. 383.

Q. And how long did he have that post office box?

A. He rented it December 1, 1921, and vacated it April 10th or 11th, 1922.

Cross-examination.

By Mr. Keown:

Q. Mr. Stecher, are you the Mr. Stecher that lives right next to the Brunen house?

A. No, I am not.

Q. You knew of the Brunen murder when it occurred?

A. Not until the following morning.

Q. Now you knew that Harry Mohr lived at the Brunen home?

A. I do.

Q. Were you not suspicious when a fifty dollar bill was brought into your hands with a blood-stain on it?

A. Well, I haven't professional knowledge of blood-stains. I judged that they were, and in that way only I would become suspicious.

Q. Well, now, did they have blood-stains on them or did they not?

A. They appeared to be blood-stains.

Q. What do you mean by appeared to be?

A. I have seen blood-stains before.

Q. When did you think that those notes had blood-stains on them?

A. Why, a few minutes after I accepted them.

Q. Did you get the notes then and examine them?

A. After I had finished with Mr. Mohr I did.

Q. And what did you do with those notes?

A. Left them in the drawer.

Q. Why didn't you call up the authorities and tell the authorities that some one had delivered to you a fifty dollar bill that had a blood-stain on it?

A. I mentioned to Mr. Voshell if he should see Parker in town to tell him I would like to see him.

Q. And no one came to look at those blood-stained fifty dollar bills?

A. Yes, they did.

Q. And did they see them?

A. Yes, they did.

Q. Did you give them to them?

A. No, I didn't.

Q. Why not?

A. They were not wanted.

Q. In other words, they didn't bear out what you thought, that they had blood-stains on them?

A. Only that Mr. Parker said he had seen them before.

Q. Mr. Parker didn't take those notes?

A. No.

Q. And they didn't appear then to have blood-stains on them, did they?

A. He made no comment.

Q. Mr. Parker made no comment?

A. No.

Q. He didn't take the notes?

A. No.

Q. Did he see both of them?

A. No, only the one, the gold note.

Q. Why didn't he see both?

A. The other one didn't appear to be anything out of the ordinary.

Q. I thought you inferred from your direct examination that both of them had ——

A. No, sir.

Q. Only one of them?

A. Only one.

Q. Now can you tell me approximately when it was that the note was brought to you?

A. Well, it would be hard for me to say, but I judge within a week.

Q. Will your records show when Mr. Mohr took out that fifty dollar money order?

A. Sure.

Q. Have you that record with you?

A. I have not.

Mr. Keown: If your Honor please, I think it is

very important that this witness should be excused at this time to get the records to fix that time.

The Court: Well, you will produce the records?

The Witness: I think I can.

Mr. Keown: Will you also produce the records to show when the second order for fifty dollars was taken out?

A. I didn't say they were for an even amount, $50.

Q. I understood your testimony to be that there was a payment of two fifty dollar bills.

A. They were tendered for two money orders.

Q. You will produce that record here?

A. I will.

Q. And tell us what days they were taken out?

A. Yes.

Q. Will that record also show to whom the money was sent?

A. Sure, who the application is from, the remitter's application for the money order, the charges paid.

Q. You will bring that record?

A. Yes.

Q. In other words, you will bring back here all the records you have of that transaction?

A. I will.

WILLIAM VOSHELL, recalled for the State.

Direct examination.

By Mr. Peacock:

Q. Mr. Voshell, were you at the Brunen home the night that John Brunen was killed?

A. Yes, I went there.

Q. Tell the jury what you did.

A. I went down there about five minutes of eight, I went on back in the kitchen and I found Mr. Brunen shot there in the chair. Then I asked of Mr. Belton if he had notified Mr. Parker.

Q. Don't give any conversations unless the defendants were there. Was Mrs. Brunen there at that time?

A. Yes.

Q. All right. Proceed.

A. And they said yes. And I went outside and waited till he drove in.

Q. Did you see any search made of John Brunen's body?

A. Yes, sir.

Q. Who made that search?

A. Dr. Maul.

Q. What did he take from that body?

A. I knowed sure he took the two fifty dollar notes and then some other notes.

Q. What was the condition of those fifty dollar notes, have anything on them?

A. Some blood on them; yes, sir.

Q. On one or both of them?

A. I couldn't say.

Q. What became of that money?

A. He gave it to Mrs. Mohr—or Mrs. Brunen.

Q. Did you make any investigation around the house on the outside?

A. No.

Q. Did you, with Mr. Parker, make an investigation around the cellar door?

A. Yes.

Q. What did you find there?

A. There was one track and a woman's track.

Q. And where was that track, Mr. Voshell?

A. Close to the cellar window.

Q. How many tracks did you see there, a small woman's track?

A. Only the one.

Q. Were there any other tracks there?

A. Well, there was some men's tracks around there, not plain enough to make out what they was.

Q. Did you follow those tracks?

A. Not that night.

Q. The next day did you follow them?

A. Mr. Parker followed them that night. I kept the crowd back away in the yard.

Q. How close were those small tracks to the cellar door?

A. About two feet, three feet, something like that, two or three feet from the cellar door.

Q. Where was that cellar door regarding the window that Mr. Brunen was shot from?

Mr. Keown: If your Honor please, does not the drawing that has been offered in evidence show that accurately?

The Court: What?

Mr. Keown: The cellar window and the cellar door.

Mr. Peacock: I have not proven yet what window by which this man was shot. I am trying to show the position of the cellar door he is referring to regarding the window.

The Court: Is there any dispute about it?

Mr. Keown: Well, there is no dispute. I thought it was shown in the drawing.

The Court: Is the window shown there?

Mr. Peacock: Rather than take time I will withdraw the question.

Q. Did you make any investigation of the window at that house?
A. Only go there to look at it.
Q. Who removed the window from the house?
A. George Hatcher, a carpenter.
Q. Were you present when he removed it?
A. Yes, sir.
Q. I show you the window and ask you if that is the window that was removed from the Brunen house.
A. Yes, that is the window.
Q. And what did you do with that window?
A. Why, I think I turned it over to Mr. Parker or Mr. Parker's man, and he brought it over to Mount Holly.
Q. At the time you first examined that window, Mr. Voshell, was the hole that large in it?
A. No, sir.
Q. What sort of a hole was in that window?
A. About that big around. (Indicating.)
Q. And what has caused it to break to that size, do you know?

A. Well, I suppose the storms there. We didn't take it out till quite a while afterwards.

Q. In your opinion how big in inches was the hole when you examined it that night?

A. About as big as a half a dollar.

Q. When did you deliver it to Mr. Parker?

A. I couldn't tell you that. It might have been two weeks.

Q. When you went to the Brunen home that night was there a dog there?

A. I didn't see any dog.

Q. Did you hear any conversation between Mrs. Brunen and Mr. Parker concerning a dog?

A. No, I was outside when Mr. Parker come.

Q. You knew that they have a dog?

A. Oh, yes.

Q. Do you know the character of that dog, whether it is a vicious dog or not?

A. No, that I couldn't tell you.

Q. Did you ever have any conversation with Mrs. Brunen concerning that dog or give her any notice concerning that dog?

A. No, sir.

Q. Now what time did you go there the next day?

A. Went there early in the morning.

Q. What did you do that day?

A. I walked around the yard there and looked around.

Q. Was Harry C. Mohr there?

A. I didn't see him. I guess I was there before they were up.

Q. Did you see him there any time?

A. Later on in the day I did.

Q. Did you have any conversation with him?

A. No.

Q. Did you have any conversation with Mrs. Brunen the next day?

A. No.

Q. Did you follow out these tracks the next day that you saw at the cellar door?

A. Well, not at the cellar door, he only went on the other side of the hedge.

Q. And where did they lead to?

A. Across the field down to Cambridge station.

Q. What is the name of that field, do you know?

A. Kinsinger's field.

Q. I show you this map, indicating the Brunen home, the garage, Rancocas Avenue and Kinsinger's field. Will you come down and show the jury where you followed those tracks?

A. Down to Cambridge station, across here.

Q. Then straight from the Brunen home I understand to Kinsinger's field?

A. Yes.

Q. Then did they go straight or turn to Cambridge station?

A. They went kind of around across the field.

Q. Who was with you when you followed those tracks?

A. Mr. Overfeld, William McCaffrey, Spotty Ellis, Johnny Walters.

Q. Do you know Charles Powell?

A. I only know him since he has been over here.

Q. Did you ever see Charles Powell and Harry Mohr together in Riverside?

A. I don't remember whether I did or not. They say they were there just after Christmas.

Q. Did you see them at the City Hall after Christmas?

A. I think I did.

Q. Tell the jury what took place between you and Mr. Mohr and Mr. Powell at the City Hall after Christmas.

A. He just introduced me to him, that is all.
Q. Who introduced you?
A. Mr. Mohr.
Q. Introduced you to who?
A. Mr. Powell.
Q. Well, what took place that day? Give the conversation.
A. Well, I don't think there was any. I think they walked right out. I don't remember whether there was any or not.
Q. Where were they?
A. In the Town Hall.
Q. Where did you first see them that day?
A. They come in the hall when I was there.
Q. How soon after Christmas was that?
A. Now, I don't remember.

Cross-examination.

By Mr. Keown:

Q. Now, Mr. Voshell, you just describe to the jury accurately about these blood-stains that were on these notes.
A. Well, when Dr. Maul unwrapped the money he took it out of Mr. Brumen's pocket and unwrapped it, and I just looked over his shoulder and I am pretty sure he said there was a hundred ——
Q. Don't tell what he said. Just describe where the blood-stains were.
A. That I couldn't tell you.
Q. You didn't see them?
A. Only I seen the blood on one of them.
Q. What part of the note was the blood on?
A. Well, that I couldn't tell you. I don't think he unwrapped them far enough for me to see the whole thing.

Q. You say you saw blood on the notes. Now that is meager. I want you to tell us how much blood and where it was and all about it.

A. It was a very small spot of blood on it.

Q. You saw a spot of blod at that time?

A. Well, it looked like it to me at that time.

Q. And the other end had nothing on it?

A. Not as I seen.

Q. Did the other notes have any blood on them?

A. Not as I know of.

Q. And what denomination was the bill that had the spot of blood on it?

A. I think it was a fifty dollar note.

Q. Do you know? Could you see it if it was not unwrapped?

A. Well, I am pretty sure it was a fifty dollar note.

Q. Did you see it?

A. Yes.

Q. Was it unwrapped so you could see it?

A. Yes, he unwrapped it.

Q. I thought you just saw the roll?

A. Well, he just pulled them back, laid them down so you could see what they was. You would just see this note.

Q. That was the only one that had anything on it?

A. Yes.

Q. You say there were no tracks of a man's foot in the backyard that night?

A. Well, not very plain; not plain enough for me to tell what it was. I couldn't tell whether it was a man's track or not.

Q. But you could see a woman's track?

A. There was one woman's track there.

Q. And that was very pronounced?

A. Yes.

Q. And right at the same place where the woman's tracks were so pronounced the man's tracks were not pronounced?

A. No, it was not down so you could tell what that was.

Q. And you examined closely for the tracks of the man?

A. Not as close as Mr. Parker did. I didn't bother with that so much as Mr. Parker did.

Q. Who examined this, you or Mr. Parker?

A. Mr. Parker.

Q. And when was it you examined for these tracks?

A. Well, about the same time. We was all there together.

Q. When was that?

A. That same night.

Q. Now the following morning you took up the trail from the outside of the Brunen property; is that right?

A. No, outside, I guess it was about three hundred feet from there.

Q. Now I want you to try and point on the map and tell us just where you started on the other side of the Brunen property.

A. Right out across Kinsinger's field, right down to Cambridge station.

Q. Now, you point on the map, taking into consideration the location of the Brunen home and the location of the garage, the Brunen garage.

A. The Brunen garage in the back part of the house?

Q. Yes. Now consider those facts and tell us where those marks were.

A. This is the window, come right out across the hedge and right across Kinsinger's field (indicating on map).

Q. Did you see any tracks in the Brunen yard?
A. Only one.
Q. When you took up the man's tracks, did you see any tracks of men's shoes the next day?
A. No.
Q. You show me where you started.
A. Across the street here (indicating on map).
Q. Would that be north of the garage or south of the garage?
A. North, going towards Cambridge.
Q. Would it be east or west of the garage?
A. It would be west.
Q. With that in mind, give us the point, as near as you can tell.
A. Came right up this way (indicating on map).
Q. You said you didn't?
A. From there across to Cambridge.
Q. Just give us the point where you started on the opposite side ——

The Court: Where does he point to?

Mr. Keown: I am going to mark it. The point now is the point where he took up the trail of a man's footmarks on the morning after the tragedy.

The Court: I want to know what street or place that was.

Q. You just put your pointer where you say you started. Now, will you just explain to his Honor where that point is before I mark it?
A. Ewing's Avenue came right across to Cambridge.
Q. Isn't that Rancocas Avenue?
A. Rancocas Avenue, that's what I mean.

Q. The point that you intended to make is a point between Rancocas Avenue and the next avenue toward Camden?

A. Chester Avenue.

Q. And how far from Rancocas Avenue are you attempting to fix the point when you make that point?

A. To Brunen's home, you mean?

Q. No, from Rancocas Avenue, the other way, how far from Rancocas Avenue did you first see footprints?

A. I didn't see the footprints until we got to Chester Avenue, going across Kinsinger's field.

Q. You saw no footprints between Rancocas Avenue and the next avenue there?

A. No.

Q. And then after you went across the field to Rancocas Avenue to the next street you saw footprints?

A. Didn't see any footprints until we got to Chester Avenue, then we went across to Cambridge station.

Q. How far could you trace those footprints from the time you picked them up until you lost them?

A. From Chester Avenue we traced them to Cambridge station.

Q. Where did they stop?

A. Cambridge station.

Q. You could see them clean out to Cambridge station across the street?

A. They didn't cross any street.

Q. Isn't Cambridge station on the side of the railroad crossing that is macadam?

A. Well, I mean we traced them until we came to the railroad, but when he went across the railroad we didn't see any more of the tracks, stopped at the railroad.

Q. And this window does not represent then the condition of the window on the morning following the shooting?

A. Any more than the hole is bigger now than it was then.

Q. Then it doesn't represent the condition of the window on the morning following the tragedy or on the evening of the tragedy?

The Court: I think he said it didn't. I think he said the hole that was there was no larger than that of a half dollar.

Q. And there were no cracks in the window with the exeception of this one hole the size of a half dollar?

A. That's all.

Q. Did you notice whether there were any powder marks on the window the night you examined it?

A. No, sir, didn't examine it for that.

Q. When was this window taken out of the Brunen property after the tragedy?

The Prosecutor: I think he has answered that on direct.

A. Why, it might have been a week afterwards, I couldn't tell you just when.

Q. You were there when it was taken out?

A. Yes, sir.

Q. And you say it was taken out a week after the tragedy?

A. I won't say for sure, it might have been two or three days, and it might have been later.

Q. Isn't it possible it was a month?

A. Well, I wouldn't want to say that.

Q. Well, I want you to fix the time because you were there and this jury wants to know about it.

A. I couldn't tell you how long it was.

IRENE EARNEST, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. You live in Camden, Mrs. Earnest?

A. Yes, sir.

Q. Where do you live?

A. 45 Cooper Street.

Q. Do you know Harry Mohr?

A. Yes, sir.

Q. Charles Powell?

A. Yes, sir.

Q. Mrs. Marie Powell?

A. Yes, sir.

Q. Did Harry Mohr rent rooms from you in the latter part of 1921?

A. Yes, sir.

Q. About what time?

A. Some time either the last of November or first of December.

Q. And was Mr. Powell with him at the time he made the arrangements?

A. No, sir.

Q. When did he make the arrangements?

A. In the morning and Mr. and Mrs. Powell came in the afternoon.

Q. What did he say?

A. He said he wanted the rooms for a friend of his and his wife and baby.

Q. Did he pay you any money?

A. When the rooms was rented, he paid part and Mr. Powell paid part.

Q. How much did Mr. Mohr pay you?

A. Five or five-fifty.

Q. Did Mr. Mohr pay you any money after that?

A. No, sir.

Q. This is the only occasion that Mohr paid you any money?

A. Yes, sir.

Q. Who paid the rent after that?

A. Either Mr. Powell or his wife.

Q. Did you ever see any money passed between Mr. Mohr and Mr. Powell?

A. No, sir.

Q. Ever see any money paid by Mr. Mohr to Mrs. Powell?

A. No, sir.

Q. Did Mr. Mohr visit your place before or ——

A. Yes, sir.

Q. How often?

A. I couldn't exactly say, about three or four times.

Q. How long were the Powells living there?

A. Up until the time Mr. Powell was arrested and Mrs. Powell, I think, was there until April, if I am not mistaken.

Q. Do you remember the time that Mr. Brunen was killed?

A. Yes, sir.

Q. March 10th last?

A. Yes, sir.

Q. Was Mr. Mohr there after that?

A. Why, he was there a couple of times after that.

Q. About what time did he come there?

A. I couldn't say.

Q. Mr. Brunen was killed on Friday, March 10th?
A. Yes, sir.
Q. Can you tell me what day after that was the first day he appeared there?
A. Mr. Mohr was there the next day.
Q. On Saturday?
A. Yes, sir.
Q. About what time was he there?
A. He was there in the morning.
Q. And when he came there where did he go to?
A. To Mrs. Powell's room.
Q. How long did he stay there?
A. I couldn't say, I didn't hear him go out.
Q. Who let him in the front door?
A. He came in himself.
Q. After that Saturday when was the next time Mr. Mohr was there?
A. I couldn't say exactly when the next time he was there.
Q. Did you ever let him in the house at night time?
A. Yes, sir.
Q. When was that?
A. Why about two, I think that was a couple of nights after the murder I left him in.
Q. What time was Mr. Mohr there?
A. About seven o'clock at night.
Q. Was he there any time later than that?
A. Not as I know of.
Q. Did you ever leave him in the house any other time?
A. No, sir.

Cross-examination.

By Mr. Keown:

Q. Now, did you have a conversation with Mr. Mohr and with Mr. Powell a couple of days after the tragedy, in your home?

A. No, sir.

Q. Did you ever talk to Mr. Mohr about where Mr. Powell was on the night of the tragedy?

A. No, I said to Mr. Mohr one day that he was coming in, I said it was a shame Mr. Powell was implicated in this murder, and Mr. Mohr said yes, it was a shame, or he used a word "imposterous."

Q. Preposterous?

A. Preposterous.

Q. Did you ever have any conversation with him as to the time when Powell was in his house on the night of the tragedy?

A. No, sir, I don't, no, sir.

Q. Do you know whether Mr. Powell was home on the night of the tragedy that night?

A. I know he was home, but I don't know just what time.

Q. Have you any way of fixing the hour?

A. Only by my husband coming from work.

Q. What time did your husband come from work that night?

A. I don't remember the exact time myself.

Q. Has Mr. Powell ever asked you to figure the time your husband came home from work that night?

A. No, sir.

Q. Have you ever fixed the time your husband came home from work that night?

A. He had that fixed at the barn, I think, what time he came home.

Q. What is the latest your husband came home from work when he has a trip similar to the trip on the day in question?

A. He has all different kinds of trips; he never had any special time.

Q. But you found out what trip your husband had?

A. He looked it up.

Q. Having the trip in mind on that particular day, what time would he arrive home?

Mr. Peacock: I object. She has already said she didn't know.

Q. You have no way of fixing what time your husband was home that night?

A. No.

Q. Do you know whether Mr. Powell was home that night when your husband arived home?

A. Yes, he was home when my husband arrived.

Q. How long had Mr. Powell been home before your husband arrived?

A. I couldn't say, I didn't hear him come in.

Q. Did you have a conversation with Mr. Harry Mohr and a Mr. Benham in Mrs. Powell's room, shortly after Mr. Powell was arrested?

A. I had no conversation. I was up in the room. I don't remember Mr. Benham being there, Mr. Mohr was there.

Q. Was there someone there with him?

A. I just can't remember, yes, I think Mr. Benham was with him.

Q. Now, what was the conversation that evening?

A. The conversation didn't amount to anything much only I felt sympathy for Mr. Powell.

Q. And did you not tell Mr. Mohr that time as to the hour Mr. Powell was home at your house?

A. I told him he was home at the time my husband arrived home.

Q. Didn't you fix that time?

A. No, I didn't fix no time.

ELIZABETH JAESCHKE, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mrs. Jaeschke?

A. Gary, Ill.

Q. Are you any relation to John Brunen?

A. I am his sister.

Q. How old was John Brunen at the time of the murder?

A. Forty-seven.

Q. Do you know Doris Brunen?

A. Yes, sir.

Q. How long have you known her?

A. I have known Mrs. Doris Brunen for about fourteen years.

Q. When was she married to John Brunen?

A. They came over in 1919.

Q. When was she married?

A. I cannot exactly say when they were married, but I just know when they told me they were married. They came over to my house in Chicago.

Q. When was the last time you saw John Brunen alive?

A. It was two years ago on September 24th.

Q. And were you present at his funeral?

A. Yes, sir.

Q. Did you have a conversation with Doris Brunen?

A. I had.

Q. What was that conversation?

A. Why, I came to the funeral. I phoned them up from Philadelphia, I was coming to the funeral. It seemed they did not quite understand me on the phone. I called Hazel to the phone; she did not understand me. I called Mrs. Brunen to the phone, and the way I heard did not understand me either, so I called Harry C. Mohr to the phone.

Q. What did you go to the Brunen home—

A. I did not stay, I be at the funeral, please, went to the funeral, to me I be there.

Q. Did you go to the Brunen home?

A. I did. I said I be at the funeral.

Q. Who did you tell that to?

A. Harry C. Mohr.

Q. Go on, tell the jury just what you did.

A. When I come to the funeral I went right down, got there just in time. I went up to Mrs. Brunen, and Hazel come down and got me very kindly and lead me first upstairs, I wanted to see brother. I wanted to go into the room, but they lead me upstairs. Introduced me to her mother and sister. They were present.

Q. What was the sister's name?

A. Mattie.

Q. Go on.

A. I went to Dottie. I said, "Dottie, do you know something about John's murder? I presume you must." She said, "No, Lizzie, I don't know nothing about it." I couldn't find anything more so we were talking about five minutes, asked me how everything was at home and that was all, because the funeral service was going on downstairs, and they told me I must be quiet.

Q. Now, after the funeral did you talk to Mrs. Brunen or Harry Mohr?

A. I did.

Q. Where?

A. At the home. I did not talk much to Harry Mohr, but we talked together and I had supper there.

Q. What was your conversation with Mrs. Brunen?

A. I asked them what they could think had killed John. I thought it was something terrible. She said, "Lizzie, we don't know," they told me that they thought it was ——

The Court: You say "they." When you speak of anybody it must be either one or the other.

The Witness: You have to excuse me for that, I didn't know the name any other way.

The Court: Speaking of two, who is it that told you?

The Witness: Mrs. Brunen, Doris Brunen.

The Court: Mention always the name of the person you are saying you had the conversation with.

The Witness: All right.

Q. Go on.

A. We were talking. I asked them.

Q. You asked who?

A. I asked Mrs. Brunen.

Q. What did you say to her?

A. I said to her, "My God, who killed John? I think it is awful." She said they didn't know. I

asked Harry, he said, "We don't know, Lizzie; it may have been a person named Freedman;" and Doris says to me, she said that George Werner she thought done it, because he run once over my brother in the midway with a butcher knife.

Q. What did you say to Mrs. Brunen?

A. I said, "That must be awful. Can't you get them?" and Mrs. Brunen talked something to me it seems she had in her mind another man on suspicion, his name was Bob Perrell, had a conversation in the show grounds.

Q. Who told you that?

A. Mrs. Brunen.

Q. Did you talk to her about John Brunen writing you any letters?

A. Yes, we did.

Mr. Keown: I object to the question on the ground it is leading, but it has been answered now.

Q. Proceed, Mrs. Jaeschke. Give us the conversation between you and Mrs. Brunen.

Mr. Keown: I object to the witness testifying to the details of a letter she received from John Brunen, her brother.

Mr. Peacock: I am not endeavoring to prove that. I am endeavoring to give the details of the conversation between Mrs. Brunen and this witness, that is all. The conversation, I contend, is binding upon the defendant.

Mr. Keown: Just so he doesn't lead.

The Court: You mustn't lead the witness. Would it not be better to ask her what conversation she

had with Mr. Brunen regarding the letter and let her state without your suggesting to her?

Mr. Peacock: I will reframe the question.

Q. Mrs. Jaeschke, relate what conversation you had with Mrs. Brunen regarding this letter.

A. That was the next day when the letter was published, in the conversation, I went home that night to Philadelphia, after the funeral, I was afraid to stay in the house.

Mr. Keown: I think that ought to be stricken out.

The Court: That is stricken out.

Q. Just give the conversation, never mind the details.

A. I went to Philadelphia to my home where I was staying to the Y. W. C. A. and Harry Mohr brought me there and on the way he told me—Hazel was with us in the car—and he told me it was awful that John was killed, it was terrible, John was a good man, he was always good to him, he was like a father to him, he couldn't understand whoever killed him.

The Court: You asked her to tell the conversation she had with Doris Brunen.

Mr. Peacock: She is endeavoring to tell me now the following day from which she started to testify.

Q. Don't relate what took place between you and Harry Mohr going to Philadelphia. I don't want to

know that. I want to know the conversation between you and Mrs. Brunen regarding this letter.

A. She said to me in the house the other day I came back because Harry Mohr told me to come back to the house.

The Court: One moment, I have some doubt about this letter. I think I will hear argument on that.

Mr. Peacock: Your Honor, I am not endeavoring to bring the letter into evidence.

The Court: The contents of a letter written by the deceased could not be used against either one of these defendants.

Mr. Peacock: I agree with your Honor on that, but I am endeavoring to show conversations between Doris Brunen and Mrs. Jaeschke and Harry Mohr in endeavoring to show a motive. That is as far as I can tell you at this time.

The Court: Well, you come up here and tell me.

(After argument.)

Q. Now, Mrs. Jaeschke, will you relate the conversation that you had with Mrs. Brunen concerning the letter? Tell us what she told you and what you told her.

A. She told me that couldn't be possible that such a letter, she got awful excited and said that couldn't be possible. I said, "Dottie, it is so." I said, "It is written on John's stationery, and John wrote it, and," I said, "I know my brother never told him a lie, I trust him, he never told me a lie to his sis-

ter." I said, "That must be so. That is awful, that would be awful." She said, "It couldn't be," so I said, "It is so."

The Court: Is that all the conversation?

The Witness: We had not much conversation, your Honor, I didn't like to listen, I felt awful bad, and the other day we have the conversations, I stayed in the house until I took sick.

Q. I am asking you to give the entire conversation that you had with Mrs. Brunen regarding that letter and what she told you about the letter and what you told her that day or any other day. Follow that conversation right out.

A. That is what she said. We didn't talk very much more about it. She said it was awful he couldn't possibly have written it.

The Court: What was awful?

The Witness: That he wrote that letter.

Q. Who said that?

A. Mrs. Brunen.

Q. What else did she say?

A. At that time she didn't say much more about the letter.

Q. Well, did she at any other time?

A. I said to her then when she stood behind the table when I came in, when Harry told me I should in Philadelphia, come over to the house that day, that day, the 15th, I said to her, "Dottie, the letter is published." She said, "Yes, it is awful." Her mother said I should not have done that.

Q. Was Mrs. Brunen and Harry Mohr there when her mother said that?

A. Harry was in there, her mother was there and Hazel was there and Doris Brunen was there. I said to her, "Dottie, if you have nothing to do I am not the one to harm you. It is my simple duty to do as my brother told me, because it was his last will and wish, I could not do any different."

Q. Give us the entire conversation?

A. Yes, sir, there were no more conversations.

The Court: Was there some talk about property your brother left?

The Witness: Yes, your Honor, there was.

The Court: What did you say to Mrs. Brunen and what did she say to you?

A. Yes, it was. I said, "I must do so. You see what John's wish is." And they said, "John has nothing. There is nothing there." And that is what they tell me.

Q. What else did you tell her? What else did she say to you about his property?

A. I said, "There must be property, because John told me so."

Q. Did you have any conversation with Mrs. Brunen concerning Mr. Brunen's wishes concerning the property? Did you tell her anything about that?

A. Yes.

Q. What did you tell her?

A. I said, "It was John's wish that I shall come up and take possession of everything and take care of him."

Mr. Keown: I object. That must be based upon

a self-serving declaration of Mr. Brunen, and she is saying now what her deceased brother told her, which is what we don't want in. It is not evidential.

The Court: No, that is stricken out.

Q. Did Mrs. Brunen say anything to you about her husband's property other than what you have already told?

A. She explained to me what John all had.

Q. What did she tell you?

A. There was a show. I didn't know anything about it and she explained to me all what he had and that he had half an interest in the animal show.

Q. What else did she tell you he had?

A. And she told me there was a wagon standing in the yard, one of the show wagons, that was not paid for, and she said they come after him. She said that was not paid for.

Q. Did you have any conversation as to the money he had? Did she tell you anything about that?

A. She told me he had nothing.

Q. Later on?

A. Later on she told me he had $17,000 in the bank, when I left for home.

Q. Did you leave the Brunen home?

A. I left the Brunen home about the end of March.

Q. How do you set the date as being the end of March? How do you set the date as being the end of March that you left there other than that?

A. I think about the 26th, something like that, I can't exactly remember the particular day when I left for home.

Q. Where did you go?

A. Home to Chicago, to Gary, my home.

Q. Who went with you to Philadelphia when you went to the Y. M. C. A.?

A. On the day after the funeral, you mean, Mr. Peacock? Harry brought me there.

Q. Tell us what happened that day that you and Harry went to Philadelphia.

A. That was the first night after the funeral. I didn't want to stay in the house after supper. Harry brought me to Philadelphia in the house. Doris had an argument with her sister.

Q. The last of March when you went to Philadelphia to go home who took you there?

A. Harry.

Q. Harry C. Mohr?

A. Harry C. Mohr.

Q. Now just tell us what happened from the time you left Riverside till you got to Philadelphia.

A. That is what he said, that he couldn't understand whoever killed John. I asked him.

Q. How did you go to Philadelphia with Harry, by train or in his automobile?

A. In his car, in his coupe.

Q. Did anything happen or did Harry say anything to you while you were on your way to Philadelphia that day regarding this murder?

A. No, he didn't say very much then. He said that the other day. The other day he came to me in the Y. W. C. A., because he was awful excited, and he said this letter was published in the paper and he thought it was awful. I said to him, "Why, Harry, I done my duty, that is all." He said, "Come on and sit in the front room and we will talk it over."

Q. On your way from Riverside to Philadelphia with Harry Mohr in the automobile when you went home did Harry Mohr point any places out to you or tell you anything or show you anything concerning the Brunen murder or have any conversation with you?

A. Yes, he had suspicion against another man—

The Court: One moment.

Mr. Keown: I hate to get up and object, but I do not think it is fair for the Prosecutor to ask a leading question and bring about the answer.

(Testimony repeated.)

The Court: Well now, how would you put that?

Mr. Keown: I would ask the witness to describe what Harry Mohr said or did on that trip.

The Court: Well, that is pretty general. Witnesses are not always able to concentrate.

Mr. Keown: Well, it is not so much this time, but Mr. Peacock has asked her four or five times to state what happened on that trip and she doesn't respond, and then he practically tells her what to say.

The Court: You avoid leading questions. I will let this go in. I do not see how he could avoid it.

(Testimony repeated.)

A. Not at that time but later.
Q. Tell us about the later trip then.

By the Court:

Q. Did you have a later trip?
A. Yes, on several trips, your Honor.
Q. All right. What was the later trip you refer to? Tell the jury about that.

A. The next trip was that other day, the 15th. The body was buried the 14th. The 15th in the evening he came in the Y. W. C. A. in the evening to see me, very excited, telling to me it was just awful about this letter that was published, and he was going to clear his sister's name.

Q. Had you communicated the contents of the letter to Mrs. Brunen? Did you tell her what was in that letter?

A. I did not, your Honor.

By Mr. Peacock:

Q. Did you go from Riverside to Philadelphia any other time with Harry Mohr in the automobile?

A. I just went that evening when he came in there.

Q. Were you at the hospital?

A. Yes, sir; I was.

Q. Go on from that time and tell us all conversations between you and Harry Mohr or places he took you.

A. That evening, I want to tell, Mr. Peacock, I must tell you this, to let you know that I came back to the house again. That evening he sat talking in the parlor and he begged me to come back to the house. He said at the table talking, he said, "I am going to clear my sister's name." I said, "Harry, listen. You can't blame me for having suspicion against your sister. As far as I know your sister from experience very long ago, she is a very bad actor."

The Court: I think I will strike that out. I don't see what it has got to do with it.

Mr. Peacock: I think so too. I do not think it

is in her mind to give a suspicion of the defendant unless she has something to base it on.

The Court: That is stricken from the record and the jury will disregard it. Now the question is as to your conversation after this thing with Mr. Mohr as to his part, not as to anybody else. I don't care what he said about anybody else, about his sister. You are not to speak of that, but confine yourself to things he said about himself, no one else.

The Witness: I understand. You want me to tell, Mr. Peacock, when I went again with Harry C. Mohr in the car?

Q. Yes.

A. Well, that was after we have seen Mr. Keown in his office and they told me that there was nothing, but Harry said to me, "Be sure, Lizzie, I know that John has nothing. Now you believe what I tell you and if you don't want to believe me you go and see Mr. Keown in his office, and you will see Mr. Keown is John's attorney." I said, "Well, Harry, if Mr. Keown is John's attorney I will be willing to go with you to his office and see. I think it is my right to do so."

Q. Did you go to Mr. Keown's office?

A. Yes.

Q. Where did you go from there?

A. From there he took me home again.

Q. Where did you go after that?

A. Then I took sick to the hospital.

Q. How long were you in the hospital?

A. Four days.

Q. Where did you go to then?

A. Home again, and called Harry up to come and get me.

Q. Where did he take you to?

A. My brother's house.

Q. How long did you stay there?

A. I stayed there till the end of March. It was the 25th.

Q. What did you do the 25th of March?

A. That was on Saturday, because we had conversation with my attorney, Mr. Welsh ——

Q. Never mind what you had with Mr. Welsh. What did you do the 25th of March with Harry Mohr?

A. He took me to Philadelphia to see my lawyer. He said he was going to drive me in the car.

Q. On the way from Riverside to Philadelphia what happened between you and Harry Mohr?

A. He was talking to me about the murder of John. I said, "Harry, my goodness, can't you find whoever murdered John?" And he said, "Let me tell you, Lizzie, they were always after John for a long time." He said, "They laid out for him on this road. Always every night he came by on this road when he came from Williamstown."

Q. Who came by on that road?

A. My brother in his car. And Harry said to me, "Look here, right here. In that creek—" he pointed—"right there there was three guns found." I still looked at it and I said, "Harry, how do you know this?" I looked out the windows and looked at the scenery on both sides.

Q. Now right at the place where he told you three guns had been found?

A. Yes, sir.

Q. Where was that, Mrs. Jaeschke, do you know?

A. Well, I don't know the name, but I know the place.

Q. On what road was it?

A. I don't know the name of the road neither, but I know it when I was there.

Q. You had left Riverside that day to go where?

A. To see my attorney Welsh in Philadelphia.

Q. After he told you there had been three guns found there what happened?

A. Then he said—I said, "Harry, why don't you tell Mr. Parker, or inform him? He had an investigation of the murder. You go and tell him." He said, "Oh, Parker will never find John's murderer," he said, "I give detective Stanley in Camden five hundred dollars if he find John T. Brunen's murderer." I said nothing what I was thinking.

Cross-examination.

By Mr. Keown:

Q. Now this bridge that you passed is on the road from the Riverside home to Camden, is it not?

A. Yes, it was on the road. I don't know the name of the road, Mr. Keown.

Q. And as you passed this road Harry told you that that is where the guns had been found, was it not?

A. Yes, that was what he said. It was in the creek.

Q. And you already knew that guns had been found in that creek, did you not?

A. No, I didn't know anything before, Mr. Keown. I didn't know nothing about it. I was surprised, very surprised.

Q. Had you not already read in the newspapers and had you not talked at the Brunen home about the guns having been found in the creek?

A. No, sir.

Q. Are you sure of that?

A. Positively.

Q. Were you reading the newspapers as to the account of the murder?

A. I read newspapers. I didn't read anything about finding any guns.

Q. And nobody had told you that the guns had been found before that automobile trip?

A. No, nobody. I didn't know nothing about it.

Q. But Harry Mohr told you that that was where the guns had been found, didn't he?

A. That is what he said.

Q. And that is when you were passing that bridge?

A. Yes, that is what he told me.

Q. And that is on what date?

A. The 25th.

Q. The 25th of March?

A. Yes.

Q. You were friendly with Mrs. Brunen and Harry Mohr after you left?

A. They treated me kindly when I left.

Q. And you wrote very friendly letters to Mrs. Brunen? You were very friendly after you returned to Chicago?

A. Yes. I write an answer, yes. Of course I ask you in the house ——

Q. Now just answer my questions and we will get along very nicely. Did you write her very friendly letters after you left?

A. Just one, just one letter. Just Hazel wrote me one letter. Mrs. Brunen didn't write me a letter, Hazel wrote me a letter.

Q. Well, you wrote a letter to "Dear Harry and Dottie"—pardon me—you wrote a letter to "My dear Dottie, Hazel Brunen, Harry and everybody," did you not?

A. I wrote a letter, yes, but I can't remember what I wrote any more, and Hazel answered to me.

Q. And that letter was written shortly after you returned, March 31st, wasn't it?

A. The 31st? No, I don't think, Mr. Keown, it was the 31st. I don't remember.

The Court: Have you got the letter there? Show her and let her see the letter.

(Witness shown a letter purporting to be signed by this witness and she is asked whether it is her signature.)

A. That is my letter all right. Yes, that is all right.

Q. Now will you please read that letter to the jury?

(Letter read by Mr. Keown as follows):

"Gary Station, Illinois, 31/3/22.

My Dear Dottie and Hazel and Mother, Harry and everybody:

Have just arrived here all right and without any trouble. Found all my family in good health and condition. Well, Dottie, dear, you ought to see it. The boys had everything scrubbed from top to bottom. I telephoned to Will from Chicago. I came in Chicago 8.15 this morning, just five minutes too late, for the Cary train had just left, so I had to wait until 12.30 and I was home 1.40. Well, dear, your trunk is on the way back already, and herewith I send you the key and many thanks from Bill and the boys. According to paper news people consider me as a big heiress now, as John was here considered a very wealthy man. Well, we can do nothing. Just let them talk. The news from the withdrawal of this

tie-up is in all papers here. Now, Dot, I hope everything is coming all right and all you can do get things off your mind and humor up. Hope to see you and dear Hazel soon again. With all my love and best wishes to you, dear Hazel, your mother, Harry and all.

Your loving sister-in-law,
Aunt Lizzie."

Mr. Keown: If your Honor please, there is just something down here that has nothing to do with the case, by way of postscript. Will you just step up here, Mr. Peacock?

Mr. Peacock: I will take your word on it.

Mr. Keown: Your Honor may see whether it should be read.

The Court: Do you want it read?

Mr. Peacock: No.

Mr. Keown: It is a postscript that has something to do with something else, not with the case. I offer it in evidence.

The Court: It doesn't have to be marked. You have read it in evidence. It is in evidence.

Q. So you were very friendly with the folks after you left, were you not, Mrs. Jaeschke?

A. I think after they explained everything to me. I think everything was all right. I believed it and the other way I didn't.

Q. Now, Mrs. Jaeschke, shortly after you arrived

in Riverside you filed a caveat, did you not, against Mrs. Brunen being administratrix of the estate?

A. I filed that in the hospital. You came in the hospital, Mr. Keown, and raised—I was in a very delicate condition and you came in the hospital after me, you and Harry Mohr. The day when I called Harry Mohr to come and get me.

The Court: That is not responsive. It is stricken out. Just answer the question and not go on and talk about other things. Answer the questions that are put to you and you will have no difficulty.

Q. You had an attorney for you file a caveat against Mrs. Brunen being the administratrix of the estate, did you not?

A. I had a caveat against the estate, yes, that is true.

Q. And then you later went to the surrogate's office here in Mount Holly and had that caveat withdrawn, did you not?

A. I signed this in your office.

By the Court:

Q. Did you or did you not? Answer the question.

A. Yes, I did.

The Court: Well, now that is answered.

Q. And you signed a withdrawal of the caveat in the presence of the surrogate, did you not?

A. I think I did.

Re-direct examination.

By Mr. Peacock:

Q. Mr. Keown asked you at the time Harry Mohr told you he had found these guns, if it had been published? Had it been published at that time?

A. Not what I know, Mr. Peacock.

Q. Did you write to Mr. Parker to find out about it?

A. I wrote to Mr. Parker all the information and everything I know.

HARLEY H. EDGE, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Edge?

A. Riverside Park.

Q. Do you know where John Brunen's home is?

A. Yes, sir.

Q. The night that John Brunen was murdered were you in the vicinity of his home?

A. Yes, sir.

Q. What time?

A. 7.30.

Q. Were there any cars in front of the house at that time?

A. No, sir.

Q. Did you see any cars there?

A. No, sir.

Q. Did you see anybody there?
A. No, sir.
Q. This was 7.30?
A. Yes, 7.30.
Q. Where did you go to then?
A. To work.

Cross-examination.

By Mr. Keown:

Q. How do you fix the time as 7.30?
A. When I got to Riverside I looked at the Clock-case. It was 7.40, and I had to get lunch before I went to work.
Q. And did it take you ten minutes to walk from the Brunen home to the Riverside clock?
A. The restaurant, on Scott Street.
Q. Where did you see the time?
A. In the restaurant.
Q. In the restaurant?
A. Yes.
Q. And the only way that you have of fixing the time is by the clock in the restaurant?
A. Yes.
Q. When did you first charge your mind to remember what time it was when you arrived at this restaurant?
A. Because I had twenty minutes to get to work.
Q. No, I mean when did you first charge your mind that you were there on March 10th at twenty minutes of eight?
A. When did I first charge my mind?
Q. Yes.
A. No time particular. When you have a certain time to go to work you go at that time.

Q. Were you in the restaurant on the night before?

A. Yes.

Q. What time were you in the restaurant the night before?

A. The same time.

Q. And the night afterwards?

A. No, not the night afterwards, we don't bake on Saturday night.

Q. The following week Friday night what time were you in the restaurant?

A. The same time.

Q. And the reason you fix the time you passed the Brunen house is because you always arrive at the restaurant at twenty minutes of eight?

A. Yes.

Re-direct examination.

By Mr. Peacock:

Q. Immediately after this did you see Mr. Parker?

A. Yes, sir.

Q. How soon after?

A. It was on Friday night. I seen Mr. Parker on Monday at noon.

Re-cross examination.

By Mr. Keown:

Q. From where did you go to pass the Brunen home?

A. 140 Stewart Avenue, Riverside Park.

Q. And with relation to Riverside and with relation to the Brunen home where is that?

A. That is towards Camden.
Q. Towards Camden?
A. Yes, sir.
Q. What part of the road were you walking on?
A. St. Mihiel Drive.
Q. And where is that?
A. Across the railroad from the Brunen home.
Q. You were over on the concrete road?
A. Yes, sir.
Q. And then when you passed the Brunen home you were at least how many feet from the Brunen porch?
A. Forty yards, I imagine.
Q. In other words you were—there is the Brunen home? (Indicating on map.)
A. Yes.
Q. And then there is the street?
A. New Jersey Avenue; yes, sir.
Q. And then there is the railroad crossing?
A. Yes, sir.
Q. And then there is the trolley line?
A. Yes, sir.
Q. Then there is the macadam street?
A. St. Mihiel Drive.
Q. That is a macadam street?
A. Yes.
Q. And then there is a sidewalk?
A. No, there is no sidewalk there.
Q. You were walking along this macadam road?
A. Yes.
Q. Was the Brunen house lighted?
A. I didn't notice.
Q. Now did you look across to see if there was anything at the Brunen house ——
A. There was nothing there to draw my attention.

Q. You didn't even look over?
A. No, sir; I never do. It wasn't my place to look. I was there.
Q. As far as you know, you never even looked over at the Brunen home?
A. No, sir.

(Recess for five minutes.)

MARY MILLER, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live?
A. 432 Penn Street, Camden.
Q. Do you know Harry Mohr?
A. Yes, sir.
Q. How long have you known him?
A. About four years.
Q. Where did you first get acquainted with him?
A. In the Brunen shows.
Q. How long were you with the Brunen show?
A. I was with the Mighty Doris Exposition shows a year. Moore and Reynolds ——
Q. Now, were you with the show when it went into winter quarters at Williamstown?
A. No, sir.
Q. Where were you at that time?
A. At that time I was over in Philadelphia.
Q. How long did you stay in Philadelphia?
A. I stayed in Philadelphia a week.
Q. Where did you go to then?
A. I came over to Camden.

Q. Where did you live in Camden?
A. 28 Broadway.
Q. And is that an apartment house?
A. Yes, sir.
Q. What was the name of that place?
A. DeHaven Apartments.
Q. How long did you live there?
A. About three weeks.
Q. Now, where did you go to from there?
A. I went on Sunday when I found—when Mrs. Mohr found out I was living there, I went to Pottstown and stayed over night and went to Philadelphia.
Q. Who did you go to Pottstown with?
A. Mr. Mohr.
Q. Harry C. Mohr, the defendant?
A. Yes, sir.
Q. When did you go to Pottstown?
A. It was on Sunday around in November some time, but I can't make sure.
Q. Did you stay in Pottstown?
A. Over night.
Q. Where did Harry Mohr go from there?
A. To Wilkes-Barre.
Q. When did you next see Harry Mohr?
A. He came back, I came back to Camden and stayed a week in Camden, and Mr. Mohr stayed there too, and he stayed in the daytime, part of the time, but not at night.
Q. Do you remember when John Brunen was killed?
A. Yes, sir.
Q. Where were you staying then?
A. 32 North Third Street, Pennsylvania, Camden, New Jersey.
Q. Did you see Harry Mohr about Christmas time?

A. Yes, sir, saw him Christmas day.

Q. Did you have any conversation with Harry Mohr concerning John Brunen?

A. Well, he just said that he and Dottie or Mr. Brunen and Dottie had exchanged shots around Christmas time.

Q. What did he say to you about John Brunen?

A. He said—in relation to what do you mean?

Q. Give us the entire conversation Harry Mohr said?

A. Harry Mohr said that John and Dottie had exchanged shots. I said, "Well, was anybody hurt?" and he said no, that Dottie's corsets protected her; and he said—now let me think a minute —"I am so afraid sometime that when sometime when I come out to the house I will find out either John has knocked Dottie off or Dottie has knocked John off, but if he ever hurts her, I will get him, but I don't want that to happen, I will get him first."

Q. Where were you then?

A. At 32 ——

Q. How close to Christmas time was that?

A. Right before Christmas.

Q. This last Christmas?

A. Yes, sir.

Q. With whom were you living at the DeHaven Apartment?

A. At the DeHaven Apartment I was living with Mr. Mohr.

Q. At this time on Christmas at whose house were you living?

A. At Mrs. Kirk's.

Q. Did you have any conversation with Harry Mohr concerning the show?

A. Yes, sir, he said I couldn't go in the show the next season because Bessie was going on it and I would have to figure on going some place else.

Q. Did you have any other conversation with Harry Mohr?

A. No, he just said it wouldn't be long before the show would belong to him.

Q. Where were you when he told you that?

A. 31 North Third Street.

Q. After Mohr returned from Wilkes-Barre, did you see him?

A. Yes, sir.

Q. Where did you see him then?

A. I saw him at two something Market Street, Camden, Pennsylvania, Camden, New Jersey.

Q. Did you have any conversation with Mohr then concerning Mr. Brunen?

A. No, sir.

Q. Where were you living on March 11th?

A. March 11th?

Q. Yes, the day after Mr. Brunen was killed?

A. 31 North Third Street.

Q. Did you see Harry Mohr that day?

A. I saw him the morning after the murder.

Q. Where did you see him?

A. In my room.

Q. At what time?

A. I can't exactly tell, because I was sick in bed, I don't know exactly the time.

Q. Was it early?

A. It was daylight.

Q. What was the occasion of his visit to you the day after John Brunen was killed?

A. He just came to tell me Mr. Brunen had been shot.

Q. What did he say?

A. He said, "John was knocked off last night." I said, "Yes?" I said, "My God, no." I said, "Harry, have you any idea whoever killed John?"

He said, "No." I said, "I hope to goodness they get the one killed John and give him exactly what he gave him." He said, "They will never get him. I wish he was here now and I would knock him off myself."

Q. That was the morning after John Brunen was killed?

A. Yes, sir.

Q. Did you see Harry Mohr after that?

A. It was a week or two after that I saw him after the funeral.

Q. Did he visit you often after that?

A. Not very often, no, sir.

Q. When was the last time you saw him?

A. Over in Philadelphia before I went south.

Q. What was the occasion of that visit?

A. He just came over to see me before I went away.

Q. When was that, Miss Miller?

A. It was in April, about the twenty—some time in April, because I ——

Q. Did you ever see Harry Mohr have a revolver?

A. I knew he had a revolver, but I didn't see him with it.

Q. How did you know that?

A. I heard at different times, and he always said he was allowed to carry a revolver in the car.

Q. A few days before Mr. Brunen was killed did he come to see you and have anything with him?

A. Yes, he came and he had, a few days before Mr. Brunen was killed, I was sick in bed and he came there and he had a bottle of whiskey, and I said, "Harry, what are you going to do with that whiskey?" and he said, "I am going to Milt Stanley."

Q. Did he take it away with him?
A. Yes, sir.

Cross-examination.

By Mr. Keown:

Q. Miss Miller, you were always on friendly terms with Mr. Mohr?
A. Yes, sir.
Q. And there has been no change in those friendly terms?
A. I have no grievance at all against Mr. Mohr, no, sir.
Q. You have been to visit Mr. Mohr?
A. I certainly have, yes, sir.
Q. While he has been up in the county jail?
A. A couple of times, yes, sir.
Q. And throughout all those interviews you have been friendly?
A. I certainly have.

Clifford D. Cain, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. You live in Mount Holly, Mr. Cain?
A. Yes, sir.
Q. What is your official position in Burlington County?
A. Assistant county detective.

New Jersey State Library

Q. How long have you been assistant county detective?

A. About eighteen months.

Q. Were you at the Brunen home the night of the murder?

A. I was.

Q. What time did you get there?

A. Between nine and nine-thirty.

Q. Describe to the jury what you found at that time.

A. When Mr. Parker, Mr. Bading and myself arrived at the home of John Brunen in Riverside on the evening of March 9, March 10, 1922, we were met in front of the house by chief of police Voshell of Riverside, who went into the house with us, where we, or rather where Dr. Maul met us and we went on through to the kitchen. When we went into the kitchen door, I saw the body of John Brunen sitting in a rocking chair near the window on the left side of the kitchen facing out towards the garage. In his hands he held a newspaper; around the chair was a big pool of blood. As I went over to him I saw a hole in back of his left ear. I noticed a hole in the window near which he was sitting about the size of a half dollar. The curtain was between twelve and fifteen inches high from the window sill, that is, on the window near the rocking chair. The curtain at the other window which is near the porch was all the way down.

Mr. Parker, Mr. Bading, chief Voshell and myself then went out back of the house, and in, and near the cellar door we saw two sets of footprints; one was of a very small type which resembles a woman's footprints, the other resembled the footprints of a man of very small proportions, I should say about five or six. Mr. Voshell and myself continued to search around the building to see if we could

find more footprints. During this search Mr. Parker and Mr. Bading returned to the house and on my return into the house with Mr. Voshell, Mr. Parker, Mr. Bading, Mrs. Brunen, Hazel Brunen, Dr. Maul, were sitting in the living room, and after I arrived Mrs. Brunen explained to Mr. Parker that she had been in the bathroom and had heard a report and had come down the stairs, went to the kitchen door, opened the door and had saw what had happened. Then she ran through the house to the front door and as she opened the front door she saw a touring car moving towards Riverside, and saw two men running to get into it. She then stated how she went on over to Walters' house and gave the alarm. She also told Mr. Parker of a man by the name of Dutch Werner who had been on the show and whom Mr. Brunen had issued orders to have him put off. I was also present when Harry Mohr returned that evening, I should judge about—well, between eleven and eleven-thirty. I don't know the exact time. He had with him a gentleman whom he introduced as Mr. Kresge. Mr. Mohr also spoke to Mr. Parker in regards to Dutch Werner on the show, telling what trouble they had had and of Mr. Mohr putting him off the show. He also spoke to Mr. Parker about the trouble that John was having with the Freedman gang in New York. He also mentioned the name of a Bennie Franklin from Baltimore. He also told Mr. Parker he had checked up the show people or the men with the show in winter quarters in Williamstown, and they had all been reported present. That's about all the conversation that I remember took place there in the house.

Q. Did you make any investigation to find shots around the window, Mr. Cain?

A. Yes, Mr. Parker and myself was on the outside of the house and Mr. Parker called me up to the window and we were looking on the outside of the window, and on the outside of the hole, which at that time, which was more or less ragged, it appeared to be as if the shot went through the window but that the edge of the glass had scraped off a fine layer and it seemed as though it more or less hung to the edge of that hole.

Q. A layer of what?

A. A layer of lead.

Q. And when did you find that?

A. That evening.

Q. How soon after the murder, what time did you arrive there?

A. Between nine and nine-thirty I arrived, or it was between nine-thirty and nine forty-five.

Q. Mr. Cain, do you know what kind of automobile Harry Mohr owned?

A. Yes, the car he was driving was a Ford coupe. I don't know whether Mr. Mohr owned it or not.

Q. Did Mr. Mohr tell you anything about that car, tell you where it was?

A. The morning Mr. Mohr was arrested he took me and Mr. Bading and sheriff Stone, or undersheriff Stone, around to Preisendanz's garage and gave Mr. Preisendanz the license number of his car and issued orders for no one to take it out unless he said so, or in fact I issued the orders and Mr. Mohr consented to them, and on April 30th I got the Ford coupe and brought it to Mount Holly, and had it locked up in police headquarters until the car was brought up this morning, and it is in back of the court house.

Q. That car here?

A. It is right out here.

Cross-examination.

By Mr. Keown:

Q. Now, Mr. Cain, have you had any other conversation with Mr. Mohr as to who could have killed John Brunen?

A. Yes, I have had many conversations with Mr. Mohr.

Q. And in addition to mentioning the Freedman boys and Bennie Franklin, who else did he mention?

A. Mr. Keown, he mentioned many to me. I made two trips to Philadelphia and interviewed Mr. Mohr in regard to who might be suspects, and he gave me at different times several lists of different ones, whose names I don't remember now. One was, I do remember Clearwater, and a man by the name of Dutch Hoffman. They are too many for me to remember, I can't place them all now.

Q. Just a moment, I think I can refresh your memory by showing you the list.

A. All right, I will appreciate it if you will.

Q. Just pardon me a moment while I find that list, I will go on with another line.

A. All right.

Q. Now, when you and Mr. Parker arrived there that evening and had a conversation with Mrs. Brunen as to who she thought could possibly have killed John Brunen ——

A. I didn't have the conversation. I was present with Mr. Parker.

Q. The examination was by Mr. Parker, was it not?

A. That's correct.

Q. And Mr. Parker at that time was trying to find out who could have done this?

A. Positively.

Q. And he asked Mrs. Brunen who could have possibly done it?

A. Asked her opinion on it, yes.

Q. And then it was she said Mr. Brunen had a lot of enemies, did she not?

A. I don't know whether that was the words, but it was the meaning of the conversation.

Q. Didn't he ask her, didn't he, Mr. Parker, ask Mrs. Brunen who could have done it or words to that effect?

A. He was asking on the general line who she suspected. He was not confining her to any one person.

Q. And then she gave him the name of Freedman?

A. Yes.

Q. What excuse did she give to Mr. Parker for giving him the name of Freedman? What was her conversation?

A. It seemed Mrs. Brunen spoke of a robbery.

Q. I just want you to say what Mrs. Brunen said.

A. Doesn't that answer it? Mrs. Brunen spoke about a robbery that occurred there and they always suspected the Freedman gang, and since you recall it it seems Mr. Brunen had been in New York.

Q. This is the substance of her conversation?

A. Yes, and she spoke of Mr. Brunen bumping into one of the Freedman boys and there was an argument between John and this Freedman boy, something about his brother knocking one man off and he would knock another off, or words to that effect.

Q. Mrs. Brunen told that at that time?

A. Yes.

Q. Mr. Parker knew of it before, did he not, judging from what Mr. Parker said to Mrs. Brunen?

A. He might have known something about it.

Q. Didn't he intimate to her that he knew all about that affair?

A. Yes, he did.

Q. Now, when Mrs. Brunen spoke to him about Franklin, what did she say?

A. If my memory fails—serves me right, Mr. Keown, it seems there has been trouble between Bennie Franklin and Mr. Brunen, and this, I don't remember at the present time, I don't know whether that was over the robbery or not.

Q. But after Mrs. Brunen had told that to Mr. Parker, did not Mr. Parker say, "Yes, I know about that Bennie Franklin affair"?

A. He might have, I don't recall.

Q. Now are they the only two people Mrs. Brunen mentioned on that night?

A. No, she mentioned Dutch Werner.

Q. Did she tell Mr. Parker why she perhaps suspected Dutch Werner?

A. Well, something about trouble that John had had with Dutch Werner when he ordered him off the show, something about the cooking house or cooking appurtenances they had, I don't know what she meant.

Q. After she told that to Mr. Parker did not Mr. Parker say, "I know about that too?"

A. Not to the best of my knowledge he didn't.

Q. Was that the only thing she seemed to have told him, that he didn't seem to have known about?

A. I won't be certain about that, Mr. Keown.

Q. Now, do you remember any other names she may have mentioned that night?

A. No, Mr. Keown, they are really the only three I can recall, owing to the fact that evening I was in and out of the room more or less and there might have been names mentioned while I was out.

Q. Now, what was it you meant about those shots being around that hole in the glass? I didn't quite get what you meant.

A. The night that the murder occurred the hole was about the size of a half dollar, on the outside of the glass which was outdoors the edge of the glass seemed to be very rough, have a kind of ragged edge around the hole on the face of the glass, also as well as the edge of the hole, it just seemed to be as if the lead shots that came out of the shell, it seemed to scrape it so there was just a real thin layer, just perhaps the width of a hair, that hung right there. That is the best explanation I can give you.

Q. Was any of the glass around this hole out of the pane, or was it a clear cut hole?

A. It was a clear cut hole at that time, Mr. Keown. That is, the hole was in the window pane.

Q. The witness is shown a list of names and I ask if that is not the list of names that Mr. Mohr gave to you.

A. Mr. Keown, this list of names is a list of the names of the men, or rather persons who were on the Brunen show last year. This was never sent to me as a list of names of suspects.

Q. But did Harry Mohr give you that list of names?

A. No, sir, he did not.

Q. Did Harry Mohr give you a list of names, if you will look over that list of names, or who made up this list of names, and give that list of names to Mr. Mohr?

A. Not me.

Q. Are you sure you didn't give that to him?

A. What this here is, this is a copy of what Mr. Mohr sent Mr. Parker.

Q. You know that is a copy of the list?

A. Yes.

Q. Of the list of names Mr. Mohr sent Mr. Parker?

A. Yes.

Q. Will you read the names? I asked you the question originally as to what names Mr. Mohr might have given to you, and I show you that list for the purpose of refreshing your memory of different names Mr. Mohr gave you.

A. Do you want me to read this list?

Q. If they are all names Mr. Mohr gave you, yes, sir.

A. Mr. Mohr never gave me that list of names.

Q. You say you knew he gave it to Mr. Parker?

A. Yes, it came through the mail to Mr. Parker.

Q. You saw it?

A. Yes.

Q. Does that refresh your memory as to the list of names Mr. Mohr turned over to the authorities that were names of men who might have known something about that murder?

A. Mr. Keown, this list of names here is in answer to a query Mr. Parker sent to Mr. Mohr requesting the names of people who had been on the show the previous season, and not who he thought might have committed the crime.

Q. Read the list of names.

A. Mr. Berridge, Mr. Tucker, Mr. Toots, Roy Thomas, Miss Annie Klein, Mr. Allen Beardsley, George Homan, Miss Miller, Mr. William Geers, Fred Kahn, Miss Walker, Charles Powell, Harry Morris, Eddie Young. Is this name here a memorandum of yours?

Q. No, I didn't put that on, I don't know whether it means anything to you or not.

A. No, it doesn't.

Q. Did not Mr. Mohr furnish you or Mr. Parker a five page list of people that might have known something of this?

A. Not me, I never seen anything like that, not to the best of my knowledge.

Q. You never saw it?

A. Not to the best of my knowledge.

Mr. Keown: I am going to show it to him.

The Court: He says he never saw it.

Mr. Keown: I am going to show it to him and ask him if he doesn't remember having seen it.

Mr. Peacock: We have the original list Mr. Mohr gave Mr. Parker if Mr. Keown wants to offer it in evidence.

Mr. Keown: No, that is not what I am looking for. I don't seem to be able to put my hands on it. I will take it up later, Mr. Cain.

The Court: Go ahead.

Q. Now, when Mr. Mohr returned home that evening was he questioned by the authorities, the evening of the tragedy?

A. Well, Mr. Keown, I wouldn't exactly call it a quizzing. There was a general discussion between Mr. Mohr and Mr. Parker.

Q. And did Mr. Parker ask Mr. Mohr whether he could give him the names of the people that might have committed this?

A. Well, if he asked him the question I don't remember it, Mr. Keown.

Q. But you did hear Mr. Mohr when he came home state that he had carried out Mr. Parker's instructions and had checked up winter quarters?

A. Yes.

Q. And he told you that everybody had been accounted for at winter quarters?

A. Yes.

Q. There was no one away from the winter quarters at the time?

A. Yes.

Q. Now when was it that you first paid particular attention to the condition of the curtains?

A. That evening.

Q. What time?

A. When I first got there.

Q. And that was around nine o'clock?

A. Between 9 and 9.30, Mr. Keown. I am not positive of the time.

Q. And who had been in the house before you got there?

A. I couldn't tell you.

Q. Who was there when you arrived?

A. Mrs. Brunen and Hazel and Dr. Maul were the only three that I seen.

Q. You didn't see Mr. Harry Mohr's mother?

A. No, I didn't. There was a lady that sat in the front room there, which was a bedroom, but I don't know who that was.

Re-direct examination.

By Mr. Peacock:

Q. Mr. Cain, did you investigate all these names that Harry Mohr gave you?

Mr. Peacock: The witness has said that Mr. Mohr did give him a list of names.

The Court: Gave Mr. Parker.

A. Mr. Mohr did give me some names, but that was in Philadelphia.

Q. What names did he give you?

A. There was one by the name of Dutch Hoffman, and an Indian's name, which I think was Clearwater, I won't be positive.

Q. Freeman?

A. Clearwater, something like that.

Q. In talking to you did he say anything about Charlie Powell?

A. Never mentioned it.

Q. Do you know the road Charles Powell and Harry Mohr took after the murder of John Brunen?

Mr. Keown: I don't see how he could know it.

The Court: That is objectionable.

Mr. Peacock: I am going to try to find out how he does know it.

The Court: Well, if he had any conversation with Mr. Mohr that is one thing. If Powell told him that is another.

Re-cross examination.

By Mr. Keown:

Q. Now didn't Harry Mohr afford you all the assistance that you asked him for during the first two or three weeks of the investigation?

A. He did.

Q. He arranged to have anybody that you wanted to interview around the lots?

A. He did.

Q. And as late as the time when the show was at 10th and Luzerne, the week that he was arrested, he had made plans and had men there so you could get them and quiz them, did he not?

A. There were no special plans made, Mr. Keown, on that. There was on Monday before Mr. Mohr ——

The Court: You have answered the question.

By Mr. Peacock:

Q. Did he have Charlie Powell there with these men?

A. I never seen him.

By Mr. Keown:

Q. Wasn't he working on the show at the time?

A. Who?

Q. Powell.

A. Not to my knowledge, he wasn't.

Herman Bading, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Are you a member of the state police, Mr. Bading?

A. I am.

Q. Did you assist in investigating the murder of John Brunen?

A. I did.

Q. Give us the result of that investigation.

A. On the night of March 10, 1922, I was notified ——

Q. Come right down to the Brunen home and we can cut this short; at the time you entered the Brunen home. Begin there.

A. Mr. Parker, Mr. Cain and myself got to the Brunen home and we were met at the front door by chief of police Voshell, of Riverside. We went in through the hall, in through the living room and into the kitchen, and when I got into the kitchen I saw the body of John Brunen in a rocking chair. The floor had a pool of blood on it and his clothes were all covered with blood. I went over to him and under the left of his—to the rear of his left ear he had a hole in his head. In the window pane near which he sat was another hole. The curtain of this window was about 12 to 15 inches from the bottom. The curtain on the other window furthest from which he sat was pulled all the way down. Mr. Parker and myself, Mr. Cain and chief Voshell went out in the rear yard and at the cellar door, right under the window through which the shot was fired, there was a footprint of a man's shoes, size I should say 6 or 6½. Right near this footprint was the footprint of a woman, a woman's shoe, very small heel. Mr. Cain and chief Voshell and myself looked around the hedge around the rear of the house to see if we could find any other clothes, but we couldn't find any that evening. I went in the house then, into the kitchen. In the meantime the coroner had arrived and was preparing the body. The coroner took two letters from Mr. Brunen's clothes.

Q. I show you two letters. Are they the two letters that were taken from his clothes that night?

A. Yes, those are the two letters.

Q. How do you know, Mr. Bading?

A. My initials are on them and the date that I got them is on them.

Q. What is the discoloration on the letters?

A. H. B. 3, 10, 22.

Q. What are the letters covered with?

A. The letters are covered with blood.

Q. Proceed.

A. The coroner also took some papers and jewelry from Mr. Brunen's body and went into the living room and handed these things to Hazel Brunen. We then went in the living room, Mr. Parker and I went in the living room and Mr. Parker asked Mrs. Brunen several questions, as to who might have committed this crime; and she mentioned several names. Among them were Dutch Werner and the Freeman boys in New York, and Bennie Franklin from Baltimore. I then went out in the kitchen and looked around to see if we could find any trace of any shot, but we couldn't find any. About 11.30 or 12 o'clock Harry Mohr came in and he brought a man with him whom he introduced as Jules Kresge. When Harry Mohr came in ——

Q. May I interrupt you just one moment, Mr. Bading? Were you present when Mrs. Brunen was talking with Mr. Parker concerning the footprints?

A. Yes, sir; I was.

Q. Tell what that was.

A. Mr. Parker said, "What are those woman's footprints doing out there?" Mrs. Brunen said, "Why those must be mine. I was out there at six o'clock and put the dog in the cellar."

Q. Go ahead.

A. When Harry Mohr arrived home Mr. Parker asked several questions and Harry Mohr gave about the same names as Mrs. Brunen did, Benny Franklin, the Freeman brothers and Dutch Werner. That was about all that I remember.

Cross-examination.

By Mr. Keown:

Q. Mr. Bading, how came Mr. Mohr to engage himself in that conversation with Mr. Parker, giving him the names of these men?

A. Mr. Parker asked Mr. Mohr.

Q. And what was the question Mr. Parker asked Mr. Mohr?

A. Well, I just couldn't tell you the exact words.

Q. Well, in substance.

A. The meaning was did he have any idea who might have committed this crime.

Q. Now was Mrs. Brunen taken out into the yard and shown the footprints?

A. No, she went out of her own free will.

Q. When?

A. While we were looking at the footprints.

Q. And where were those footprints?

A. Right near the cellar door.

Q. Did you see the garbage can?

A. Well, I just don't recollect.

Q. Well, now, wouldn't it be important whether there was a garbage can there or not? Did you not hear Mrs. Brunen say that night that she had gone out to empty the garbage?

A. No, I did not.

Q. Didn't you hear her tell that to Mr. Parker?

A. No, I was not present if she did tell it.

Q. You were not present if she did tell it?

A. No.

Q. But Mrs. Brunen was right there when you were talking about the footprints?

A. Yes.

Q. Now you just charge your mind; was there a garbage can there?

A. I couldn't really say.

Q. What was out there besides the cellar door and the back steps, if anything?

A. I didn't notice anything.

Q. (Referring to map.) There was nothing between—you go down into the rear yard from off this porch, do you not?

A. Yes.

Q. There wasn't anything between the cellar door and those steps that go down there to your knowledge?

A. I didn't notice if there was.

Recess till 1 P. M.

(Trial of the cause resumed at 1.05 P. M.)

ELLIS H. PARKER, recalled for the State.

Direct examination.

By Mr. Peacock:

Q. You are county detective of Burlington County, Mr. Parker?

A. Yes, sir.

Q. How long have you been county detective?

A. Twenty-eight years.

Q. Did you know John Brunen in his lifetime?

A. I did.

Q. How long had you known him?

A. I met Mr. Brunen first about three years ago.

Q. When did you first hear of his murder?

A. Right close to eight o'clock on the night of March 10th.

Q. Was there any arrangement made between you and Mr. Brunen about what would happen on that night?

A. Well, I was in conversation with Mr. Brunen a week or so previous and there was an arrangement made, yes.

Q. What were those arrangements?

Mr. Keown: If your Honor please, is conversation between the deceased and Mr. Parker relevant or material or admissible at this time?

The Court: Not now.

Mr. Peacock: I didn't ask the conversation. I asked what arrangements he had with Mr. Brunen.

The Court: How could an arrangement be made unless it was the result of conversation?

Mr. Peacock: I don't know, sir. I suppose there are numerous ways.

The Court: Anything that the deceased said or did.

Mr. Peacock: I will withdraw it at this time.

Q. Tell the jury what you did and what happened at the time you arrived at the Brunen home.

Mr. Keown: Is this the night of the tragedy, Mr. Peacock?

Mr. Peacock: Yes.

A. Well, I arrived at the Brunen home on the night of March 10th something after nine o'clock,

and when I arrived there I immediately went in the house, went out to the kitchen and saw Mr. Brunen sitting in his rocking chair that has been offered here, with an Evening Bulletin in his hand, both hands, and his head pitched a little forward to the right. I noticed the hole through the window pane and I immediately went outside of the house with others and saw the tracks of some one standing, the left foot pointed towards the window and the right foot crossways. The left foot was eighteen inches from that, further out. It was near the cellar door that goes down cellar outside of the house. To the right of that, within two feet, there was another track of a woman's foot, small heel, that had gone almost to the cellar door. I came in the house ——

The Court: Now you said "woman." Strike out "woman," but there was a small ——

A. Small track, a very small heel. I came in the house and I said concerning the track, in the presence of Mrs. Brunen and Hazel and Dr. Maul and coroner Belton, and I think Mrs. Brunen's mother was in the front room, that, "I see the tracks of the man who fired the shot. I also see a woman's tracks there." Mrs. Brunen says, "Mr. Parker, that is my track. I went out and put the dog in the cellar about six o'clock." Then I started to talk to Mrs. Brunen concerning the man that killed her husband. She told me of different people. She says, "Of course, Mr. Parker, you know about the time I was robbed and who we think did it, Benny Franklin's gang, and the Freeman boys over in New York. Now Mr. Brunen was over there and one of the Freeman boys came up to him and told him, 'I understand you are looking for my brother,'

and something to the effect that, 'He has knocked off two or three people and you want to leave him alone,' or words to that effect.''

The Court: Tell us as near as you can.

A. '' 'You had better keep away from him or you will get knocked off.' '' Then she started to tell me about some trouble that Paul Perrell, of Paterson, New Jersey, had with Mr. Brunen at the Timonion Fair near Baltimore, that Mr. Brunen had tied up his stuff and they had some kind of a suit, each tied the other's up, and that Mr. Perrell's stuff was still there. I asked her who else she could think of that might know something and she spoke about a young fellow—I am not positive whether she told me that or Harry told me that afterwards, but anyhow one or the other told me that evening—

The Court: It is very important to remember which one told it.

A. Well, I am positive now, since I recall, that it was Harry, after he arrived later.

Q. Was Mrs. Brunen there?

A. Mrs. Brunen was there.

Q. And heard what?

A. She could hear, but I don't know whether she did. She was present.

Q. Go ahead.

A. Told me concerning Bobby Connors. I took the telephone that night and phoned to the Reading, Pennsylvania, police and they had given me —they were both present—which gave it to me I don't know, but I think Harry—Dr. Knaub's address, and I asked the police to go and see Dr. Knaub and also ascertain where Bobby Connors

was and to account for their movements. I am not real positive, but I think after I left there—I know it was, though, after I left there, I took my own phone and called Paterson, New Jersey, and asked the police to make inquiries there concerning Paul Perrell, whom they had told me about this trouble.

Mr. Keown: I object to anything that was not said in the presence of the defendant.

The Court. Well, he can state the fact that he called up the Paterson police.

A. That is what I am going to say. I also called up the Jersey City police to look for the whereabouts of Dr. Ward.

The Court: And from the information that you received, what did you do?

A. From information that I received from the—well, further, both Mrs. Brunen and Harry Mohr told me concerning a fellow known as Dutchy, the chef, or Dutchy Werner. Harry told me that the engine backed back into the cars at Williamstown and jarred his cooking utensils down on the floor, and he grabbed up a butcher knife and chased the engineer, and that he had had a gun down there and that John and Mr. Walters had been down there prior to Dutchy the chef leaving the winter quarters at the show, and that Mr. Walters perhaps knew what occurred that day; that John had told them that ——

Mr. Keown: Now ——

The Court: What is it you object to?

Mr. Keown: I want the witness to fix whose conversation it is.

The Witness: Harry Mohr.

The Court: I thought he said that Harry Mohr told him.

A. And that Dutchy Werner had run John Brunen out of the car, the dining car, with a shotgun. I sent over for Mr. Walters to come over that night right away, asked him about it. He said he was down there when they had some conversation or some words, but that he didn't remember seeing the shotgun. He remembered seeing ——

The Court: Who is this speaking now?

A. I am speaking to Mr. Walters in the presence of Mrs. Brunen and Harry Mohr. They had told me about Mr. Walters being present. I immediately sent for him and he said that Mr. Werner went back towards the end of the car, but he didn't see any shotgun; he might have had one there. Then I questioned Mrs. Brunen again concerning Dutchy Werner, and she told me that he told her one time that he was a cook on a boat and that he struck a boy in the head and accidentally killed him and threw him overboard. So then after I had given the officers around that house that night instructions I came back to my home and spent the rest of the night on the telephone. The next morning I returned to the Brunen home and this piece of gun was furnished me, given to me by Mr. Voshell, also the two shells.

The Court: Where is the piece of gun?

(Piece of gun produced.)

Q. That is the piece of gun, is it?
A. Yes, sir; that is the piece of gun. And two shells was given me.

(Shells produced.)

By the Court:

Q. Are those the shells?
A. Yes. After a talk with Mr. Voshell I went out in the lot that separates the houses to the west of Rancocas Avenue and on out into Kinsinger's field, where I found some tracks. When I found these tracks in the direction they had come out of this lot, I back-tracked into the lot and saw faintly once in a while they led right in the direction where these things were pointed out as being found. I then went and followed the tracks, also took measurements, clean on out in a rounding direction towards the Kinsinger home and down towards Cambridge station. I then dispatched Mr. Cain and Mr. Bading to Williamstown to make an investigation there. I went back to the Brunen home, made a thorough search of the premises. I also had Miss Yoos with me and I also had a talk with Mrs. Brunen and took her statement. Then I requested Harry Mohr to give Miss Yoos a statement himself. That statement was not questioned by me, but he gave that to her himself. That consumed on Saturday. I then, of course—many witnesses that have been on the stand, interviewed them from time to time in the case. I ran out Mr. Werner. I located him at Berwynd, went there, took Miss Yoos, took his statement and took other statements. And I went to every person that I had any information

about. I had requested later a list of Mr. Mohr of the concessionists on the show.

By Mr. Peacock:

Q. A list from Mr. Mohr?

A. From Mr. Mohr, and I did it through Hazel Brunen. Doc Knaub and Hazel Brunen were at the house and I asked Mr. Mohr if he would furnish me a list.

Q. I show you a list and letter. Is that the list you refer to, Mr. Parker?

A. Yes, that is the list I received, and with that the letter.

Q. I ask you to read the letter of Harry Mohr, giving the date.

A. I had asked for a list of the concessionists, and this was what I received.

"April 8, 1922.

Ellis Parker,
Mount Holly, N. J.
Dear Sir:—

As per your request find enclosed a list of concession people that worked for Mr. Brunen last year. Of course there were a number of floaters came on each fair, and just remained for one fair, it is difficult to get the names of. You will also note that a number of them I do not have the address of. Any assistance that I can give you I will be glad to render you. Thanking you for your courtesies in the past, I remain,

Very truly yours,
Harry C. Mohr,
Riverside, N. J."

Q. Will you look at that list and see if Charles Powell's name is there?

A. Yes, Charles Powell's name is here, just under Camden, N. J.

Q. It does not give the street number?

A. No, sir.

Q. All right. Proceed.

A. I also received a list of names and information from Mr. Keown that he said had been given to him by Mr. Mohr for investigation. I investigated everything, and in fact, every person that worked on that show last year that I could hear tell of, I looked up their whereabouts, because I always used the process of elimination in my cases.

The Court: You must not tell what your investigation led up to.

Q. Proceed. Did you look up all the concessionists?

A. I looked up that also.

Q. Were all their movements accounted for?

A. They were.

Q. Proceed.

A. After I investigated to my satisfaction I made a complaint and a warrant was issued.

The Court: Mr. Parker, just before you state that, did you state to either Mrs. Brunen or to the other defendant the result of your investigations?

A. I never tell anybody what I am doing.

By the Court:

Q. No, I mean the results, as to people that they had furnished to you. Did you make any statements to either one of them?

A. I did not.

The Court: That is all. Go ahead now.

A. After I had satisfied myself I made a complaint and a warrant was issued for Charles Powell. On April 6th Charles Powell was arrested. On the night, I think, of April 6th, he was brought to Mount Holly. On April 28th Marie Powell, his wife, came to my office and told me her husband had sent a message ——

Mr. Keown: Now, if your Honor please, is it evidential what Marie Powell told Mr. Parker not in the presence of the defendant?

The Court: No, that is objectionable.

A. On April 28th Marie Powell came to my office and after a talk with her I went to the jail and then I took a statement of Charles Powell. I then went out and made another complaint and a warrant was issued and Harry Mohr was arrested and brought to Mount Holly. I took a statement from Harry Mohr. Then later I took another statement from Charles Powell and I made a complaint and a warrant was issued for Doris Brunen. She was brought to Mount Holly and I took Mrs. Brunen in the other room and asked her if she wanted to make a statement and she said no, she didn't care to make any statement, that she had already given a statement as best she could. So there was no statement taken of Mrs. Brunen's.

By Mr. Peacock:

Q. Did you have any conversation with Harry Mohr other than you have described here?

A. Well, I did, yes, Mr. Peacock, but I couldn't undertake to go into it unless I was asked.

Q. I show you a telegram dated February 22, 1922, addressed to Harry Mohr, signed "John." Did you have any conversation with Harry Mohr relative to that telegram?

A. I did. It is in that statement that he gave me at the time he was arrested. I read this telegram to him and asked him to explain it.

Q. What did he say?

A. He said, "Oh, John was just a little hot in the head," or something like that. But the statement shows for itself.

The Court: I don't understand. Tell the conversation you had that led up to that.

A. I said, "Mr. Mohr, I will read you a telegram. Harry C. Mohr, Sherman Hotel, Chicago, Illinois, dated February 22, 1922." Then I proceeded to read this telegram to him. He said, "Well, that doesn't mean anything," or words to that effect. I couldn't tell exactly what he said, because when a statement is taken down I don't try to impress my mind with it.

Q. Mr. Parker, the guns that were found in this creek near the bridge of the Burlington Pike, were they delivered to you?

A. Both pieces of the gun was delivered to me, both the stock and the barrel.

Q. When was it published the first time that those guns had been found?

A. I kept the matter secret, the finding of those guns, and did not give it out until the 11th day of April.

Q. Have you any way of fixing that date?

A. I have a copy that I gave out to the press.

Q. I show you a paper refreshing your memory.

A. This information contained in this piece of paper was given out by Jonathan H. Kelsey on April 11th, after I had written it out and handed it to him.

Q. Is that the first time you had given any information out concerning the finding of these guns?

A. Positively.

Q. Mr. Parker, I show you a photograph that has been offered in evidence and marked Exhibit S2. Will you show the jury on that photograph where you saw these small tracks?

Mr. Keown: If your Honor please, I object to the witness using this photograph. The photograph has not been offered in evidence.

Mr. Peacock: It is marked on the back "Exhibit S2, 12, 11, 22."

The Court: Isn't that one that you consented to?

Mr. Keown: Not to be admitted in evidence, did I?

The Court: Yes, you picked out two and the others you rejected. This one is one of the two. The evidence is in anyhow.

Mr. Keown: Well, if I admitted them all right.

The Court: Yes, I recollect it very distinctly.

(Question repeated.)

A. Right about where I am pointing with the

pencil was the tracks of apparently a man's tracks. Just a little this side of it was the tracks of a woman who had gone up to about within a foot of the corner of that cellar door.

Q. Will you show the jury where you saw the larger tracks, Mr. Parker?

A. I have.

Q. You have shown them both tracks?

A. Yes.

Q. I show you a photograph which is marked S1 and ask you to show the jury where you followed those tracks from and to what place in that photograph.

Mr. Keown: Which tracks do I understand Mr. Peacock is talking about?

Mr. Peacock: He has only testified to one set of tracks; on this question now Mr. Parker only testified to one set of tracks that he followed from the Brunen home out across Kinsinger field. Those are the tracks I referred to.

The Court: And those are the tracks that the police officer said he found over there on Chester Avenue.

A. This photograph, Mr. Peacock, doesn't show the tracks—I mean in going around the Brunen house there was only one place that showed tracks of a person, and that was near the window where the shooting took place.

The Court: That answers the question.

Q. Mr. Parker, have you been to the bridge on

the Browning Road that has been referred to by Charles Powell in his testimony?

A. I have.

Mr. Keown: If your Honor please—

The Court: Leave out that, Powell's statement.

Q. Have you been to a bridge on the Browning Road?

The Court: Now let that question ——

Mr. Peacock: I withdraw the first question.

The Court: Does he know the bridge there?

Q. Do you know that bridge?

A. Yes, I do.

Q. Will you look on that map and show the jury where that bridge is and how you get to it?

Mr. Keown: Now if your Honor please, I think that this testimony is objectionable on the ground that wherever this bridge is the knowledge of Mr. Parker has been given him by Mr. Powell.

The Court: Now we will eliminate that, and if you will ask the question as to whether Mr. Parker knows of a bridge situate at the place that has been described by Mr. Powell, without reference to Mr. Powell's testimony, if he knows the road and knows of the bridge, hs is competent to testify to it.

Mr. Keown: Yes, if he knows of a bridge there,

witout connecting it up with Mr. Powell's testimony, I have no objection.

Q. Do you know of this bridge on the Browning Road of your own knowledge?

A. I do.

Q. Have you been to that bridge?

A. Yes.

Q. And where is that bridge situated?

A. That bridge is situated on the Browning Road as you leave Merchantville; you cross over the Ellisburg Pike and then there is another road that comes from what is called the Kaighn's Point Road, comes in only a few feet below it, onto the Browning Road, right near the Ellisburg Pike, and as you go down the Browning Road from there a quarter of a mile it is the first bridge.

Q. Where does that road continue on to, Mr. Parker?

A. Continues on to Collingswood.

Q. Will you point out that road to the jury?

A. Now, here is Merchantville and here is the Browning Road and there is the Ellisburg Pike. There is the Kaighn's Point Road and there is the bridge right there.

Mr. Keown: Can we have that marked?

The Prosecutor: I would suggest, may it please the Court, there may be something on the map mentioned by which that mark can be seen.

The Court: Well, he has marked it.

The Witness: I marked it.

The Court: Wait a little later, we will see.

By the Court:

Q. What sort of bridge is this?

A. Why, it is a concrete bridge.

Q. Are there any distinguishing marks on the bridge at all?

A. The bridge has recently been built within the last year. The roads have been widened and the bridge has been recently built.

Q. What are the character of the surroundings, the character of the grounds?

A. On each side of the bridge is a sort of ravine with trees and shrubbery and the creek passes, of course, through.

Q. The bridge goes over a creek?

A. Yes, sir.

Q. Do you know how high it is above the creek, about?

A. I should imagine about twelve or fifteen feet.

Q. And about how long is this bridge?

A. Well, Judge, you couldn't tell how long the bridge was unless you went out the end and looked, because the road is all made road, there is no stoppage of the road when it comes to the bridge, it is one of those macadam roads that continues right over this concrete.

Q. Is there much of a declivity?

A. Yes, sir.

Q. Is the road even with the rest of the soil?

A. Yes, sir.

Q. Until you come within how far of the creek?

A. Well, it is like a small meadow on each side of the bridge where the water travels under it, sort of banks.

Q. When you speak of the bushes, you speak of the bushes alongside of the road?

A. No, well, there is a few alongside the road. There is woods on the left as you pass over the bridge.

By Mr. Peacock:

Q. Mr. Parker, I show you a photograph and ask you what does that photograph represent?

Mr. Keown: Is that one that you offered?

Mr. Peacock: No, that hasn't been offered.

The Prosecutor: Yes, it is, as an exhibit.

Mr. Keown: Now, if your Honor please, I object to this witness testifying from this photograph. This photograph has not been offered in evidence.

Mr. Peacock: Mr. Parker has described the surrounding country and so forth. I am asking this witness what does that photograph represent?

The Court: Mr. Peacock, is it really necessary to have the photograph after you have had the statement of Mr. Parker?

Mr. Peacock: I think, your Honor, the jury should have the photograph of that bridge. As your Honor ruled in the Murphy case, it can be used to show as an illustration, in evidence. I don't offer it in evidence.

Mr. Keown: What is the difference, if your Honor please, of offering it in evidence and allowing the jury to see it?

The Court: Well, he wants to illustrate just as he would with the map, just what sort of bridge there is.

Mr. Keown: But the map has been offered in evidence. Certainly the jury cannot treat this photograph unless it is in evidence.

The Court: You haven't laid really a legal basis for the offering of this photograph, and you will have to show when they were taken and where they were taken and so forth in order to give some idea as to what was done at the time that a representation of the place was to be taken. I think you had beter leave it out. Mr. Parker has described just the character of the place.

Mr. Peacock: I am able to prove everything your Honor has just said.

The Court: You will have to do that before you ask questions.

Q. Were you present when these photographs were taken, Mr. Parker?

A. Yes, sir.

Q. Who else was present?

A. Yourself, Mr. Kelsey, the photographer.

Q. When were they taken?

A. They were taken about a month ago.

Q. Is the photograph an actual picture of the surrounding country at the place you have described?

A. Yes, sir.

Q. And you say that was about a month ago?

A. Yes, sir.

Q. Who took that photograph?

A. Mr. Grimes.

Q. The man who was on the stand the opening day of this trial?

A. Yes, sir.

Q. Now, I ask you what does that picture represent?

The Court: Now, one moment. There is another reason. This is in the nature of secondary evidence, of course, you can't bring the bridge here nor the creek.

Mr. Peacock: Your Honor has got the right to use secondary evidence, where your Honor has ruled the jury can't go to the bridge to see the bridge.

The Court: I didn't say anything of the kind. I said if counsel would consent to it I would let them go.

Mr. Peacock: Counsel won't consent, therefore I have to use secondary evidence.

The Court: I think I will rule the photographs out.

Cross-examination.

By Mr. Keown:

Q. Now, Mr. Parker, in answer to Mr. Peacock's question as to whether Charles Powell's address was given on the list that Harry Mohr sent you, you said it was not?

A. Yes, sir.

Q. Was the street address of any of those men

whose names appeared on this list given you in this list?

A. I had asked for that, Mr. Keown.

Q. Please just answer my question.

A. I couldn't tell you unless I looked over it.

Q. Look at it and see if there is a street address of any of those men.

A. No, sir.

Q. No, sir, is your answer?

A. Yes, sir.

Q. Then why did you make the distinction?

A. I had asked for their address. An address is an address.

Q. Just a moment. Answer the question.

The Court: You have asked him why. What was the previous question?

(Previous question repeated.)

The Court: Answer that question.

The Witness: The distinction, Mr. Keown, was because I had requested the address of every person who had concessions on the Brunen show.

Q. And Mr. Mohr gave you the addresses of every one that had been connected with the Brunen show, did he not?

A. Yes, sir.

Q. Then why, when Mr. Peacock asked you if he gave you Powell's street address, did you say no?

A. Well, it isn't an address unless you get the whole business. He told me New York, but New York is a big city.

Q. In other words, he gave you the city address,

but not the street address of every name he gave you?

A. He didn't give me none of them.

Q. Didn't he give you the city address of every one of those men?

A. Yes, but you said street address.

Q. In the list that Mr. Mohr gave you ——

A. There were some in there ——

Q. Just let me finish my question. In the list Mr. Mohr gave you he gave you the addresses of all those people by giving you their city addresses, did he not?

A. I think if you will look it over you will find some unknown address, address unknown.

Q. Where he did give you their addresses he gave you their city address and not their house number address?

A. He gave me the name of the town or city they lived in, but not the street address or number.

Q. He treated the name Charles Powell, when he gave you Charles Powell's address, in the same respect as he treated all of these other names that he gave you, did he not?

A. Yes, he gave me Mary Miller's name St. Louis.

Q. Will you please answer my question?

A. I am answering it, Mr. Keown.

Q. No, you are not. I am asking you if he didn't treat all these names in the way he treated the name Powell where he gave you the city address and not the street address?

A. That is just exactly the way I answered that other question.

Q. All right, you have answered. Mr. Parker, you have testified that this list is a list prepared by Harry C. Mohr.

A. With the exceptions of some notations, Mr. Keown, that I made there myself.

Q. Do you know of your own knowledge that list was prepared by Harry C. Mohr?

A. He wrote me a letter and said he did. A letter accompanies it.

Q. Will you answer my question?

The Court: Well, he has answered it; he said he wrote him a letter and said he did. Of course, he must know that of his own knowledge.

Q. Does the letter Mr. Mohr wrote you say he prepared that list of names?

A. I will read you what it does say and you can infer it yourself: "As per your request find list of concession people worked for Mr. Brunen last year. Of course, there are a number of floaters just remain for one fair, these I have not got the names of. You will note that a number of them I do not have the address of. Any assistance that I can be to you I will be glad to render to you. Thanking you for the courtesies of the past, I remain, very truly yours, Harry C. Mohr, Riverside, New Jersey."

Q. Do you know Harry C. Mohr's handwriting?

A. I see it right here.

Q. Is that list in Harry C. Mohr's handwriting?

A. He says it is.

Q. You said you know his handwriting. Now I am asking you if that list is in his handwriting.

A. I couldn't tell unless I made more comparisons and seen more of his handwriting.

Q. Have you some of Mr. Mohr's handwriting that you can refer to?

The Court: Is it material?

The Witness: I think I have.

The Court: If Mr. Mohr wrote that letter and sent that list isn't it a natural inference he made up the list and sent it to Mr. Parker?

Mr. Keown: That may be the inference, but I think I can prove it is not the fact.

The Court: Did the letter accompany the list?

Mr. Keown: It did.

The Court: What is the fact?

Mr. Keown: The matter of fact is this list was not prepared by Mr. Mohr.

The Court: That is another matter. He didn't say it was a list he prepared, he said it was a list he sent, that is all Mr. Parker said.

Mr. Keown: I understood the testimony to say Mr. Mohr prepared the list.

The Court: He might have dictated it or he might have gotten somebody to write it. What difference does it make? That is the list Mr. Mohr sent to Mr. Parker.

Q. Now, Mr. Parker, you did not find the guns in the creek?

A. No.

Q. When were the guns found in the creek?

A. One piece of this gun, this barrel was found on the 19th of March, and immediately I went to Palmyra and got the stock, or got the barrels and

compared the numbers with the number on the piece found near the Brunen home.

Q. You have answered my question, thank you, Mr. Parker. Now how many people at that time knew the gun had been found on March 19th?

A. Nobody except the Hutchinsons, whatever the name is, the boy and his father, and Morrie Beck. I told them to keep their mouth shut.

Q. You don't know?

A. I imagine they did. The newspapers are pretty quick and they get it if it is floating.

Q. Who knew these men were dragging in the creek the next day?

A. I don't know, I wasn't there.

Q. It wasn't done secretly?

A. Harry Mohr knew it. I heard it immediately afterwards he went by and seen them dragging in the creek.

Q. You know of your own knowledge Mr. Mohr knew that the guns were found around March 19th or 20th?

A. He seen them dragging for them. I don't know whether he knew they found them.

Q. So then there wouldn't be anything strange in Mr. Mohr getting that information after you released it?

A. I should not think there would be.

Re-direct examination.

By Mr. Peacock:

Q. Mr. Parker, I show you a photograph marked No. 1 and ask you what does that represent?

The Court: Show it to Mr. Keown.

Mr. Keown: Of course I object to the photograph being shown Mr. Parker and I object to him testifying.

The Court: On what ground?

Mr. Keown: I object to it on the ground there has been no proof here as to when the photograph was taken.

The Court: Do you know when that photograph was taken?

The Witness: I do.

The Court: When?

The Witness: About a month ago.

Mr. Keown: I object to it then on the ground it was not taken at such a time as would represent the true conditions of the particulars this photograph is offered to show, on or about the time of the tragedy.

Mr. Peacock: All I can say, the photographs speak for themselves.

The Court: Do you know, Mr. Parker, whether the conditions of the place of which the photograph was taken were or were not the same as they were at the time on or about the 10th or 11th day of March, 1922?

The Witness: Let me see it.

(Mr. Peacock hands photograph to witness.)

The Witness: As to the location of roads, the roads and railroad and trolley roads and Cambridge station, it is exactly.

Mr. Peacock: I think that disposes of Mr. Keown's objection.

The Court: I think the jurors are going to look at that place tomorrow and I think I will rule it out. I think that is better.

Q. I show you photograph No. 2 and ask you what that represents.

Mr. Keown: My objection is the same on the same ground.

The Court: Show them to Mr. Keown.

Mr. Keown: I have looked at them. They were all taken a month ago. The two I admitted I have picked out and they do represent the true conditions. Those views are such that some of these other things in these other photographs would be deceiving.

The Court: I will make the same ruling. I will rule them out.

Q. I show you photograph No. 3 and ask you what that represents.

The Court: Mr. Peacock, I guess I will make the same ruling as to each photograph.

Mr. Peacock: All right, I have eight of them.

The Court: You object to them all?

Mr. Keown: Yes.

The Prosecutor: Now, may it please the Court, we offer the automobile, Harry Mohr's automobile, and the barrel, stock, grip ——

Mr. Keown: If your Honor please, don't you think we should take each of these up separately?

The Prosecutor: They have all been marked.

Mr. Keown: Let's take them up separately.

The Prosecutor: Then the automobile, which is out back ——

The Court: I think the jury ought to look at that automobile. I will have them go down now and look at it before you make the rest of the offer. Do you want to go out and look at it? Would the jurors like to go out and look at it?

A Juror: Yes, I think we had better.

(The jury thereupon left the court room and went to view the automobile.)

(The jury after having viewed the automobile returned to the jury box.)

ELLIS H. PARKER, recalled.

Direct examination.

By Mr. Peacock:

Q. Mr. Parker, are conditions at the Cambridge station, trolley track and railroad track, the same now as they were on the night of this homicide?

A. Just about the same.

Q. Has there been any change in the building at the Brunen home or the street from the Brunen home down to the Cambridge station?

A. There has been no change in the Brunen home except on the inside of the Brunen home, the place has been wired for electric lights.

Q. Then the Brunen home, Kinsinger's field and the Cambridge station are the same as they were at the time of the homicide.

Cross-examination.

By Mr. Keown:

Q. When did you last see the conditions at the Brunen place?

A. Last Friday.

Q. And they were then just the same as they were about the night you were there after the tragedy?

A. Yes, sir.

Q. Has there been a trolley switch in that vicinity changed since the time of the tragedy up until the present time?

A. Right at Taubel's mills, the tracks are under repair now. The trolley switch is below Cam-

bridge. That has been taken out of the road entirely.

Q. Has that been moved?

A. Moved down toward Riverton further.

Q. Where was that cross-off on or about March 10th?

A. That was right opposite the Dreer's nursery, the furthest one this way.

Q. Where is that switch now?

A. That was taken away, I don't know where it is. There is another one down further.

Q. Hasn't that switch been moved down further?

A. No, the further switch has been repaired, but it was moved down further. I don't know it, but Mr. Peacock was asking me around Cambridge station. I haven't dwelt on the other end of the route.

Re-direct examination.

By Mr. Peacock:

Q. How far from Cambridge station was that switch on March 10th?

A. Half-way between Cambridge station and Riverton.

Q. Then approximately how far would it be from Cambridge station?

A. A mile and a half, I should imagine.

Mr. Keown: If your Honor please, I thought there was some testimony pertaining to that switch.

The Witness. There is a switch now ——

Mr. Keown: Just a moment. I thought there was some testimony pertaining to that switch and Dreer's nursery, am I correct about that?

The Court: Yes, there was testimony relating to the switch and Dreer's nursery.

Mr. Keown: I was wondering whether the jury would go below Cambridge station and I wanted the jury to know the location of that switch had been changed.

The Court: Let Mr. Parker explain.

The Witness: There is a switch just right a little bit below Cambridge station, right there by the lock and washer place, and it is still there. There was another switch opposite Dreer's nursery, this was, and that has been removed.

Mr. Keown: But the switch at Cambridge station was there March 10th and is still there?

The Witness: Yes, sir.

Mr. Peacock: That is the switch he referred to.

The Prosecutor: Now, may it please the Court, I offer the automobile. That is admitted. They have seen it. The jury have seen the automobile and inspected it, so we don't want to take that in the jury room. They have seen it.

The Prosecutor: The double barrel, stock, grip

The Court: Do you want those offered separately?

The Prosecutor: The single barrel, two cartridges, one single and one filled, rocking chair, brown overcoat, window sash and frame ——

Mr. Keown: I object to the window sash.

The Court: Those other things I thought had been admitted by counsel without objection and they are in evidence, really. As to the window, as to the pane and sash, you now object on what grounds?

Mr. Keown: On the ground that the testimony already shows conclusively that the window pane is not in the same condition as it was on the night of the tragedy.

The Court: Well, be that as it may, I think there is testimony that it is not the same; nevertheless, it may be taken by the jury and with the knowledge that it is not exactly the same as it was on the night of the tragedy. The jury know that. They have heard the testimony. I can't see any objection why the window frame can't go in evidence. They know that the hole is larger in some way or other and they have the testimony that at the time it was first inspected the hole was of the size of a half dollar, hence there would be nothing misleading about it.

Mr. Keown: Your Honor will allow me an exception?

The Court: Yes. I will admit that in evidence. Now, anything else?

(Exception noted for defendants.)

The Prosecutor: The shot testified to by Dr. Maul, that is in a little bag, the two photographs that were admitted.

The Court: They are in evidence, those two photographs were in evidence by consent of counsel.

The Prosecutor: All the telegrams and copies.

The Court: They are in by consent of counsel.

The Prosecutor: Letter from Harry Mohr to Powell, that is the "Dear Powell" letter, letters and applications, money orders, hotel register, letter from Harry Mohr to Ellis Parker and the list of persons that accompanies the letter.

The Court: Even though that list wasn't admitted, I don't think it will be admitted now.

Mr. Keown: I have no objection.

The Prosecutor: And I offer anything else.

The Court: Anything else omitted you can make the offer subsequently. Anything examined and introduced and not objected to.

The Prosecutor: And with that, may it please the Court, that closes the State's case.

The Court: It seems that the counsel for the defense asks that the case go over until Monday, for the reason that a mass of testimony has been

taken and he wants time to prepare an answer to the State's case, and also for the purpose of eliminating much that might be useless; and of course by doing that, by taking out matters which are useless, a great deal of time will be saved, maybe a day or two, he tells me. And I do not think I ought to force him on under the circumstances. We have taken a great deal of testimony in this case and it is a very important case and it is important to these defendants as well as to the community that all of these cases should be tried as speedily as possible, but not to sacrifice the interests of those who are interested. And I am inclined to indulge the defendants in that regard, and that is to give them until Monday for the preparation of the defense. But the time that intervenes between now and Monday, with the exception of Sunday, can be utilized by what I am now going to ask the jury to do, and to which counsel consents, and that is, in the first place, the jury view that you are to make tomorrow of the premises, the condition of things as presented at the Brunen home and the trail or track or pathway or whatever it may be, that was said to have been taken by Charles Powell after the alleged commission by him of the homicide to that station, Cambridge station, and the condition as it existed there, the switch, tracks, buildings, etc.; so that you may get an insight into what the condition was when the homicide occurred.

I am requested also by this jury to know whether they can go to a moving picture show. You may, accompanied by the officers; but you ought to be seated together. I do not want to put any hardship on the jury that I might relieve the jury of.

Whether you can go to church? You can go to church with the constables attending, and the sheriff will instruct the pastor, whoever it is, that he

must not mention anything about the case, at the request of the Court that nothing be said about the duties of jurors or anything about this case whatever.

They next ask whether they can have their wives for dinner on Sunday. That they cannot do. I am sorry, but I cannot permit you to do that. It would be against all precedents in this state and it might be open to serious doubt as to whether or not it would affect the validity of any such verdict as you may render in this case. We hope to finish this case sometime during next week, and therefore we ought to do the best we can under the trying circumstances. It is not very pleasant for me, I assure you, to deny you anything that can in reason be afforded you. I know the hardship that accompanies being away from home and confined as you are to some extent. You may have rides in an omnibus, a car large enough to hold you, or in two, in the company of officers, so that you may get the air. I do not know of anything else, unless the jurors have any other requests to make that I can do here.

A Juror: That is, we may on Sunday afternoon, if we wish, go out for a ride in automobiles with the officers?

The Court: Yes. If there is any communications you want to send to your wives you may do that in the presence of an officer. But outside of that you have to remain under a certain amount of legal probation, without having committed any offense against the State.

Now the State has rested its case and the defense will begin on Monday; and the mere fact that the State has rested its case does not close the case;

it is still open to controversy. And hence you ought to reserve any opinion as to the guilt or innocence of these defendants until you have heard the whole case, until you have heard the testimony and the charge of the Court to you. And it is better not to discuss the phases of this case until all the evidence is in. And as to statements made in your presence, the same caution that I have given you from day to day I am sure you will observe and I need not reiterate what I said to you in regard to that. And with that you may now withdraw.

(Adjourned till Monday, December 18, 1922, at 9.30 A. M.)

Mount Holly, N. J., December 18, 1922.

(Trial of the cause resumed at 9.30 A. M.)

Mr. Kelsey: Your Honor, on Friday afternoon the State closed its case. In going over the testimony we find there are two or three matters which were inadvertently left out and the State desires to reopen its case so as to get that testimony.

The Court: Well, you may do so.

ELLIS PARKER, recalled for the State.

Direct examination.

By Mr. Peacock:

Q. Mr. Parker, regarding the fifty dollar bill which was testified to by Arthur W. Stecher, the postmaster of Riverside, did you see that fifty dollar bill?

A. I did.

Q. Where did you see it, Mr. Parker?

A. In the post office at Riverside.

Q. What kind of a fifty dollar bill was it?

A. Gold certificate.

Q. Describe its condition.

A. It had blood onto it. I saw the same fifty dollar bill on the night it was taken from Mr. Brunen's person at Riverside.

Q. Regarding the window and cellar door, the

spot where Powell shot Brunen, did you make an examination of it?

A. Yes, sir.

Q. Describe to the jury just your examination of that spot, what you did.

A. At the time immediately after I arrived there Mr. Brunen was still sitting in the chair where he had been shot. I went outside and stood in the tracks by the window to see, if I could, the possible height of the person who had shot. The person either was a short person or a tall person who had stooped.

Q. How did you arrive at that?

A. The gun had been elevated ——

The Court: Well, now you are drawing inferences.

Q. What I want you to describe, Mr. Parker, is the line of direction from the hole in the window to the hole in the man's head from the position you stood.

A. It was an upward course from where the man stood who fired the shot.

Q. Did you have any conversation with Mrs. Brunen that night regarding Mr. Brunen going to New York?

A. Yes, Mrs. Brunen told me that John when he was eating supper said that he was going to New York tomorrow to get a merry-go-round for me, and he guessed he would get one with horses without any tails.

Q. Did you see any diamonds there that night?

A. I saw Hazel Brunen hand Mrs. Brunen a couple of diamonds and Mrs. Brunen told me that, "If you can get the one who killed John, I will give you his diamonds."

By the Court:

Q. Said that to you?
A. Said that to me.

By Mr. Peacock:

Q. Did you make an examination of the glass in the window?
A. I did.
Q. What was the condition of that?
A. The hole in the window was small, and I examined it closely to see if the shot had been fired from the outside or from the inside. And the marks of lead from the lead pellets that had gone through the window showed the gun had been discharged from the outside, the shot had gone in from the outside.
Q. From the place where you found the tracks where the man had stood at the cellar door; how close was that to the window?
A. It was—the first track was exactly five feet from the house, the edge of the house—the side of the house, rather.
Q. And what is the length of that gun?
A. The gun is about a thirty inch barrel. I haven't measured it.
A. A person generally makes two tracks, Mr. Keown.
Q. Just answer the question.

The Court: Answer the question.

The Witness: He hasn't got it intelligent enough so I can.

The Court: He wants to know how many tracks, how many imprints of tracks did you see?

The Witness: On the spot?

The Court: No, around there.

The Witness: You could only see three or four tracks, that is, where he had taken three or four steps, and where he had stopped the left foot was pointed directly towards the window and the right foot stood in this position (indicating).

Q. And you couldn't find out how those steps might approach?

A. Yes, you could see a distance from here to that water glass, but it was very faint.

Q. Well, were the tracks there?

A. They were there.

Q. Then why do you say there were only three or four?

A. I have told you, Mr. Keown, just as intelligently as I can.

Q. All right, how many tracks did you see, imprints in the soil that resembled a woman's foot?

A. A woman's tracks that led all the way around from the house to the cellar door and back again. She had a very small heel and it stuck down in the ground. I went in the house and said, "There is a woman's track and man's track." Mrs. Brunen said, "That is my track, I put the dog in the cellar at six o'clock."

Q. Now what time was it when you went out to look at these tracks?

A. Well, I got there somewheres between nine and half-past nine.

Q. That is all. You have answered my question.

A. Well, no, I haven't. You asked me what time I went out to look at the tracks. I told you I got to the house.

Q. All right. Pardon me.

A. As soon as I looked at Mr. Brunen's body in the house I walked out of the house to the window, I suppose maybe three minutes after I arrived.

By the Court:

Q. I want to ask you a question. Mr. Parker, you say you saw this bill, this fifty dollar bill, at the time it was taken from Mr. Brunen's body, did you?

A. It was taken from his body out in the kitchen where his body was and it was brought in the room and put on the table.

Q. Did you examine it then?

A. I just looked at it.

Q. You say there was human blood on it?

A. Yes, sir.

Q. Do you know that it is human blood?

A. I positively do.

Q. Was it fresh?

A. Yes, sir.

Q. And was Mr. Brunen bleeding at the time?

A. There was a little bit of blood oozing out of Mr. Brunen.

Q. Now this was taken out of what pocket, do you know?

A. They told me at the time ——

Q. No, not what they told you. Did you see it taken from the body?

A. No, sir; I did not.

Q. And when you saw it again at the postmaster's office, you say there was blood on that bill that you saw there?

A. Yes, sir.
Q. Did you examine it for blood?
A. Yes, sir.
Q. Why didn't you impound that bill?
A. I will tell you, that was an oversight of mine. I told Mr. Stecher to keep that bill and I would send for it, and I forgot about it, I had so much to attend to. And he kept it for a long time, he told me.

Mr. Peacock: That is our case.

Mr. Keown: If your Honor please, your Honor will recall that the other day the postmaster was here he was to bring the records. May they come in at this time as part of the State's case?

The Court: Well, yes, it may come in now. Is the postmaster here?

Mr. Kelsey: No.

The Court: Well, you said you were going to telephone him, as I understood you.

Cross-examination.

By Mr. Keown:

Q. Mr. Parker will you just describe to the jury how that money was marked with blood?
A. There was—this bill in question was on the outside of this roll, and the money was, I should imagine nearly one-half of the bill was covered with blood.
Q. Was that on both sides or just one side?

A. One side. Well, of course, you know how blood will go through.

Q. I want you to just tell the jury, just show them. Have you got a bill in your pocket?

A. Yes, I am a little dubious ——

Q. I only have a one, just tell the jury, just show the jury how you mean the bill was discolored with blood.

A. A portion of the bill was discovered running ——

Q. You mean discolored?

A. Discolored and had blood on it. There was blood there running about in that direction (indicating) over a gold certificate, fifty dollar certificate. I saw the same bill the night before.

Q. Yes, but I don't quite understand how much blood there is. Do you mean to say the whole portion of the bill?

A. No, I will put the pencil, Mr. Keown, as near as I can. It wasn't of course, straight like that, but there was that portion of the bill that had blood on it.

Q. And it went from one end over here?

A. No, nearly one-half the bill had been wrapped around the money like that, and there was a portion of it here across there that was bloody, like one corner.

Q. And was it a solid line?

A. No, no, it wasn't solid.

Q. Spotted?

A. Well, you might call it spotted, because the portion of that part I showed you had blood on it.

Q. Now, Mr. Parker, do you know of your own knowledge why Mr. Brunen was going to New York on the following day?

A. Yes, I do, because he told me.

Q. Why was he going?

A. He told me—I wrote him a letter on March 1st and sent him copies of the indictments that had been found here in this court for John Doe and Richard Roe, there was no names. He told me he was going over to New York and he was going to take Dottie with him and that he wanted Dottie to pick out the man who robbed her in, I think, around the middle of July, 1920, and he said, "While I am over there I know a man over on Long Island or Coney Island who has a merry-go-round and if I will purchase it will you take it around to the little carnivals here in the county where the firemen are having carnivals? And if you will we will go fifty-fifty."

Q. Then the real reason for Mr. Brunen going to New York on the day following the tragedy was for the purpose of identifying two men who had been indicted in Burlington County here charged with the robbery of Mrs. Brunen, is that so?

A. Yes, he was to go the day before.

Q. Just answer my question.

A. He was to go on Thursday, or Friday, I mean.

Q. You wrote him a letter and gave him copies of the indictments?

A. Yes, I have a copy of the letter with me if you want it.

Q. Were those papers among the papers he carried at the time you went over after the murder.

A. Mrs. Brunen showed them to me upstairs in the room where he had his office, the night, the next day when Miss Yoos and I were talking to her.

Q. Mr. Parker, how many tracks did you say were there within about five feet of the window?

A. There was tracks, it looked like a man's track, the one's that were five feet from the window and right near it, within a space of that far, probably eighteen inches to the right, where the

person's tracks who looked like a man's were standing, there was a track that looked like a woman's track which had gone to the corner of the cellar door and had gone away.

Q. How many tracks that looked like a woman's track did you see?

A. There was—there wasn't only the tracks of where a person had gone up and gone away ——

Q. Well, how many tracks?

A. Well, what do you mean? There ain't when a person ——

Q. Number of tracks in the soil.

Mr. Keown: Not him.

The Court: How was he to know when he was to bring his records?

Mr. Keown: I think the understanding was that he was going to bring them here and that the State would offer them, prove his records.

The Court: Well, he is not here. You will have to send for him and we can't wait.

Mr. Peacock: It has just been called to my attention that there is one more witness that has been omitted.

The Court: I hope you will put in all your testimony.

Mr. Peacock: I think this will be the last.

WALTER F. WIDELER, sworn for the State.

Direct examination.

By Mr. Peacock:

Q. Where do you live, Mr. Wideler?
A. Camden, New Jersey.
Q. And what is your occupation?
A. Pharmacist.
Q. Where is your place of business?
A. I work at 501 Market Street.
Q. In March, 1922, where did you work?
A. The same place.
Q. Do you know Charles Powell?
A. When I see him, that is all.
Q. Did you see Charles Powell March 22nd?
A. I think I did.
Q. Where, sir?
A. At the drugstore.
Q. What took place between you and Charles Powell at that time?
A. No more than I sold him several drug articles of some kind.
Q. Did he give you some money?
A. Paid every time he got anything at the store.
Q. On this occasion what denomination bill did he give you?
A. I don't know. He claimed he gave me a fifty dollar bill.
Q. Not what he claims. Do you remember? Do you know whether he did or not?
A. I wouldn't swear to it. I think he did.

The Court: You are swearing. You don't know whether he did or not? When you say you will

not swear to it you are under oath. You are testifying under oath. The question put to you is whether he gave you a fifty dollar bill or not. Now answer it as you recollect it.

A. No, I couldn't swear to it now.

Mr. Peacock: That is all.

Mr. Keown: If your Honor please I desire at this time on behalf of the defendant, Doris Brunen, to make a motion for a direction of a verdict in her behalf and for her discharge from custody. I make this motion, of course, with a realization and understanding that in the event of its denial by your Honor that this defendant will not be precluded from interposing her defense to the allegations for which she stands charged.

I base my contention for the granting of this motion upon the following grounds:

First: The State by its indictment, as amplified by the bill of particulars, charges this defendant with the commission of the crime of murder in this phraseology, "And both Harry C. Mohr and Doris Brunen planned, aided and abetted in the murder of John Brunen, that said murder was wilful, felonious and of their malice aforethought, and that both Harry C. Mohr and Doris Brunen were in the vicinity at the time and at the place and did aid and assist the said Charles M. Powell in the murder of John Brunen."

From a careful review of the testimony from the stenographer's transcript of this case made by me in anticipation of this motion, I am absolutely convinced that there is no foundation in fact from evi-

dence in the entire record that warrants at the present time the submission of the guilt of this defendant, Doris Brunen, to the jury. In furtherance thereof with your Honor's permission and indulgence, I am ready and willing at this time to specify from the page and line of the record of this case any reference, even of a remote bearing, that may be had to any alleged participation in the slightest extent of this defendant that might bring her within the purview of our statute requiring her to either have aided, abetted, counselled or procured the death of John Brunen.

The State has thus far only established the presence of the defendant, Doris Brunen, at the place of the murder on the evening of its alleged commission. This place, however, was her lawful and ordinary place of abode and her conduct as established at that time and place in the evidence only relates to the ordinary pursuits of her daily vocations. There is no connection established affecting her in the alleged plot or arrangement leading up to its execution or conduct subsequent thereto.

There has not been proven by the State any conduct or acts that indicate any participation by Doris Brunen in any planning in anticipation of the commission of the crime nor any acts that indicate any aiding or abetting at or after its commission. For this purpose the State would be dependent principally upon the witness, Charles M. Powell.

The first evidence that has any bearing upon the defendant, Doris Brunen, may be found in the testimony of Dr. Steward R. Maul in the record on page 31, from line 2 to line 7, wherein he states that when he arrived at the home of the defendant, Doris Brunen said:

"Well, she said she heard a report of a gun and she was in the bathroom, I believe, at the time. She came downstairs and she thought it was outside. She opened the door and looked out and saw two men run and jump into a car and go off. And she walked back in the back part of the house in the kitchen door and she saw the condition."

In the testimony of Charles M. Powell found on page 74 we find that Powell says that Mohr told him that Mr. Mohr was afraid that his sister, meaning Mrs. Brunen, in one of her spells might harm John Brunen and cause herself to be locked up. Your Honor will recall that at that time on page 74 I objected on the grounds that that was hearsay and not binding upon the defendant, Doris Brunen, and your Honor said, on page 75, at about line 7:

"At the present time there is nothing to show any combination between these defendants and this witness, so that the statement of one in reference to the acts or of what the other said would not be admissible or binding upon that person, so anything Harry Mohr said to this witness wouldn't be binding upon Mrs. Brunen, anything he said about his sister, in the absence of the sister, would not be binding upon Mrs. Brunen until some combination is shown between these three, some agreement or understanding in regard to the event that happened, that is, the death of Brunen. When that is established, it is shown there was a combination between the defendants here, then the act of one, as long as that combination lasted, would be the act of the others. They are bound by what the other does, you understand that."

and then concluded on page 76 by saying:

> "I should certainly instruct the jury that whatever Mr. Mohr said that Mrs. Brunen said or anything he said which related to Mrs. Brunen couldn't bind her."

At page 102 at about line 16 in the testimony of the witness, Charles M. Powell, the witness testified as follows:

> "She told me that she wished some one would some night, while Brunen sat at the window, shoot him through the window."

In the absence of any proof in this case of any conspiracy between Harry Mohr and Doris Brunen this statement is certainly not binding upon Doris Brunen, as Doris Brunen in the bill of particulars is not charged with the hiring or engaging or inducing Charles M. Powell to commit the murder, and this statement would certainly be too remote to charge her with aiding or abetting in the commission of the murder.

The next testimony is found in the testimony of the witness Charles M. Powell on page 117. At line 19 we find a statement from the witness that Harry Mohr had told him that Mr. Brunen would be sitting at the window if they could get him there. Certainly anything that Mohr told him at that time, unless it was conected with Mrs. Brunen, and unless the pronoun "they" referred to and was affixed in the testimony to Mrs. Brunen, it could not be binding upon this defendant.

On the same page the witness, Charles M. Powell says that "Mrs Brunen came to the side door, opened the side door and called the dog in." Assuming this to be true, is that a fact upon which an inference can be drawn, that in so doing she was

aiding or assisting in the commission of the murder? Is this not an every-day happening in the daily events of a household? As there is no testimony of the slightest degree to connect this act in any step with relation to the commission, preparation or by way of notice or signal for its commission as alleged by Powell.

Next we find on page 137 a statement at line 15 from the witness Powell, that Harry Mohr had told him that Doris Brunen would faint and not report it for 15 or 20 minutes. Now certainly this cannot be charged to Mrs. Brunen evidentiary of the plot, as it has not been proven as a matter of fact that she did faint for 15 or 20 minutes, but on the contrary she immediately ran to her neighbors and then notified her physician, at the most not more than 8 minutes after the time alleged by the State that the shot was fired. Further your Honor will recall at that time I objected to that statement and moved that it be struck out and your Honor said on page 137 at about line 25:

> "If it isn't connected up, counsel may move to strike out all this testimony."

This concludes the testimony of the witness Powell and I desire to call your Honor's attention to a comment made by your Honor on page 130, line 25, which was made just prior to the termination of Powell's testimony, and in which your Honor said:

> "That testimony is not competent in my judgment at the present time. You will have to lay a foundation for it and there has been no foundation laid for it yet that I can recollect the testimony."

I also desire to call your Honor's attention to an

answer made just prior to said comment by your Honor, by the witness Powell same page, line 13, wherein he said:

"There was never anything said in her presence, only what Mr. Mohr told me."

The next reference is found in the testimony of Hazel Brunen, the first of which is found on page 400 at about line 10, and it reads as follows:

"I heard Doris Brunen tell Mattie Mohr never to be surprised at any time if she should get a phone call that father was killed."

The State later had Hazel Brunen fix the time of making the statement as the day that John Brunen was murdered. Assuming this fact to be true that Mrs. Brunen had made this statement, the evidence clearly shows even from Hazel Brunen's testimony that John Brunen was in fear of his life and the imparting of such alleged information to Hazel Brunen standing alone cannot surely be held sufficient to warrant a finding of previous knowledge of the intended commission of the offense.

Then again in Hazel Brunen's testimony, on page 405, at about line 29, in answer to the Prosecutor's question as to whether Mrs. Brunen said anything before or after the shooting, the witness answered:

"Yes, she told me she went out and emptied the garbage."

Assuming it to be a fact that she did say it and did go out this has in no way been connected with any of the plans that the witness Powell alleges to have been a part of the crime and certainly not binding upon Mrs. Brunen.

We find in the testimony of Hazel Brunen on page 411 that Mrs. Brunen said to her:

"Don't mention that Harry changed overcoats,"

and later it developed that this conversation took place a few days after the murder. Assuming it to be a fact that Doris Brunen did make this statement and assuming it to be a fact that Harry Mohr did change from an overcoat to a raincoat on the day in question, on account of the rainy weather, certainly this could not be construed as evidence of a conspiracy existing between Harry Mohr and Doris Brunen to kill John Brunen.

I respectfully request, therefore, that your Honor at this time direct a verdict of not guilty as to the defendant Doris Brunen.

The Court: I do not think it is necessary to hear any remarks from the Prosecutor on this motion. It may be that the testimony in this case is very meager so far as Mrs. Brunen's connection with the homicide is concerned; but I think the questions involved are questions upon which the jury should pass, and not the Court, and therefore I deny your motion.

Mr. Keown: Your Honor will allow me an exception?

The Court: You do not need to take an exception, because I think it is discretionary at this stage of the case in Court to either assent to or deny a motion of this kind.

THE CASE FOR THE DEFENDANTS.

HARRY C. MOHR, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. What is your age, Mr. Mohr?
A. Thirty-one.
Q. And you are one of the defendants charged with the murder of John Brunen?
A. Yes, sir.
Q. Where were you born, Mr. Mohr?
A. New York City.
Q. Where were you living on March 10, 1922.
A. Riverside, New Jersey.
Q. Have you a mother?
A. Yes, sir.
Q. Where does she live?
A. She lived at Riverside with Mrs. Brunen?
Q. Where does she live now?
A. She lives in Philadelphia.
Q. Do you have a sister besides Mrs. Doris Brunen?
A. Yes, sir.
Q. Does she live with your mother?
A. She does.
Q. What is the age of your mother?
A. I believe my mother is sixty-eight or sixty-nine years old, I am not sure.
Q. And what relation is Mrs. Doris Brunen, the defendant here, to you?
A. My sister.
Q. Where was Mrs. Doris Brunen living on the 10th day of March, 1922?

A. At Riverside.

Q. Where was your sister Mattie Mohr living on the 10th day of March?

A. Philadelphia.

Q. Who else comprised the Brunen household on March 10, 1922, prior to the decease of John Brunen?

A. Hazel Brunen and Mr. Brunen. Is that in answer to, in addition to my mother and sister?

Q. Did your mother live there at that time?

A. Yes, my mother did.

Q. Did you, after the tragedy, move from the Riverside home?

A. Shortly after.

Q. Where did you then go to live?

A. At 3029 Ridge Avenue; pardon me, Mr. Keown, did you ask me where, did I go there to live?

Q. Yes.

A. No, I did not.

Q. Where did you go to live?

A. Well, I lived at two different places.

Q. Where were those places?

A. One was the Windsor Hotel and the other was at 321 North Second Street, at my wife's house.

Q. When after the tragedy was it that the Brunen family moved from Riverside?

A. When after?

Q. Do you recall?

A. I believe it was about five weeks after, four or five, somewhere around there.

Q. When were you arrested?

A. I was arrested on April 29th.

Q. Will you please tell his Honor and the jury the facts and circumstances surrounding your arrest?

A. On the morning of the 29th I was living with my wife at 321 North Second Street. I believe it was about nine o'clock in the morning when Mr. Cain, Mr. Bading, and I believe a gentleman I learned, later learned, to know as Major Stone, put in their appearance in front of our residence. The man of the house knocked at my door and told me there was a gentleman wished to see me downstairs. Well, right at that time I was just preparing my toilet ready to resume my duties for the day. I told him to tell him, which I later learned was Mr. Cain, that I would be right down. I believe there was a delay of about five minutes. I was just adjusting my collar, and I went downstairs. I met Mr. Cain, and Mr. Cain says to me, "Harry, I have very unpleasant news for you." I said, "Well, what is it?" Well he pulls out, I believe, a warrant for my arrest charging me with murder. I says, "How soon do you want me to go to Mount Holly?" He said, "Right away." I then asked Mr. Cain for permission to make some arrangements in order to take care of my business duties pertaining to the show, because as our show at that time was playing on location of 10th and Luzerne Street, Philadelphia, and I wanted to make some arrangements because the general staff of the show were depending upon me to be out on the grounds in Camden to locate the various attractions that we carried. Well, I gave these instructions to my wife, laid them down on the newspaper, told her who to get in communication with. I believe that consumed about ten or fifteen minutes. I then went downstairs and told Mr. Cain that I was ready. Mr. Cain and Mr. Bading and Major Stone, the three of us, entered the automobile. I then made a request of Mr. Cain to drive me to some garage on

Fifth Street, where I parked my car. This man's name was a pecular name, I believe it is Presenel, or some name like that.

Mr. Keown: Is there any dispute that it is Preisendenz?

A. Preisendenz, and I parked my car there and I just went to leave instructions for nobody to take my car away, or at least let them know where I was at. So I hadn't made any definite arrangements as to how long I would keep my car there. Then I believe Mr. Cain or Mr. Bading, one of the three, got out of the machine in front of this garage and went back and delivered my instructions. They made me reenter the car and we proceeded over here to Mount Holly. I was taken in jail here. I met Mr. Parker. No, I believe I first telephoned to Mr. Keown. However, I am not sure of that either. But Mr. Parker shortly came in after I entered the jail.

Q. Now, Mr. Mohr, did you offer any resistance at all on the day that you were arrested?

A. No, I didn't.

Q. Were any questions asked you that morning of your arrest concerning the tragedy?

A. No, I just remember or recall that Mr. Parker asked me if I wanted to make a statement, and I believe I gave him practically in the same—well, practically the same as I did in sending him a written statement to the Prosecutor's office some time ago.

Q. In other words, you told him everything he asked you?

A. About the same thing, yes, as near as I can relate.

Q. You were permitted to make a phone call at that time?

A. I was.

Q. And to whom did you make that phone call?

A. To Mr. Keown.

Q. And what then happened to you after you made that phone call?

A. Well, the first thing Mr. Parker said to me was, if I recall it correctly, "Harry, you are not brought here by any of my doings. Mr. Powell has made a confession." I then asked, I believe, to see this confession. Mr. Parker had a written statement in the form of a piece of contract paper, and he was about to hand me that statement to let me read it when he withdrew it suddenly and says, "I will read it myself." Well, he read the statement to me in the adjoining room to his office or the sheriff's office, in the presence of a witness, and he just asked me some few questions which I cannot recall at this time, and if I am not mistaken Mr. Parker asked me if I had any comments to make about it. And I just, I believe, said, "That is absurd." I was then led into the office of the sheriff of the county and I was turned over to the custody of the warden, taken upstairs and lodged in what is known in that jail as a dungeon.

Q. What was the condition of that cell that you were placed in?

A. Very insanitary.

Q. Will you just tell us what you mean by that, Mr. Mohr?

A. Well, I found the condition of that cell—that is, when the warden brought me in there he himself made this remark. He says, "Mr. Mohr," he says, "I am just putting you in here temporarily until I get another place cleaned out."

Q. Just tell us what was the condition in there.

A. Well, the general condition of the place was this. They had an old filthy mattress lying on the floor, stained, and an old dirty blanket. There was a commode that stood, I believe, in the right corner of this cell. In order to flush this commode I had to take my coat up, roll up my sleeves, put my hands down the tank and release the catch that held the water. The commode was all pitched with what I do not even want to repeat here. There was a window, that was out of my reach, about a foot and a half or two feet below the ceiling, about a foot square, just about that size (indicating), with two big heavy iron bars across it. That was the only ventilation I had in there. I called the warden's attention to the condition of this cell the next morning and asked him whether there could not be some arrangement made to put me in another cell. Well, I just can't recall what he said but I believe he did say that I would have to see the sheriff. I recall asking for the sheriff to come and see me. I don't remember whether the sheriff did or not, but I do remember informing Mr. Horner at that time that I wanted to speak to Mr. Parker. Mr. Horner was one of the wardens of the jail. I knew Mr. Parker quite some time previous to this tragedy, and Mr. Parker came up the next morning, I believe, and he says, "Did you want to see me, Harry?" I says, "Yes." I says, "Mr. Parker, are you the cause of me being in this cell?" He says, "It is up to the Prosecutor." He says, "I have nothing to do with it." I believe I asked Mr. Parker then to ask Mr. Kelsey, who I then learned was the Prosecutor, to have me relieved out of that cell and placed in something at least sanitary. In fact, I don't believe I saw Mr. Parker again for about two or three weeks after that.

Q. Was the condition of that cell later remedied?

A. I was in that cell for forty-three days and it was not until one day the inspector, I believe, came around.

The Court: Is this testimony relevant to this issue?

Q. Was there any attempt made on the part of any of the Burlington County officials to procure a statement from you after you were put in jail?

A. No, sir.

Q. Were you permitted to see anyone at all during your confinement?

A. My wife, that is all.

Q. When did you first see Doris Brunen after you were arrested?

A. I didn't see Mrs. Brunen, my sister, until the day that she was arrested, or the night. I don't know whether she was arrested in the day or night.

Q. Will you explain the circumstances to the jury about how you saw your sister in prison?

A. Well, my sister came up one night about, I should judge, it must have been 9.30 or 10.00 o'clock.

The Court: Mr. Keown, I would like to know what is the object of this testimony.

Mr. Keown: The only purpose of it, if your Honor please, is to show that this man's condition throughout the time that he was in prison, how he as an innocent or how he as a guilty man has stood this, how he is here today still insisting upon his innocence. I think the demeanor, I think the defendant's surroundings, all should be taken into

consideration by your Honor, by this jury, in helping to decide the guilt or innocence.

The Court: I understand very well where the conduct of a person accused of crime is material, oftentimes, on the issue of whether he committed the crime or not. But how can the fact of his being incarcerated in a prison, in a filthy dungeon or denied privileges which he ought to have had, throw any light on the subject that is now being tried by this jury? It doesn't show any conduct.

Mr. Keown: My purpose, if your Honor please, was this: to show that assuming all this is true that he says, that even then this man has maintained his innocence.

The Court: Well, nobody has claimed that he has ever made any confession or admitted anything.

Mr. Keown: No, but I want to show that with all this pressure, assuming that it was pressure, being brought to bear to wear him out, to break him, that he had stood it all, that he has not, he cannot weaken, he did not do it, he could not say he did it.

The Court: I do not think that is proper testimony. I do not think the Court ought to permit it. I am willing to give you all the latitude and even greater latitude than I think the law warrants, to fully develop your case; but I cannot see the object of this testimony or how it can be helpful to the defendant.

Mr. Keown: Well, I won't follow it, if your Honor please.

Mr. Kelsey: May it please your Honor, just at this time I object to the statement made by Mr. Keown about wearing him out or forcing him to confess or anything of that kind. I do not think there is anything of that kind. I do not think it is proper.

The Court: He has not said to force him.

Mr. Kelsey: He made that statement.

The Court: Well, there are a good many things said by counsel that are said inadvertently.

Mr. Keown: May I submit this question with your Honor's approval?

Q. How long was it that you were denied your constitutional rights and denied counsel while you were in jail?

The Court: I will admit that question. You may answer that.

A. About approximately ten weeks.
Q. In other words, during all that time you were not permitted to have counsel?
A. Yes, sir.

The Court: To have counsel or to see counsel? You said to have counsel. Now which is it?

Mr. Keown: To see counsel.

The Court: Well, you didn't ask that you said to have counsel.

Q. Had you requested during this ten weeks for counsel?

A. A number of times.

Q. Did you see Charlie Powell while you were in jail during the period that you were denied counsel?

A. Yes, quite a number of times.

Q. Under what circumstances?

A. Well, the first I seen of Mr. Powell he was out in the yard. From the first time I believe they kept him in again about two days; after his first appearance, and then he kept coming out very frequently in the afternoon; sometimes in the mornings and sometimes in the evenings.

Q. You knew Charlie Powell?

A. Yes, sir.

Q. You knew his voice?

A. Yes, sir.

Q. How many times had you heard Charlie Powell while you were in jail before you saw him?

A. Well, I heard a man carrying on the very first day that I was in jail, but I didn't at that time know it was Mr. Powell.

Q. What do you mean by carrying on?

A. Well, I heard some man laughing and making silly remarks and hollering and disturbing the inmates of this institution.

Q. When was that in relation to the time when you came in the jail?

A. Well, I believe the first outburst I heard was around about six o'clock of the same day that I was in jail.

Q. How long have you known John Brunen?

A. I believe somewheres between nine and ten years.

Q. How long have you known Charlie Powell?

A. Somwheres about six years.

Q. How did you get acquainted with Charlie Powell?

A. He was at one time connected, I believe, with the Brunen show; and the first time that I really became acquainted with Mr. Powell or associated with him, was in Mr. Brunen's trial in Sunbury, Pennsylvania. That was in about 1916.

Q. How did you get acquainted with Mr. Brunen?

A. I was working at the time in the Western Electric at Chicago. I received a letter or a wire, I forget which, where Mr. Brunen had offered me a proposition to come over and take charge of his office, to take the position as a secretary. Does that answer your question?

Q. I think that is sufficient. What is your business, Mr. Mohr?

A. It was show business.

Q. And how long have you been in the show business?

A. Somewhere between seven and eight years.

Q. And how long have you been connected with John Brunen in the show business?

A. I have been with John Brunen up to that time.

Q. During all of that time have you been with John Brunen?

A. Yes.

Q. Explain the circumstances surrounding your going with Mr. Brunen in the show business.

A. Well, I just happened, just as I mentioned before—received a telegram from Mr. Brunen. I was working in the Western Electric, Chicago,

Hawthorne, Chicago, to be exact—and I received a telegram one day ——

Q. At that time did you have any show of your own?

A. No.

Q. Haven't you had shows of your own?

A. Yes.

Q. Well, when was that?

A. That was in later years.

Q. Oh, after you met Mr. Brunen?

A. Yes, after I met Mr. Brunen.

Q. Then were you always associated with Mr. Brunen after you met him in the show business?

A. Yes, surely.

Q. Did you have part of your show on with his show?

A. Yes, sir.

Q. Now what was the first position that you ever held with the Brunen show?

A. Secretary.

Q. And what was your position with the Brunen show on March 10, 1922?

A. Manager.

Q. When did you go to Riverside to live with John Brunen and his family?

A. I believe it was the fall of 1920.

Q. When did the Brunen show go into winter quarters during the 1921 season?

A. It was either the latter part of October or the first week in November. I think it was the last week in October, to be sure.

Q. And what did you do after it went into winter quarters?

A. Well, after the show went into winter quarters—that is practically the only time that we really do lay idle; that is, for about two months following, rather ——

By the Court:

Q. What did you do? Answer the question.
A. Well, I just went back to Riverside.
Q. Was Charlie Powell with the Brunen shows during the 1921 season?
A. He was, part of it.
Q. And when did he leave the show?
A. He left the show, it was Labor Day week, at Timonion, Maryland, that is a suburb out of Timonion, it was at a fair.
Q. For whom did Charlie Powell work when he was with the Brunen shows during the 1921 season?
A. Well, he has had various positions around the show. He helped me some.
Q. I mean the 1921 season?
A. Yes, that is what I am referring to; he helped me some and he worked for a man named Hoffman, and I believe Mr. Hoffman left shortly after that and then Mr. Powell, I believe I gave him a concession top, or something like that, and he went to work for me again.
Q. Were you in touch with Charlie during the latter part of October or early part of November, 1921?
A. Now, let me think; let me have that question again, please.

(Question repeated.)

A. Yes, I was.
Q. What was this connection?
A. Nothing unusual. We had always been in connection since I have known Mr. Powell.
Q. Did you go to Wilkes-Barre?

A. Yes.

Q. For what purpose?

A. In answer to Mr. Powell's request for me to come there and participate in some kind of in-door promotion.

Q. The witness is shown a telegram dated February 10, 1922, and is asked whether he was in the employ of the Brunen show at that time, and is asked whether he received this telegram and from whom it was sent.

A. Do you want me to read this?

The Court: Answer the question.

The Witness: As to whether I received this?

The Court: Yes.

The Witness: Yes.

Q. Who sent it?

A. Why, Mr. Brunen.

Q. Read it.

A. Telegram dated February 10, 1922, to Harry C. Mohr, 508 New Jersey Avenue, Riverside, New Jersey. "Come to New York as early as you can. Meet me at the Continental Hotel. A chance to get a circuit of western fairs, which are very good. Bring all mail, (signed) John."

Mr. Keown: Now, if your Honor please it was agreed between counsel that all of these would be offered in evidence. This one does not appear to be marked.

The Court: I will allow you to put it in evidence.

(Telegram marked Exhibit D9.)

Q. The witness is shown a telegram and is asked whether he sent this telegram and to whom it was sent, and asked if he received it. Pardon me, Mr. Macdonald, cross that out. The witness is shown a telegram dated Petersburg, Virginia, February 11, 1922, and is asked whether he received this telegram and from whom it was sent and to read it.

A. Yes, I did receive that.

Q. Just read it.

A. Telegram dated February 11, 1922, addressed to Harry Mohr, assistant manager, Mighty Doris & Farrari Shows, Riverside, New Jersey. "Meet me tomorrow, Fredericksburg, Virginia, between noon and five o'clock," signed "E. Willard Aines, Secretary of the Petersburg fair."

(Telegram marked Exhibit D10.)

The Court: From where was that?

The Witness: Petersburg.

Q. Witness is shown telegram dated Petersburg, Virginia, February 14, 1922, and is asked whether he received the telegram and is asked who sent it, and to read it.

A. The same gentleman that signed that telegram from R. Willard Aines. "Telegram dated February 14, 1922, addressed to Harry C. Mohr, assistant manager, Ferrari Shows, Riverside. Imperative that you come to Petersburg immediately. Please wire time your arrival. R. Willard Aines, Secretary of the Petersburg Fair."

(Telegram marked Exhibit D11.)

Q. Witness is shown telegram dated Chicago, Illinois, February 18th and is asked whether he sent that telegram and is asked to read it.

The Court: Just read it and to whom was it sent.

The Witness: It was sent to John Brunen.

The Court: Just read it.

The Witness: "Go at once"—do you want me to give the date?

The Court: No, his question contains the date.

The Witness: "Go at once to York and sign contracts—received wire requesting me to do this. They probably can arrange better terms—waste of time out here, but I will remain over for meeting—letter follows." Signed "Harry."

(Telegram marked Exhibit D12.)

Q. The witness is shown a telegram dated February 18, 1922, and is asked whether he received this telegram and from whom it was sent and to read it.

A. It was sent to Harry Mohr, Sherman Hotel, Chicago, Illinois. "Mixed with all secretaries and show managers. Be polite to Wortham K , Brendall, Steve Woods, getting framed, must get circuit of fairs, Petersburg closed, Woodstock closed, South Boston closed, Bill Fleming got Winston-Salem. Write those fairs anyway telling them you do business, so if you don't get anything maybe a chance get a good circuit—work hard. If you

need me wire to Riverside at once—will come on." This telegram was sent from Mr. Brunen. There is a part that I didn't see.

The Court: Well, what part is that?

The Witness: "See all secretaries and have George Coleman help you," signed "John."

(Telegram marked Exhibit D13.)

Q. Witness is shown telegram dated 2, 19, 22, and is asked whether he received that telegram and from whom it was sent and is asked to read it.

A. Harry C. Mohr, Sherman Hotel, Chicago, Illinois. "Maybe Dodson can help. He knows particulars—promise him you will turn over fairs you got here—mix with everything—see all secretaries. You are up against smart owners and agents. Carruthers works both ends for money." Signed "John."

(Telegram marked Exhibit D14.)

Q. The witness is shown a telegram dated Camden, New Jersey, February 19, 1922, addressed to Harry C. Mohr and is asked if he received it, from whom it was sent, and is asked to read it.

The Prosecutor: I ask to have the notations erased on the back.

The Court: You can do that on cross-examination. Don't interrupt the examination. Make a note of it and call the witness' attention to it when you cross-examine him.

A. "Harry C. Mohr, Sherman Hotel, Chicago, Illinois. Got back from New York found your wire and letter—positively will not buy York or Wilmington, two lemons, with no good ones to follow. You missed chance not going to Fredericksburg. You seemed to be licked before starting—do not come back unless you have a good circuit of fairs —only real fairs in the west." Signed "John."

(Telegram marked D15.)

Q. Witness is asked whether he received the telegram from whom it was sent, and is asked to read it.

A. Addressed to Harry C. Mohr, Sherman Hotel, Chicago, Illinois. "Tithan and Jones working together. Our chance just as good. Remember you among real show men, no buying there, all percentage. Go to the meeting—make good talk—you should had me come—these secretaries want you—Carruther listen to the thing—got the letter and contracts."

The Court: Signed?

The Witness: Signed "John."

(Telegram marked Exhibit D16.)

Q. Now, Mr. Mohr, there has been introduced in evidence a telegram on the same date, marked ——

The Court: Same date as what?

Q. The same date as the telegram you read, February 22nd, and is asked to explain what happened

between you and Mr. Brunen after the receipt of that telegram.

The Court: What are you showing him now?

Mr. Keown: Strike that out.

Q. The witness is shown a telegram dated February 22, 1922, signed "John," and is asked if he received it and to read it to the jury. This telegram has already been marked as an exhibit on the part of the State.

The Court: Has it been read to the jury?

Mr. Keown: It has been read to the jury.

The Court: Well, read it again.

A. "Harry C. Mohr, Sherman Hotel, Chicago, Illinois. Replying to letter I will never take orders of anyone but the Lord—will take advice of all sane men and at all times—you imagine you are a big agent—have never had a town—my wires were advised as your letter proves—I know situation—if you want to quit, all right, never dictate to me—men who have been a success cannot be slighted—advise by wire." Signed "John."

Q. Now as a result of the receipt of that telegram, what happened between you and Mr. Brunen?

A. As a result of that?

The Court: Yes, tell what you did.

A. Well, I didn't do any more, didn't pay no attention to it.

Q. Did your business relations cease or continue or what?

A. Oh, just the same as usual, continued.

Q. When after that did you return to Riverside?

By the Court:

Q. Did you advise by wire as he requested?

A. No, I don't believe—I didn't send any wire.

Q. You just ignored it?

A. There was a meeting going on at Chicago during the time I received that wire and I just remained over for the meeting and then came back here.

The Court: Now put your question.

Q. Now, how long after the receipt of that telegram was it before you returned to Riverside?

A. I think the following day.

Q. Did you book any shows?

A. No, I didn't.

Q. While you were there?

A. No.

Q. Was there any misunderstanding between you and Mr. Brunen when you returned?

A. No, none at all after I explained matters.

The Court: Then you did explain matters?

The Witness: When I arrived in Riverside.

Q. Did you stay at the Brunen home after your arrival and did you continue as the general manager of the Brunen show until Mr. Brunen's death?

A. Yes, sir.

Q. Witness is shown a telegram dated Riverside,

New Jersey, dated November 28th, and is asked whether he sent this message, and if so to whom, and is asked to read it.

A. "Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, Pa. Call Riverside, Burlington County 27J up until midnight, tonight," signed "Harry C. Mohr."

(Telegram marked Exhibit D17.)

Q. Witness is shown telegram dated Riverside, November 29th and is asked whether he signed the telegram and to whom it was sent.

A. "Charles M. Powell, 20 West Jackson Street, Wilkes-Barre, Pa. Operator could not make connection, will close, will call you telephone exchange six P. M." Signed "Harry."

The Court: Have those telegrams been shown to the defendant before?

(Telegram marked Exhibit D18.)

Q. I show you a telegram marked S4, dated April 30, 1921, signed Harry C. Mohr, and witness is asked to read it and to explain why the telegram was sent.

A. This is November 30th.

Q. I beg your pardon, it is November. I show you a telegram dated November 30, 1921, to Charles M. Powell, 20 West Jackson Street, Wilkes-Barre. "Will meet you Tuesday morning at station, Harry." Now will you explain to the jury why that telegram was sent him?

A. That telegram, I believe, was sent—let me just read that once more, please.

The Court: Mr. Keown, wouldn't it be probably more expeditious if you handed all those telegrams to the witness so he could familiarize himself with them?

Mr. Keown: The only thing is I had them all in order which would save a lot of time.

The Witness: This telegram was merely sent in answer to Mr. Powell's advising me that he was coming in to Philadelphia, and I just acknowledged by replying, "Will meet you Tuesday morning at station."

The Court: And that telegram was marked for identification by the State, wasn't it?

Mr. Keown: Yes, I want to offer it. It was offered by the State.

The Court: Now you are explaining it. That had reference to some business engagement?

The Witness: Yes, sir.

(Telegram marked Exhibit D19.)

Q. Witness is shown telegram dated Riverside, New Jersey, dated 12-6-21, and is asked whether he sent the telegram, to whom it was sent and is asked to read it.

A. "Charles M. Powell, 20 West Jackson Street, Wilkes-Barre. Come at once—will pay expenses—wire when you leave Riverside—Burlington County."

(Telegram marked D20.)

Q. Witness is shown telegram ——

The Court: That is in already, why read it?

Mr. Keown: It was offered in evidence but not read to the jury and I am merely trying to get them into the record.

The Court: Do you want it explained?

Mr. Keown: Not at this time, sir. If your Honor please.

Q. It may be just as well. Mr. Mohr, can you explain to his Honor and the gentlemen of the jury the circumstances surrounding the sending of that telegram?

A. Nothing more than business.

Q. Witness is shown telegram dated Riverside, New Jersey, December 6th, and is asked whether he sent the telegram and to whom it was sent, and is asked to read it.

A. Sent to Harry C. Mohr, 508 New Jersey Avenue, Riverside. "Letter received. Call me Readington Hotel, Wilkes-Barre, Pa., Wednesday morning ten o'clock. Be sure. If received answer tonight. Charles M. Powell—9.35 phoned."

(Telegram marked D21.)

(Witness shown telegram dated 12/13/21, which has annexed thereto a money order, and he is asked whether he sent the money order to Charles M. Powell, and if so for what purpose.)

A. Mr. Keown, the telegram—this is not a telegram.

Q. Well, it doesn't make any difference. I just want you to explain to the jury the facts concerning the sending of that money order.

A. This money order of $50 was sent to Mr. Charlie Powell to 20 West Jackson Street, Wilkes-Barre in response to a letter informing me that he had or was about ready to close the contest that some man that I had brought up there at the time that I was in Wilkes-Barre, by the name of Al Collins, had contracted, and that he needed this money for premiums. Well, I think that answers it. I just sent the $50 on, because I was supposed to participate in these contracts.

The Court: Well, now, Mr. Keown, I understand from the statement on the part of the State that these telegrams all related to business matters between the two. Isn't that so?

Mr. Keown: If that can be agreed between us I am willing.

The Court: Are there any of these any more than business relations?

Mr. Peacock: They certainly were not business. We do not agree to that.

The Court: Which ones do you contend were not pertaining to business?

Mr. Peacock: We contend that the telegrams at the time Charles Powell saw the letter in the Billboard, from that time on down that none of these telegrams were on business.

The Court: Then of course you are entitled to

examine and go into an explanation from this witness as to these telegrams.

Q. Now, Mr. Mohr, will you please tell this jury the result of the interchanging of these telegrams between you and Mr. Powell which brought him to Riverside?

A. Well, shortly after I had been to see Mr. Powell and spent some four or five or six days in Wilkes-Barre ——

Q. Let me ask you, why did you go to Wilkes-Barre?

A. When I took part in these indoor promotions Mr. Powell had suggested to me the first time I met him there ——

Q. All right.

A. Shortly after leaving Wilkes-Barre again, our efforts, Mr. Powell's and mine, had not met with any success, and the money that I had advanced I just felt that I was just throwing good money after bad if I continued; and after being in Wilkes-Barre about four or five days and not being able to get a contract, I immediately came to Riverside. I believe I was in Riverside about a week or within a week when I received another letter from Mr. Powell asking me if I would not advance some fifty more dollars to help successfully close another contest he had been working on. At the first I did not pay much consideration, because I had lost approximately between two and three hundred dollars at that time on these indoor promotions. But on the second thought I believe I received a wire from Mr. Powell in answer to a letter, a special delivery letter, that I did not think it worth while to continue spending any more money on these contests. Well, he sent me another letter, a special delivery letter, in which he was so emphatic about the suc-

cess of this contest, and it was worded that he felt assured that if he had sufficient funds to enable him to purchase premiums that were offered as prizes, why, the profits of this contest would more than reimburse me for the money that I had previously advanced. I then sent Mr. Powell fifty dollars for that purpose.

Q. What happened to that proposition that he had then? Did you later hear from him about it?

A. Yes, it later developed, I got another letter from Mr. Powell and Mr. Powell writes me that account of Lent, I believe, or there was some excuse he made, that these churches at that time were not going to hold any more indoor bazaars and asked me if there wasn't some prospects of getting churches in the neightborhood of Philadelphia, Camden, Wilmington, and mentioned several other cities close by. Well, I told him, as near as I can remember, in answer to that letter that the prospect at this end were probably better than those at the other end, for the reason that the contests, the indoor contests, these church promotions—or these various churches had held through that part of the country had been really overworked. In other words, one church would hold one and another would have three or four the same year. And did not seem to be very good; while down in this part of the country I do not believe the churches ever held or did hold any contests or promotions, as the churches did up around Wilkes-Barre. In fact, it was all new to me as well. It was at that suggestion that he wrote me a letter in reply and asked me if I would forward on his expenses he would go on. I then talked with Mr. Powell, having received this fifty dollars, and I was waiting to be reimbursed for what expenses I had advanced, it showed me very plainly there that he either fell down on

that or probably had spent this fifty dollars I sent him. He then suddenly sends me a wire telling me to meet him, I believe, in front of the Broad Street station—I am not sure of that—or the Reading. I forget just which railroad he came in on. I went there that day in response to his wire, and he made that excuse, that the contest was held up by a priest, I believe, due to the fact that these punchboards that were issued to his congregation had not all been gathered in and he would still have to remain up there two or three weeks, and he would require some more money to stay up there that long or to tide him over until he received this money in settlement of this contest. If I can recall correctly Mr. Powell went down to the Carr & Auerback concern, located between 4th and 5th Street, Philadelphia—it was a novelty house—and ordered some additional programs for this contest. Whether he paid for these programs with this money I had sent him or not I don't remember.

Q. What did he do then that day, stay with you or go back?

A. No, he went right back to Wilkes-Barre.

Q. Well, then, what is the next time you saw him or heard from him. Just explain that, how he gets down to Camden permanently.

(A recess for five minutes was taken.)

(Question repeated.)

A. It was just the same as usual. He sent me a letter explaining to me that he was not going to remain up at Wilkes-Barre any longer and he thought that by coming here to Philadelphia, which was the first place he was going to stop, was Philadelphia—he at first did not intend to come to Cam-

den. It was only done at my suggestion, to come to Camden instead of Philadelphia. The reason for that is because I knew that Mr. Powell did not have no income at that time, and the funds he had unless he received them there for his services, which I knew he had not received this money as yet, I thought he could live a lot cheaper in Camden than he could in Philadelphia, and it was just a thought of that kind that entered my mind when he asked me to rent him a room for his wife and baby. I remember looking in the Philadelphia papers, but I believe the records that I did look up, it seems that I could not just get a room suitable for what he wanted, and I knew he wanted something for light housekeeping, and I thought perhaps in the Camden paper I might find something that would suit him or suit his purse. I recall taking up a Camden paper and reading two or three rooms that were for rent on Cooper Street. Well, I couldn't lose much time, because I was in a hurry at the time to go to Williamstown in response to a telephone call from Mr. Brunen. I remember driving to the first address as I read it in the newspapers, 45 Cooper. I went into the house and looked at the room. It seems Mrs. Earnest, I believe is the lady's name that rented me the room, she had a room upstairs she wanted to rent for five dollars, I believe, and she took me to the floor below, and as near as I can remember she said that I could have those two rooms, which had a light housekeeping—that is, it had a gas stove in it, and some few cooking utensils—for $2.50 more, or I think $7.50 for the two rooms. I don't remember whether I paid Mrs. Earnest all of that money, but I know I gave her some. I think it was five dollars. Well, that was all there was to it, I believe, and I

went on down to Williamstown and I don't remember or recall whether Mr. Powell came in that day or the day after. But however, when he did come I met him at the station, met him in my automobile, conveyed Mr. Powell, his wife and baby to his house, and I just can't remember of anything further interest than that that taken place at the time.

Q. Now, Mr. Mohr, will you just please tell the jury just what your relations with Mr. Powell were after he arrived in Camden?

A. Purely business.

Q. Well, what did you and Powell do if anything?

A. Well, I at the time was just about getting ready for our 1922 season and Mr. Powell told me that he was going to try to get some churches in the vicinity of Camden—he would try that first—and if he failed he was going to try around Philadelphia, and if he failed there he would go to Wilmington, and that was the arrangement made. To help him out in the matter I tried to put this Catholic church or Polish church in Riverside. That church, I believe, stands about three or four doors from the Brunen home. And I was not successful in that, because the Polish priest at that time said that he had something else in view, so I dropped the matter, and that is all I have ever done in trying to book any church bazaar for Mr. Powell.

Q. What did Mr. Powell do between the time of his arrival in Camden?

A. Well, he didn't seem to meet with any success himself. He made several efforts to get employment. I believe he went to the Victor, and he worked for some kind of burglar alarm on a commission basis. He also worked, I believe, for some moving concern. I don't know anything about that, only what he said.

Q. Now did you see Mr. Powell frequently during that period?

A. Yes, sir.

Q. And where would you and Mr. Powell go if anywhere?

A. Well, I had to make numerous trips between Camden and Philadelphia—I mean Riverside and Philadelphia—to buy raw materials for our shows at winter quarters in Williamstown, and I at that time was making preparations and lying out the route of our show. In these various trips between Riverside and Philadelphia I have frequently passed Mr. Powell's house going towards Philadelphia or coming from Philadelphia. He occupied a front room on the first floor, and a great many times I used to see Mr. Powell sitting right at his window. He would hail me and I would hail him. Sometimes I would go upstairs, sometimes he would come downstairs. I used to give Mr. Powell quite a number of little errands to run while he was not employed. I would send him to Philadelphia to look up some tools and different things that were required, probably some addresses; and he has, I remember, on occasions accompanied me to a number of towns through the southern district of New Jersey. I have taken him along just as any friend would, purely nothing but business.

Q. Now did you go to Baltimore during this period?

A. Yes, sir; I did.

Q. If so for what purpose?

A. To line up a circuit of fairs for our show.

Q. Did you take Mr. Powell with you?

A. Yes, sir.

Q. Did you go to Chicago during the period between Mr. Powell's arrival here in Camden and the time that Mr. Brunen was murdered?

A. Yes, sir.

Q. And for what purpose did you go to Chicago?

A. To book the western circuit of fairs.

Q. Do you remember when you went to Chicago?

A. Sometime in February, 1922.

Q. Has Mr. Powell ever been to Riverside with you during that period?

A. During the period ——

Q. Of his arrival in Camden and the time that Mr. Brunen was murdered.

A. Yes, sir.

Q. How many times?

A. That is, in company with me?

Q. Yes.

A. Oh, I think about twenty-five times, thirty times.

Q. Have you ever introduced him to Mr. Grant?

A. Yes, sir.

Q. Have you ever introduced him to Mr. Wood?

A. Who is Wood?

Q. Mr. Wood, the railroad watchman?

A. Yes, sir.

Q. If so under what conditions did you introduce him to Mr. Wood, the railroad detective?

A. Why, Mr. Powell was out at the house at Riverside one night—well, I am a little ahead of my story. Mr. Brunen and I had purchased quite an assortment of signal code flags that were formerly used on our battleships. The purpose of purchasing these flags at that time was to use them for decorations around our shows, and we had bought a job lot of those flags and had them over to Riverside. Well, we had them in the house for quite some time, and Mr. Brunen was making preparations to dispose of the property and we had quite a number of cases of those that we figured on

using for the present season. So Mr. Brunen assorted a certain number of those flags and he set them to one side. We had them up in the top floor of our home. Mr. Brunen says to me, "Harry, if you can dispose of all these flags here"—I think we had to the number of about twelve hundred. They all ranged from the size of, I should imagine, about a foot and a half wide and two feet long to some ran as high as five by twelve feet long; in other words, 2 by 3 or 5 by 12. Now we had these flags and Mr. Brunen had asked me to see if I could not get a sale for those flags. I remember myself going over to the museum located I believe on 11th and Broad Street, Philadelphia, to try to dispose of those flags, thinking I might dispose of some. I knew of a few show people that had quartered around Philadelphia. I made efforts to locate those places and eventually did sell an order of them to Guy Dodson. In the meantime just a thought came to my mind it would be a good idea to have Mr. Powell during his idle moments, while he was looking for employment, try to dispose of these flags to some of these decorators around Philadelphia. I suggested the thought to Mr. Powell and he approved of it.

Q. Did he do anything about those flags, Mr. Mohr?

A. Well, he then—well, I am coming around to how he came. He came out to the house that night to get those flags ——

Q. Go ahead.

A. So I then suggested to Mr. Powell the best way to do would be instead of carrying these large bundles around with him, to just take a sample along with him. These flags ranged, as I mentioned before from 2 by 3 to 5 by 12. A 5 by 12 flag makes

a bundle about that size (indicating) and a man could not carry probably a dozen of them with any convenience. Well, Mr. Powell came out that night and I gave him probably two dozen, because I helped carry them as far as the car track, or where he was to board his street car going back to Camden. We bundled these flags up, and while standing there Mr. Wood, the Pennsylvania Railroad detective, happens to walk along the road there. We greeted each other and I introduced Mr. Powell to Mr. Wood. Does than answer your question?

Q. Now did you introduce Mr. Powell to Mr. Wood under the name of Brown?

A. No, sir.

Q. Was there any reason for your introducing Powell under the name of Brown?

A. No, sir.

Q. Now have you ever introduced Mr. Powell to the chief of police of Riverside?

A. Yes, sir.

Q. Did you introduce him to any one in Williamstown, particularly a Mr. Zimmerman?

A. I believe I did.

Q. Have you ever had any conversation with Mr. Powell while in Wilkes-Barre about doing away with John Brunen?

A. Emphatically no.

Q. Did you ever have any conversation with him in Camden about doing away with John Brunen?

A. No.

Q. Did you ever have any conversation with him in Williamstown about doing away with John Brunen?

A. No.

Q. Have you ever said anything to Charles Powell or have you ever intimated to Charles Powell that you wanted John Brunen done away with?

A. No.

Q. Have you ever laid in wait on Browning Road or at any other place to kill John Brunen?

A. No.

Q. Did you ever purchase a double-barreled shotgun in Philadelphia, or did you ever give Charles Powell money to buy a double-barreled shotgun in Philadelphia?

A. No.

Q. Did you ever buy a single-barreled gun in Philadelphia or did you ever give Charles Powell money to buy a single-barreled gun in Philadelphia?

A. No.

Q. Have you ever been out along any road shooting guns with Charlie Powell?

A. Not to my knowledge, I have ever been with Mr. Powell at any place.

Q. Did you ever buy or did you ever give Charlie Powell money to buy cartridges?

A. No.

Q. Did you ever have a double-barreled gun or single-barreled gun in your Ford automobile?

A. No.

Q. Did you ever put in the attic of the garage a double-barreled gun?

A. No.

Q. Was there ever a single-barreled gun broken in your car?

A. No.

Q. And did you ever throw or give to be thrown a barrel of a single-barreled gun into a creek called Rancocas Creek near Delanco or any other place?

A. No.

Q. Did you ever have any conversation with Charlie Powell about shooting John Brunen as he

passed in the train at Taylor's station or any conversation concerning the killing of John Brunen at Taylor's station?

A. No.

Q. Did you ever have any conversation with Charlie Powell as to the financial condition of John Brunen?

A. No.

Q. Did you ever tell Charlie Powell that you would give him $1,000 or any other sum if John Brunen was murdered by him or by you?

A. No.

Q. Did you ever buy a single-barreled gun or did you ever give a single-barreled gun to Charlie Powell to return?

A. No.

Q. Did you ever give Charlie Powell a revolver to pawn for you?

A. No.

Q. Do you remember where you were on the evening of March 8, 1922?

A. March 8th?

Q. March 8th, two nights before the tragedy.

A. The evening, did you say, Mr. Keown?

Q. March 8th, two nights before the tragedy, Wednesday night.

A. I attended a meeting at the 83rd Barry Post, American Legion, located at 52nd and Locust Streets.

Q. Was Charlie Powell with you on that evening?

A. I have no recollection that he was.

Q. Could you have been in Riverside with Charles Powell that night?

A. No.

Q. Were you with him?

A. No.

Q. Now do you remember where you were on the evening of March 9th?

A. I believe I attended a meeting of the Hewitt Post of the Veterans of the American Wars.

Q. Where?

A. Located at about 4500 Broad Street, Philadelphia.

Q. Was Charlie Powell with you on that occasion?

A. No.

Q. Were you with Charlie Powell in Riverside on the night of March 9th?

A. No.

Q. Have you ever taken your car to Cambridge station with Charles Powell in it or alone and parked it there?

A. I never parked my car in Cambridge station at any time with Charlie Powell or anybody else.

Q. Did you ever park your car between the Cambridge station and the Brunen home with Charlie Powell in it?

A. Between Cambridge station and ——

Q. Between Cambridge station and the Brunen home.

A. Charlie Powell was with me at Riverside, if that is what you mean, in my car.

Q. No, I am asking you if you ever parked your car at a point between the Cambridge station and the Brunen home.

A. No.

Q. Alone or with Charlie Powell?

A. No; just stopped to get gas there at the station, if you call that parking.

Q. Is there a gas station between Cambridge station and the Brunen home?

A. Yes, there is. There is one right to the right, about three doors below the first street, that borders a farm on the other side of the road.

Q. Do you remember the day of March 10th?

A. Yes, sir.

Q. Will you please tell his Honor and the gentlemen of the jury as nearly as possible your actions on this day?

A. The morning of March 10th I rose about 7.30, came downstairs—I occupied the rooms above— found my sister Mrs. Brunen preparing my breakfast. I remember sitting down and eating my breakfast and making inquiries as to where he had gone, whether he had just gone up to Riverside, to the town proper, and would return, or whether he had gone direct to Williamstown, to the winter quarters. I believe Mrs. Brunen told me at that time that Mr. Brunen had gone direct to Williamstown. There were no other conversations of any interest other than to tell my sister that in the event of John's returning early to tell him to remain at the house, that I would be back early in the evening, as I wanted to talk over some very important matters pertaining to the general advance of our show, and also wanted to speak to him about adding some few things to the "Billboard" advertisement that we were about to release. I believe I entered the garage, bid my folks good-bye and entered my car, drove down in front of the court house in Camden. Now I believe I did, before I did go to Camden, I drove first to Riverside, that is, the town proper, to see if I had any mail there. I kept a box in Riverside, because the mail is not delivered there until between eleven and twelve. I believe that is the object I had got going up to Riverside before I went to Camden. I then, after leaving Riverside,

or after leaving the post office, stopped to get gas. Now, I can't recall whether I got gas at McCoy's station at Riverside or whether I got it at the station below. I used to divide my business equally between these two gas stations. And if I recall correctly I met Fred Sheetz, who asked me to allow him to ride with me to Camden. I remember Fred Sheetz entering the car and I drove Mr. Fred Sheetz to the Camden ferry. Now I may be mistaken about that. It may not have been as far as the ferry, but I believe that is where I did take him. After leaving Mr. Sheetz out of the car, I had a few purchases to make. There was some paint that Mr. Brunen wanted. I stopped in some paint shop either on Market or Federal Streets, Camden, I just can't remember which, and bought some paint. From there I continued to the court house to have an interview with Milton K. Stanley. Mr. Stanley being connected with the Prosecutor's office in Camden County and formerly some years previous to his engagement as a police officer, was in the show business. I had become acquainted with Mr. Stanley sometime during the fall of 1920, I think through the general representative of our show, named George Coleman, had introduced Mr. Stanley to me; and Mr. Stanley at that time suggested to me, said, "Harry, whenever you get ready to prepare the bookings of the advance of your show, come down and see me and I will volunteer any information that might help and assist you in determining whether the towns are worth while playing or not." This Jersey territory at that time was all strange to me. I had never played it, and that was the purpose of me going to see Mr. Stanley. Mr. Stanley, upon my arrival there at the Prosecutor's office, was, I believe, not in, and

I could not meet up with Mr. Stanley, and I waited around quite some time, but I think it was about noon when I met Mr. Stanley. I immediately took up the proposition of him advising what information he had or data pertaining to the strength and population and working conditions of these southern Jersey towns or in the nature of anything he might know about towns in New Jersey. Well, Mr. Stanley then mentioned about eight or nine towns, and if I recollect correctly that were closed to carnivals; in other words, these towns had passed ordinances barring carnivals from exhibiting in their towns, and he told me it wouldn't be worth while and a waste of time to go there to try open them up.

The Court: Well, now, we don't want to go into all that conversation, do we?

Mr. Keown: No.

Q. Now, what time did you leave Mr. Stanley on that day, if you know?

A. Well, I was in conversation with Mr. Stanley for about an hour or an hour and a half, probably, I judge about one or one-thirty.

Q. Now, after you left Mr. Stanley—you just trace your movements on the day.

A. Well, I remember going into a restaurant. I eat a light lunch, and remembering that I wanted to see Mr. Brunen, and expecting that he would return and I believe I called up winter quarters. I am not sure whether I did that or not, but I intended to do it, to find out whether Mr. Brunen was still at Williamstown or had gone on into Riverside; but knowing I had two very important letters to

write, I reentered my car and drove back down to Riverside. I arrived at Riverside, I judge, about 2.30 or three o'clock.

Q. What did you do, Mr. Mohr, after you got to Riverside?

A. The importance, the importance of meeting Milt Stanley I didn't get a chance to tell you, I should have met up with him—

Q. Did you have any conversation with Mr. Stanley when you saw him at the court house?

A. Yes, Mr. Stanley made an appointment for me to call him at six o'clock on the Keystone telephone at his home.

Q. For what purpose?

A. For the purpose of giving me information about a certain town that he didn't have much information about at the time.

Q. All right. You arrived at Riverside around 2.30 or three o'clock. Now, what did you do that afternoon?

A. Well I sat down and wrote several letters, two, of course, which were of great importance there that day, a letter—

Q. Do you remember to whom you wrote those letters?

A. Yes, I sent one letter to Harry Benham, a promotor of our show, and the other letter to George Coleman, the former general agent of our show. These letters contained messages or instructions relative—

Q. We don't particularly care about what was in them.

A. All right.

Q. Now did you do any other writing?

A. Well, of course, upon my arrival home I asked my folks, Mrs. Brunen and probably my mother, or

probably Hazel Brunen or probably Mattie, who had been in the house, whether they heard or whether John had been home. Of course, I found out he wasn't, he hadn't got home. That was then about quarter to five, I believe.

Q. Do you remember leaving about a quarter to five? Now, what did you do after a quarter to five?

A. Well, before leaving I left a message for Mr. Brunen, which I laid across on his typewriter or my typewriter, and informed Mrs. Brunen where I was going that evening; and to impress upon Mr. Brunen the importance of withholding a Billboard advertisement, because we hadn't, up to the present time, been in the position to close with an auspicious for an opening date.

Q. Mr. Mohr was that message you left for Mr. Brunen in writing?

A. Yes, sir.

Q. Witness is shown a letter purporting to have been signed by him and is asked whether he signed it.

A. Yes, sir.

Q. Will you please read that to the jury.

A. "John, hold off with Billboard advertisement until I return to-night. Mr. Stanley promised to have some definite, something definite tonight covering Salem. Dr. Poulson will most likely have landed the grounds in question. As soon as I leave Stanley I will go over to Poulson, will try to be back between ten and eleven P. M. Don't forget an experienced mechanic wanted for twister. You better mention built by Zarrow and Unger Construction Company. I wrote George Coleman and Harry Benham letter to keep their eyes open for fair dates. I told Benham to line up another good promotor. I wish you would make up your mind about Balti-

more, as Harry could be working on the committee while living in Baltimore, and save the advance considerable expense. Well I have got to hustle." Signed,"Harry".

Mr. Keown: I offer that letter in evidence and ask that it be marked.

The Court: What is the date of that letter?

Mr. Keown: The letter is not dated. This is the letter the witness says he laid on the top of the machine, the typewriter.

(Letter marked Exhibit D22.)

Q. Now, Mr. Mohr, after you left the home where did you go?

A. I left the house around about five o'clock. I asked Mrs. Brunen to call Mr. Brunen's attention to this here message that I left on my typewriter in the event that Mr. Brunen when he came home would retire before attempting to write some letters, and probably he would let it lay there and he wouldn't get to see it. Sometimes Mr. Brunen went upstairs and wrote his letters and sometimes he wrote them downstairs in the dining room. He would either use my typewriter or he would use his own. Well, I got in my car at five and went on in to Camden. I passed Officer John Potter, a traffic officer, that I happened to get acquainted with at one of our stated committee meetings, he being a member of the East End Republican Club, and I had made his acquaintance through that particular meeting. In passing Officer John Potter, I hailed him with a wave of the hand, and he acknowledged it by return salute. I continued. That was about

ten minutes of six, or twenty minutes of six, or somewheres around six o'clock. I continued then down to the post office, intending to mail these two letters that I had written, one to Harry Benham and the other to George Coleman, and also preparatory to keeping my appointment with Milt Stanley on a Keystone telephone. There happened to be just one Keystone phone I knew of in Camden. That was the object of my—that was the object of going to this cigar store right across from the post office. I had called Mr. Stanley on that phone several times.

The Court: Just go on and state—

The Witness: Well, I forget whether I first entered the post office and mailed the letters or whether I first phoned to Stanley, and after doing both I entered the restaurant located on North Third Street.

Q. Just pardon me a moment. Did you succeed in getting Mr. Stanley on the phone?

A. No, I called Mr. Stanley, and it seems as though Mr. Stanley wasn't at home.

Q. Never mind, just proceed.

A. Well, I entered the restaurant and ordered up a light lunch, and while there left a message with the waitress for my wife.

Q. Did you know the people in that restaurant?

A. Yes, sir.

Q. Did they know you?

A. Yes, sir.

Q. Did they know your wife?

A. Yes, sir.

Q. Had your wife ever eaten in there any meals?

A. She always ate in there.

Q. Now, what did you do after that?

A. I reentered my car, drove down Federal Street, passed a traffic officer, in fact, ran past the traffic officer there who whistled and stopped me. It was raining at the time. I stopped my car, of course, after receiving this signal, and he proceeded to lay the law down to me and I apologized to him that I hadn't seen him on account of the rain striking my wind shield. I crossed the ferry, and having previous knowledge of my sister Mattie being ill, I remember having told my folks at Riverside that if I had the opportunity—

The Court: Just state what you did. Don't give us any conversations you had with other people.

The Witness: Well, I happened to omit that from my testimony, Judge.

Q. Where did you go after you arrived in Philadelphia?

A. Well, I drove up in the neighborhood of my sister's house.

Q. Now, did you stop your car?

A. I stopped my car several times looking for the number of my sister's house.

Q. Did you later find it or did you see anybody there?

A. Well, I stopped my car, I believe, about halfway between my sister's house and the corner house, and, that is, I got out of the car to find the correct address, I couldn't observe the numbers on account of it being so dark right in that particular neighborhood, when somebody hails me and says "Hello, Harry." I looked around and I meet Mr. Jules Kresge walking from the stoop of the house that he lived in towards me. I believe I was as far

from him as that post there (indicating) from where my car stopped.

Q. Did you have a conversation with Mr. Kresge that night at that particular time?

A. I did. He said, "What brings you here, Harry?" I said—

The Court: You needn't state the conversation.

Q. All right. You had a conversation with Mr. Kresge?

A. Yes, sir.

Q. How long did you stand there and talk to Mr. Kresge?

A. It might have been ten minutes or fifteen minutes.

Q. Then proceed and tell where you went.

A. I just from there, I went to—I drove up North 13th Street to Girard Avenue, turned down Girard Avenue to Broad, coming right down Broad as far as Market, and entered the Horn & Hardart Restaurant between 15th and 16th on Market, Philadelphia.

Q. Then from there where did you go?

A. From there I went—well I stopped there just to get a cup of coffee. I was cold, it was a damp night. From there I went to Dr. Poulson's home, located on fifty-nine hundred, in the fifty-nine hundred block in Spruce Street, Philadelphia.

Q. Did you see Dr. Poulson when you arrived there?

A. No, not when I first entered the house, but I may be mistaken about that too. It strikes me his wife came to the door first, or possibly the maid, I am not sure of that either, but somebody came to the door and informed me that the doctor—

Q. Did you see Dr. Poulson there?

A. Yes.

Q. And you had a conversation with Dr. Poulson?

A. Yes, I had an appointment with Dr. Poulson and it was agreed upon then by Dr.—

Q. As the result of the conversation with Dr. Poulson where did you go?

A. I went to the American Legion Headquarters, located on 52nd and Locust Street, Philadelphia.

Q. With whom?

A. With Dr. Poulson.

Q. Now, what did you do at the American Legion Headquarters?

A. Dr. Poulson and I went up there to interview Mr. Haight, of the 83 Barry Post, American Legion.

Q. Did you see anyone there at that meeting?

A. I met several members of the American Legion there, yes.

Q. After you left the American Legion where did you go?

A. I went to my sister's home.

Q. Where was that?

A. 921 North 16th St.

Q. Had you made arrangements with anyone that you would be there?

A. Well, not directly. I had informed Mr. Kresge that if I wasn't delayed, that is, if the meeting at the American Legion wouldn't hold me over too long that night, I would be back.

Q. Now, when you arrived at your sister's home, was she home?

A. No, when I drove up in front of my sister's home I met Mr. Kresge and my sister. It seems they were just about ready to go into the house, that is, standing there talking, and of course, when I just got out of the car they recognized me, and I greeted my sister and asked her how she felt.

Q. What did you do?

A. It just started to rain at that time again and my sister said, "We'd better go upstairs." I entered the house, went up with my sister and Mr. Kresge accompanied us into her room.

Q. What did you do there?

A. I believe my sister gave me a camera shortly after entering the room and asked me if I couldn't adjust it. There was some little slide—

The Court: Well—

Q. Did anything happen while you were adjusting the camera?

A. Yes, sir, while I was adjusting this camera the telephone rang.

Q. Did it ring long?

A. It rang for quite some time. Nobody, that is, my sister, of course, didn't pay no attention to it, and neither did any of us, because it really belonged to the doctor, I believe, lived in that house.

Q. Do you know with whom your sister was living at that time?

A. I believe the lady's name was Warren.

Q. And what did your sister have there, a room?

A. Just a furnished room.

Q. What floor was it on?

A. Well, I can't say it was the second floor, probably.

Q. And did anyone go to answer the telephone?

A. My sister Mattie went to the telephone.

Q. And did your sister Mattie later come back from the phone?

A. My sister Mattie came back rather excited and said, "Something happened over at Riverside, they want you on the phone."

Q. Did you go to the phone?

A. I did.

Q. With whom did you speak?

A. With Hazel Brunen.

Q. And what conversation did you have with her over the telephone?

A. Mrs. Brunen, at first I understood her to say, Dot was shot, and of course, I later learned it—she didn't correct herself, but it was a very poor connection and I kept repeatedly asking her—

The Court: Never mind that.

Mr. Keown: I think, if your Honor please, with your Honor's indulgence it may be important at this time in contradiction of Miss Hazel's testimony.

The Court: Of what?

Mr. Keown: About the distinction between Dot and papa, that he had misunderstood her.

The Witness: Dot and pop, it was.

The Court: Go ahead.

Q. Mr. Mohr, the Court says you may—

A. Well, the first thing I heard, as I thought I did, that Dot was shot. I said, "What did you say?" She says, "Come home at once." I said, "Well, what happened?" She says, "Come home at once." It seems that is all I could get out of her conversation. I asked her again. I says, "Did you say Dot or pop?" and then I heard her say, "Dad was shot."

Q. Now, immediately upon receiving that message, what did you do?

A. I ran into my sister's room, told them briefly what I had heard over the telephone, and I asked Mr. Jules Kresge to accompany me in the car.

Q. Did you go and get in the car?

A. Yes.

Q. What did you do then and who was with you?

A. Mr. Kresge accompanied me back to Philadelphia. I drove as far as 26th & Westfield Avenue, I believe, and it happens I met John Potter again. I drove up to John Potter and told him that I had just received news—

The Court: Never mind what you told him. You met John Potter.

The Witness: I met John Potter and asked him where Milt Stanley was, whether Milt Stanley was at home, and he said he believed he was. He then told me how to get to Stanley's home, or he told me where there was a Keystone telephone, and he pointed out a store two or three stores away from the corner, which I entered and telephoned to Mr. Stanley.

Q. Did you get him?

A. At his house.

Q. Now what did you do after you talked to Mr. Stanley?

A. Mr. Stanley told me to go right over to his house.

Q. Did you go?

A. I did.

Q. How long did you stay at Mr. Stanley's house?

A. I believe I was in Mr. Stanley's house about no later than the time that it took to call up Mr. Parker, who was at the home in Riverside.

Q. And who talked to Mr. Parker?

A. Mr. Stanley.

Q. And as a result of the conversation that Mr. Stanley had with Mr. Parker in your presence, what did you and Mr. Stanley do?

A. Mr. Stanley and I first went over to the fire house, located in that neighborhood there some place, and had called up Captain Schregler, and Captain Schregler, I believe, informed him—no, I am a little ahead of my story. We first went to the firehouse and I believe then called Mr. Parker; or no, we didn't call Mr. Parker; Mr. Parker was called from Mr. Stanley's home, and we went to the fire house and called up Williamstown following instructions of Mr. Parker to immediately make an investigation and find out who had left Williamstown after a certain hour.

Q. Who talked to Williamstown, did you or did Mr. Stanley?

A. I did, and Mr. Stanley I believe as well. I believe Mr. Stanley spoke to Whitey too.

Q. What was the result of information that you got from Williamstown?

A. Well, the reports we had from Williamstown were that they were all accounted for with the exception of two people at that time.

The Court: That answers your question.

Q. With whom did you have that conversation in Williamstown?

A. It was Whitey Tournquist.

Q. Now as a result of that conversation was there any other conversation that you had at that time? Where did you go?

A. Milt Stanley called up Captain Schregler and he asked me to accompany Mr. Stanley to the court house in Camden or to the police station there, and look over two or three men that had come into the place that asked for lodging and see if I could identify any of those three men. Mr. Stanley and I then went there and we looked over the three men

in question and they seemed to be just some fellows that had been knocking around there, didn't have no home or anything of that kind, and in fact they answered all questions satisfactorily.

Q. Then what did you do?

A. Well, I believe I then drove Mr. Stanley back to his home.

Q. And then what?

A. And then I immediately started for Riverside

Q. Now do you know about what time it was when you arrived at Riverside?

A. Well, I can't say for sure.

Q. Do you know who was there when you arrived?

A. Yes, there was quite a number of people in the house when I came in. I believe the doctor was there, Mr. Parker was there and the family was there with the exception of my sister Mattie, and I believe Mr. Bading was there, and I am not sure of Mr. Cain, although I think he was.

Q. What did you do after you arrived home on the evening, anything?

A. Upon arriving home I held a consultation with Mr. Parker on just who I suspected, and I did give him a list of names at that time that had had quarrels with Mr. Brunen just recently.

Q. Did you stay home all during the night of March 10th, and the morning of March 11th?

A. I did up until—well, I left the house pretty early that morning. I think I drove Jules Kresge to Camden.

Q. Did you see Charlie Powell on that morning of March 11th, the day after the tragedy?

A. Yes.

Q. Where?

A. In his house.

Q. Explain the circumstances.

A. Well, knowing the importance of getting a

check on all people, all employees connected with the show, which at Mr. Parker's request I had done, Powell is the only one outside of another lady by the name of Miss Miller, who lived in Camden, were the only two, outside of those in Williamstown that we had not had a check on. Knowing where Mr. Powell lived, and it was right in Camden at the time—

Q. Did you stop at Mr. Powell's house?

A. Yes, sir.

Q. Just explain the circumstances of your visit there.

A. I went up in his house and I found Marie Powell, his wife, occupying her room. I knocked on the door and she allowed me to enter. I asked if Charles was there. She said, "No, Mr. Powell had gone to the store." So I said to Mrs. Powell, "Did you hear of the tragedy at Riverside?" I don't recall whether she said yes or no, but I believe she said yes. And she made the remark, as near as I can remember—no, she made that remark after I asked her a question.

Q. Did you have a conversation with Mrs. Powell then and tell her that you were going out but would be back?

A. No, I asked Mrs. Powell where Charle was last night or about the time that this tragedy happened. Well, she of course didn't know when it happened—none of us—at least I didn't have the information at that time, it was not a certainty— but I asked Mrs. Powell and she says to me, "Well, Charlie was right in this house." I says, "Who besides yourself knows that Charlie was in this house?" Mrs. Powell replies, "Why the landlord," or, "the landlady." Now she might have meant one or the other. I learned them, I believe—no, I am a little ahead of my story again. I said to Mrs. Powell, "You tell

Charlie to stay right at the house until I come back. I want to get off some telegrams that are very important, and I am going to the Camden Western Union Office, and as soon as I send those telegrams I am coming right back again." I returned to the house but I don't recall whether I went back upstairs, whether Mr. Powell was on the stoop or whether he was up at the window and came down or whether I went up or not; but anyway I met him there and asked him where he was at the time of the tragedy. Mr. Powell replies the same as his wife. Mr. Powell tells me that he was in the house at 7.30 or between 7.30 and 8 o'clock. He says, "Why do you question me?" I said, "For the reason that I have got to turn in information as to where you and every one connected with our show was at to Mr. Parker." He then tells me that Mr. Earnest knew of him being in the house besides his wife. I says, "Did you leave the house at any time during the night?" He says, "I had really only one occasion to do it and that was to go to mail a letter at the post office." I asked what time and he said sometime shortly after nine o'clock. I then asked Mr. Powell how long he remained at that time. He says it couldn't have been over fifteen or twenty minutes, which his wife then corroborated. I said, "Are you sure you haven't been out after that?" He says, "No, because it was raining, Harry, and I had no umbrella," and he says, "I wouldn't care to venture out," or words to that effect.

Q. Did you give Mr. Powell any money on that occasion, March 11th?

A. I did.

Q. How much?

A. It was either three or four dollars. It was a small amount of money because—

Q. Why?

A. He asked me for it.

Q. Well, why did you give to him money if he asked you for it?

A. Well, Mr. Powell—I had been taking care of Mr. Powell ever since I have known him in Wilkes-Barre, and I have taken care of Mr. Powell, I think, for the past two or three years previous to our meeting in Wilkes-Barre. I have taken care of his wife when she was in Indianapolis. I helped to send Mr. Powell to Indianapolis, to give him money to go and see his wife at the time she was about ready to become a mother. I have given him money at other times to send to his house.

Q. Had you ever done anything else towards the assistance of Mr. Powell or his wife where it was not money right out of your pocket to him or to her?

A. I didn't get that question.

Q. Have you ever bought any groceries or anything like that?

A. Oh, yes, sure.

Q. Where and when?

A. Oh, so many times I wouldn't want to tell it.

Q. Did you ever buy anything for the baby?

A. I did.

Q. What?

A. I used to buy malted milk for Mrs. Powell's baby.

Q. Now when next after that, Mr. Mohr, did you see Charlie Powell? When next after the morning of the tragedy?

A. I can't just remember the exact time. It would be only guessing if I did mention it.

Q. Did you see him between the time of that first visit and the funeral, to your recollection?

A. Just that one visit that is all. Between the funeral and the tragedy?

Q. Yes.

A. Yes, that was the only time.

Q. Sure that was the only time you saw him between there?

A. I think it is, yes.

By the Court:

Q. Did you make any suggestion to him of sending flowers to the funeral?

A. No.

By Mr. Keown:

Q. Was there ever any conversation had with you about him going to the funeral, before the funeral?

A. Not that I can recollect, no.

Q. Did you give Powell $50 on the morning of March 11th, the day following the tragedy?

A. I didn't have $50 with me.

Q. Did you give Mr. Powell two fifty dollar bills the day before John Brunen was buried or on any other day?

A. No.

Q. How many other occasions if any have you seen Charlie Powell between the time of the day after the murder and at the time he went to work with the Brunen show?

A. Well, that is a question pretty hard for me to answer correctly.

Q. Many times or few times?

A. A few times I met Mr. Powell, I judge about five or six, probably seven times, probably ten times. I didn't keep track of how many times I met him.

Recess to 1.30 P. M.

(Trial of the cause resumed at 1.30 P. M.)

HARRY C. MOHR, resumed.

By Mr. Keown:

Q. Will you explain to the jury how Charles Powell came to get a position with the Brunen show and who employed him?

A. It seems at the time we were short of a promotor, and the man that was in charge of the promotion, that had been engaged by Mr. Brunen previous to the tragedy, his name was Harry Bentum, and it was understood on his contract that he was to handle the promotions and employ the help. In other words, the men that he employed worked under his instructions. And one of these men, I think his name, if I recall correctly, is Berry, or some name like that—didn't show up at the time that he was supposed to and Harry Bentum, knowing that Charlie Powell lived in Camden, and knowing that he had previous experience in the show business, made a suggestion to me, he says, "Harry, why not put on Charlie Powell?" "Well," I says, "Harry, that is right up to yourself. Personally," I said, "the opinion I formerly had of Mr. Powell"—

The Court: Well, now, we don't want conversations.

Mr. Keown: If your Honor please, you will recall the witness Powell went into this at length, as to how he was employed in the Brunen show, and he said that Mr. Mohr employed him. And the question now is as to whether it was Mr. Mohr or some one else that really did.

The Court: Well, if that is so let Mr. Mohr say so, without going into the conversation; because we are only taking up time by detail.

A. Well, Mr. Bentum employed him.

By the Court:

Q. Who?
A. Harry Bentum.
Q. You didn't employ him?
A. No, I had nothing to do with that part of it, see?

By Mr. Keown:

Q. Who owned the Brunen show at that time, Mr. Mohr?
A. Mrs. Bernardi and Mrs. Doris Brunen.
Q. You mean the estate?
A. The estate of Mrs. Brunen.
Q. What interest did Mrs. Bernardi hold in the show at that time to your knowledge?
A. She held a one-half interest.
Q. Do you know when that one-half interest had been acquired by Mrs. Bernardi?
A. Oh, about— I judge about three weeks prior to the tragedy.
Q. Now who at the time that Powell was employed by the Brunen show had charge of the employment of the men?
A. Why, I did.
Q. Did you have charge of the employment of all of the men?
A. Practically, yes.
Q. Well, then, how was it that Mr. Bentum employed Mr. Powell?

A. Oh, I see what you mean, yes. Well, that contract we had with Harry Bentum, it was understood that he was to get a stipulated amount of money for his services and it was understood that Mr. Bentum was to produce another man or two, promotors, to assist him.

Q. As a matter of fact the work was under Mr. Bentum?

A. Yes.

Q. And it was promotion?

A. Promotion.

Q. Not right with the show?

A. No.

Q. What did you do after the funeral of John Brunen?

A. Well, as to what, please?

Q. Well, did you have any conversations with the authorities?

The Court: Well, now you can get at this much quicker—I only make this as a suggestion. Some testimony has been given in regard to what this defendant said. Now if you call his attention and ask him in regard to those matters, if he said them, he may admit them, and if he did not say them he can deny them and we can get at this thing much more rapidly than to get into the conversations.

Mr. Keown: I think I will cover that later, those denials, and I won't press this question at this time.

The Court: Then if there is anything else you want to call his attention to, then you can put in this testimony.

Q. When did the Brunen show leave winter quarters?

A. About a week or so before the 20th day of April.

Q. Who made the arrangement for the moving of the show?

A. I did.

Q. Do you know how much money was on John Brunen the night he was murdered?

A. Only hearsay, that is all.

Q. Was any of that money given to you?

A. I believe Mrs. Brunen gave me a ten dollar bill to send some telegrams.

Q. Did Mrs. Brunen ever give you any fifty dollar bills that were on Mr. Brunen at the time he was murdered?

A. I don't know whether it was any of the money that she gave me, that is, of the money that was taken from Mr. Brunen or not. I am not sure of that at all.

The Court: The question is whether she ever gave you a fifty dollar bill.

A. Oh, yes, she has.

Q. And when was it that she gave you the fifty dollar bills?

A. I believe I received a part of that money following the funeral.

Q. And what was the purpose of the advancement of money to you at that time?

A. To buy some raw material for winter quarters.

Q. Were you taking full charge of the running of the show?

A. Yes. In other words, I was really taking Mr. Brunen's place, the duty that he had performed.

Q. Now how was this money spent that Mrs. Brunen gave you?

A. It was spent for show purposes and in the interests of the show.

Q. Do you know whether Mrs. Brunen came into the possession of any funds after John Brunen's murder?

A. Yes.

Q. When, how long after?

A. I judge about a week or ten days.

Q. And do you know the amount of money that she acquired shortly after?

A. Yes, $1,000.

Q. And do you know how she acquired that money?

A. Yes, she acquired it through Mr. Keown's office.

Q. Do you know whether Mrs. Brunen collected the insurance on her husband's life?

A. Yes, she did.

Q. Do you know how long that was after the tragedy?

A. Yes, quite some time.

Q. Were you visiting my office after the tragedy prior to your arrest?

A. Yes, sir.

Q. For what purpose?

A. Well, you had been engaged, I believe, previous or prior to the murder—

Q. Now just get right down to the purpose that you were there, without going too far into it.

The Court: Just state the object without anything else.

A. Well, to look after the show's interest and to handle the estate.

Q. Who came to the office with you?

A. My sister Mrs. Brunen and Hazel Brunen.

Q. Had Charlie Powell ever been in the Brunen home during his stay in Camden from the time he came from Wilkes-Barre until the time of the tragedy?

A. Yes.

Q. On how many occasions?

A. I think Charlie Powell was in that house about three or four different times.

Q. Have you any way of fixing any time that he was there? You have already covered the time that he was there about the flags?

A. Yes.

Q. But on any other occasions?

A. Yes, I believe he came out there to see Mr. Brunen.

Q. Have you any way of fixing that time?

A. Yes, sometime in February, I believe.

Q. To your knowledge did anyone have access to the attic of the garage?

A. Everybody did.

Q. Do you know Lawrence J. Doyle?

A. No, I don't.

Q. Have you ever seen him to your knowledge before you saw him here?

A. Not until I seen him on this witness stand.

Q. Did you ever stay in a restaurant in Wilkes-Barre for an hour and a half with Charles Powell?

A. Not that long.

Q. How long would you say that you were in a restaurant with Mr. Powell?

A. It could have been over a half an hour.

Q. Did you after your visit to the restaurant with Charles Powell go to his home?

A. Yes.

Q. Did you attend a bazaar at the Queen's Catholic Church at Wilkes-Barre?

A. I never did.

Q. Did you ever see this man Doyle in Williamstown?

A. I never saw Mr. Doyle till I seen him on the witness stand.

Q. Do you know Postmaster Arthur Stecher, at Riverside?

A. Yes.

Q. Did you ever send any money orders from his office?

A. Just about a hundred.

Q. Were there any blood-stains, to your knowledge, on any of the notes that you ever gave him for money orders?

A. They may have been. I don't know.

Q. I am asking you to your knowledge do you know?

A. No, I can't say that I do know.

Q. Was there ever any conversation to Mr. Stecher to you about any blood-stained money being offered?

A. Never a word.

Q. Was any of this money that you gave Mr. Stecher any of the money that was found on John Brunen when he was murdered?

A. I don't know. It must have been if there were blood-stains on them.

Q. Did you ever make any statement to Mr. Powell that you were afraid that Mrs. Brunen in one of her bad spells might harm John Brunen and cause her to be locked up?

A. No.

Q. Did you ever say to Charlie Powell, "Isn't there any way you can think of we can get rid of John Brunen"?

A. No.

Q. Did you ever go to Bradley's pawnshop at 1800 Market Street for any purpose whatsoever?

A. Yes. I don't know whether that is the pawnshop or not, I can't recall it by name. I would if you would tell me the address. Do you know the address?

Q. 1800 Market Street.

A. Well, I wouldn't say for a certainty that I had been there unless it is the pawnshop that I had taken one of Mrs. Brunen's rings, that Mrs. Brunen had given me to raise funds. It might have been at that pawnshop.

Q. What was the purpose of pawning those rings at that time for money?

A. The purpose was the estate, the money in the hands of the estate had been tied up with a caveat by Mrs. Jaeschke, Mrs. Brunen's sister.

Q. Did you ever park your automobile in any place along Browning Road when Mr. Powell was with you in the car or at any other time?

A. No, I don't even know where Browning Road is at, so I really can't answer that.

Q. In going from Riverside to Williamstown will you just tell the jury in which way you would go?

A. Well, I drive my car as far as Palmyra, I turn at Palmyra, cross the railroad tracks and drive about a mile over to what is known as the Burlington Pike. I would then continue down the Burlington Pike as far as the street car track—I believe that is Federal Street that drives into Burlington Pike, I am not sure. I would continue down what I suppose is Federal Street, well, as far as Cooper, where Federal runs into Cooper; no, I go as far as Sixth Street and turn Sixth Street as far as Broad, and turn to my left and go out, I think it is Haddon Avenue, and continue that way on a straight

course that would lead me past a convent, I believe. That leads into a road that takes you direct into Williamstown. That is as near the directions as I can give you. I am not familiar—

Q. You don't know where the Browning Road is?

A. I never heard tell of it until it was mentioned here in the court room.

Q. Have you ever passed over the road leading between Collingswood and Merchantville?

A. Collingswood and Merchantville?

Q. Or Merchantville to Collingswood, going from Riverside to Williamstown. Well, do you ever remember parking an automobile anywhere along the road, with Mr. Powell with you, with the purpose of lying in wait for John Brunen?

A. No.

Q. Did you on December 19th, 1921, or at any time purchase at Berkowitz's pawnshop a stock and die?

A. I did.

Q. For what purpose was this purchased?

A. Mr. Brunen wanted a stock and die for the purpose of cutting and threading a certain sized standard bolt, bolts that we were to use for the construction and building up our wagons; and I had probably interviewed about six different pawnshops, trying to locate one of these stock and dies, a second-hand stock and die. The reason for wanting to get a second-hand stock and die was due to the fact that there were only two or three size bolts that we could use, and in order to buy a complete new set of stock and dies the expense would have been so great that it would have been useless, because we would not have had any use for the smaller size.

Q. Did you have any conversation with the pawnbroker concerning the return of that stock and die when you purchased it?

A. Yes, I did.

Q. What was that conversation?

A. As near as I can remember I told him—I asked him first, of course, if he had a stock and die and he said he had a stock, which he produced. It seems one of the stocks he had there was for cutting pipe and the other one was for cutting of bolts. I told him that is what I wanted, the one that would cut bolts. Well, he had a stock, and he had one die with that stock, and I asked him if he had any dies for it and he says "No." So I says, "Do you know whether I can buy dies to fit this stock?" and he said, "I believe you can." I says, "Do you know where I could buy those dies to fit this stock?" and he says, "Yes." He says, "I will give you the address of several wholesale houses and you can go to these places and I am sure you can find dies that will fit this stock." I recall him giving me several addresses, which I made a memorandum of, and I proceeded to these places.

Q. My question is, Mr. Mohr, whether you had any conversation as to the return of that stock.

A. Yes.

Q. What was that conversation?

A. Well, I had it before. "Well," I says—I can't recall the gentleman's name but I told him, "If I can't find dies to fit the stock, would you allow me to return this stock, because it wouldn't be of any use to me?" And he did bind the agreement that way.

Q. Who was with you when you purchased this stock and die?

A. I am not sure who was with me. I don't know whether I was alone or that somebody was with me or not.

Q. Was Charlie Powell with you?

A. I couldn't say for sure.

Q. Is it possible that he was with you?
A. He might have been, yes.
Q. Was this stock and die later returned?
A. Yes.
Q. By whom was it returned?
A. By Charlie Powell.
Q. At whose request?
A. At my request.
Q. Did Charlie Powell return to you the money that he got from the pawnbroker when he returned it?
A. No, I let him keep it, because he needed it at the time.
Q. Did you prior to going to Chicago tell Charlie Powell to go out every night to the Brunen home and see if he could get John while you were in Chicago?
A. No.
Q. Did Charles Powell on Thursday night, March 9th, accompany you to a meeting of the Veterans of the American Wars at 5600 Spruce Street, Philadelphia?
A. I didn't meet Charles Powell on that night. I know I was alone.
Q. Did you attend a meeting of the Veterans of the Foreign War on Thursday, March 9th?
A. Yes, I am sure I did.
Q. Where did you attend this meeting?
A. At 4500 Broad Street, Philadelphia. I am not sure whether it was 4500 or 4600. It is up in that neighborhood.
Q. North or south?
A. North.
Q. Did you ever own a white cap?
A. A white cap?
Q. Yes?
A. No.

Q. Did you ever own a gray cap?

A. Yes, sir; I had several caps.

Q. Did you own a gray cap around March 10th?

A. Yes, I believe I did.

Q. Do you know where that cap is now?

A. I believe it is down winter quarters; that is, it was, when I disposed of some of my personal effects around the house. I thought perhaps Mr. Ellis had that cap, but I heard him say that he only received an overcoat and a pair of shoes.

Q. Was that cap ever kept in the automobile?

A. No, just when I wore it.

Q. Well, I mean it was never kept in there?

A. No.

Q. For certain purposes and then transferred from a hat to a cap when you were driving?

A. No.

Q. Did Charlie Powell throw that cap or any cap of yours into the Delaware River on the night of March 10th?

A. No.

Q. Have you ever given Powell $500 or $600 from the time of your meeting in Wilkes-Barre to the time of your arrest?

A. From the time I met him in Wilkes-Barre? Well, now, that would be pretty hard for me to say. I don't think quite that much. I believe Mr. Powell has received—now did you say $500 or $600? I believe I did give Mr. Powell—that is, considering the money that I advanced for the promotions at that time—approximately about $400.

Q. Now just tell the jury how that $400 would be made up.

A. Well, the biggest part went for premiums, such as silverware, five dollar gold pieces and punchboards and advertising matter. I believe some of it went to a stenographer for the purpose of writing

up some instructions on how these promotions were to be worked. The other money was advanced to Mr. Powell for the purpose of maintaining his household, feeding his baby, his wife and himself, and carfare for himself and my wife and Mr. Collins and myself back and forth in efforts to obtain contracts to promote these church promotions, and also my carfare back and forth to Wilkes-Barre.

Q. Did John Brunen ever drive your Ford car to Williamstown?

A. Yes, sir.

Q. How frequently?

A. Well, if I recall correctly, as soon as the winter set in, when it got too cold for his car, and his car—he had an open touring car, he had driven my Ford coupe, I judge, up until the time that he died, practically every day, unless it was of some importance that I had to have the car to meet up with a committee on an appointed time.

Q. Have you ever showed Charlie Powell a timetable or had any conversations with Charlie Powell as to the time the trains ran through Riverside?

A. No, sir.

Q. Did you give Charlie Powell forty cents on the night of the tragedy?

A. I didn't see Charlie Powell on the night of the tragedy.

Mr. Keown: Where is the coat exhibit?

(Coat handed to Mr Keown.)

Q. Is this your coat, Mr. Mohr, (handing coat to witness)?

A. Yes, sir.

Q. Did you have that coat on, on the 10th day of March?

A. No, sir.

Q. How frequently did you wear that overcoat?

A. The only time I wore that overcoat was when I had an occasion to drive out with Mr. Brunen in his open touring car, when we probably had two or three friends we wanted to take some place.

Q. What did you do with that coat?

A. I gave that coat to Mr. Ellis.

Q. When did you give it to him?

A. Oh, I guess that was a week or ten days after the tragedy.

Q. Did you ever see it on him after you gave it to him?

A. I believe Mr. Ellis wore that coat every day, that is, every day that he was over to the house.

Q. My question is did you ever see it on him afterwards?

A. Yes.

Q. Why did you give it to Mr. Ellis?

A. Well, it seems the Brunen home had been sold and Mrs. Brunen at that time was making preparations to pack up all our belongings and occupy a flat in Philadelphia, and Mrs. Brunen said to me one morning while I was in Riverside, she said, "Harry, I wish you would dispose of all your personal wearing apparel that you have no further use for, as we won't have the room when we get over in that flat to take care of it."

Q. How often did you see Ellis after the tragedy?

A. Well, I think Ellis worked around the house there for about three weeks.

Q. Did you give him any other articles?

A. Yes, he says I gave him a pair of shoes, and I guess I did.

Q. Well—

A. I have given Mr. Ellis—of course, previous to that, he had been in the employ of Mr. Brunen.

I have given him shirts, hats, shoes, clothes of all descriptions.

Q. Did you give any other articles away about that time?

A. Yes. I gave away a couple of suits of clothes.

Q. To whom?

A. To the boys in Williamstown winter quarters, and I gave some two or three shirts away, I gave a khaki shirt away, and I think I gave a couple of pairs of overalls away.

Q. Do you know where King's corner is?

A. King's corner?

Q. King's corner.

A. No, I can't say that I do.

Q. Do you know Ruth Haines?

A. No.

Q. You heard the testimony of Ruth Haines?

A. Yes.

Q. Could you not tell from what she was saying as to the location she was endeavoring to describe in Riverside?

A. No, I couldn't understand the girl at all.

Q. Well, did you drive a car the 9th day of March anywheres in Riverside about five or six o'clock with Charlie Powell in it?

A. On what date?

Q. On the 9th day of March, the 9th day of March?

A. No, I am almost certain I didn't.

Q. Did you ever have any conversations with Mrs. Jaeschke about Brunen's financial conditions?

A. Yes, sir.

Q. Did you ever tell her that John Brunen had nothing?

A. No, sir.

Q. When did you first hear of the finding of the guns in the Pensauken Creek?

A. I had been invited by Mr. Stanley—

The Court: You just tell us when. Answer the question.

The Witness: Well, it was at the East End Republican meeting, East End Republican Club meeting that was held in the neighborhood of Mr. Stanley's home.

Q. When?
A. Well, it was just shortly after the murder.
Q. Was that before it had been published in the newspapers?
A. Oh, yes.
Q. How long before?
A. Quite some time before.
Q. Did you ever make any statement to Mrs. Jaeschke in passing the Pensauken Creek, that that was the place where they found three guns?
A. No, and she knows I didn't.
Q. Did you ever make any statement to Mrs. Jaeschke in passing the creek as to the finding of any guns?
A. No.
Q. Did you ever say to Mrs. Jaeschke they laid out for him on the road when he came from Williamstown?
A. No, I don't have no recollection of ever saying anything like that.
Q. Did you ever tell Mrs. Jaeschke that Parker would never find the murderer of John?
A. No, and she knows I didn't say that.
Q. Did you ever tell Mrs. Jaeschke that you would give Detective Stanley $500 for the finding of the murderer of John?
A. No.
Q. Do you remember a conversation you had with

Miss Miller, Miss Mary Miller, concerning the Brunen quarrel on Christmas day?

A. Just in a casual way.

Q. Did you ever say to her, "If he," meaning John Brunen, "ever hurts her I will get him, but I don't want that to happen, I will get him first?"

A. She knows I never made that remark.

Q. You just answer my question.

A. No.

Q. Did you ever say to Mary Miller it won't be long before the show belongs to you?

A. No.

Q. Mr. Mohr, did you have a conversation on the day following the tragedy?

A. Yes.

Q. Did you say to Miss Miller, "John was knocked off last night?"

A. No, not in them words, I didn't.

Q. What did you say?

A. I said, "John was killed last night."

Q. And did Miss Miller say to you, "Have you any idea whoever killed John"?

A. She may have asked me that.

Q. And did you reply "no?"

A. Let me have that question again, please.

Q. I am asking you, after Miss Miller asked you if you had any idea as to who killed John Brunen—

A. No.

Q. She having testified you answered her "no." I am asking you if you did say that?

A. No.

Q. You mean to say that you didn't say no to Miss Miller in answer to that question?

The Court: Put the question.

The Witness: I probably don't grasp it right.

Mr. Keown: I am trying to quote from Miss Miller's testimony.

The Court: Then why don't you put "Miss Miller says so and so." Did you say so?

Q. Miss Miller says, in answer to her question as to whether you knew who killed John Brunen, that you said no. Did you say that?

A. Yes, I did.

Q. And did Miss Miller on that occasion say, "I hope to goodness they get the one who killed John and give him the same they gave him?"

A. I believe she did.

Q. And did you say, "They will never get him?

A. No.

Q. Did you say, "I wish he was here now and I would knock him off myself"?

A. No.

Q. Did you ever tell Miss Mary Miller that you had a bottle of whiskey that you were going to give to Milt Stanley?

A. No.

Q. Now, Mr. Mohr, did you ever tell Charlie Powell that the curtains in the Brunen home would be in a certain position or that Mr. Brunen would be sitting in a chair or that the dog would be in the cellar, or that Mrs. Brunen would be to the movies, or did you ever make any arrangements whatsoever with Charlie Powell to kill John Brunen?

A. No.

Q. Did you ever tell Charlie Mohr that Mrs. Brunen would think—pardon me, may I strike that out, please? Did you ever tell Charlie Powell that Mrs. Brunen would faint and delay notifying the authorities?

A. No.

By the Court: I want to ask the witness a question. Doyle says that he was in a restaurant in Wilkes-Barre where you and Powell were together. You say that you didn't see him there?

The Witness: Yes, sir.

The Court: You heard the conversation he said he overheard? Did you hear that?

The Witness: Well—

The Court: Did you hear what Doyle said that he overheard?

The Witness: Well, I can't just recall.

The Court: Do you remember his testimony?

The Witness: Part of it.

The Court: What part do you remember?

The Witness: Well, just some part of him saying that I had mentioned to Charlie Powell there about "I can't do it alone, or something like that."

The Court: Well, did you have any such conversations as he detailed?

The Witness: No, sir.

Cross-examination.

By Mr. Peacock:

Q. How long have you known Charles Powell?
A. Oh, about six or seven years.
Q. When did you first know him?

The Court: As near as you can say.

A. Well, he was on the Brunen show, that's all I remember.
Q. Well, six, eight or ten years?

The Court: He has said six or seven years.

A. Six or seven years, I just can't remember.
Q. You were in contact with him almost continuously?
A. Yes, sir.
Q. You met almost daily on the show?
A. That is, very near.
Q. During the time he was with the Brunen show?
A. Yes, any time, that is, not the first season I didn't. I wasn't acquainted with Mr. Powell the first season.
Q. Since the first season have you met him almost daily when he was with the Brunen show?
A. Yes.
Q. What was the character of his work, that he did?

Q. Well he has worked concessions, as far as I remember. Well, he has done some promoting and handled some detail work around the show.
Q. In fact, he has been connected with the show and friendly and close to you ever since he has been with the Brunen show?

A. Yes, sir.

Q. You and he were, as a matter of fact, pals, were you not?

A. Well, I call everybody a pal.

Q. Everybody?

A. Anybody that's a friend.

Q. You mean Charlie Powell more than anybody else?

A. No, I can't say I do.

Q. You knew that he had the same feeling for you, didn't you?

A. I believe he did.

Q. You believe he did?

A. As a friend.

Q. Now, when was it that he left the Brunen show?

A. That is the first?

Q. The last time, 1921.

A. He left the Brunen show in Timonion.

Q. When was that?

A. Well, I recall that date, because it was Labor Day week.

Q. And you hadn't seen him for quite a while after he left the Timonion show fair?

A. No.

Q. How did you expect to get in communication with him?

A. Through his brother-in-law.

Q. Didn't you insert an ad in the Billboard to find out where Charlie was?

A. I don't remember whether I did.

Q. Do you deny it?

A. I say I don't remember whether I did. It is nothing unusual for me to write a letter to the Billboard if I want to communicate with somebody connected with the show business.

Q. You hadn't seen Charlie since he left Timonion fair?

A. No.

Q. On Labor Day and you wanted to get in communication with him?

A. Yes, I did.

Q. Did you send word to his people in Indianapolis to find out where he was?

A. That's true.

Q. What did you want him for?

A. Well, it was, there was a litigation pending at that time between Mr. Paul Parrell and John Brunen over some show paraphernalia tied up in Baltimore, and from the conversation I had with Mr. Brunen, he wanted me to try to straighten out the matter, as he had some money tied up in some way, and Mr. Parrell had some concession paraphernalia, and he knew Mr. Parrell wanted to have released, and Charlie Powell at the time we knew was with Paul Parrell in Baltimore, and lived with Mr. Parrel in Baltimore.

Q. Well, what did you want Powell for?

A. I am just coming to that. I will tell you in just a moment.

Q. Can't you tell me?

A. Yes, I am trying to recall why Mr. Brunen wanted Mr. Powell.

Q. I didn't ask you that. I am asking you why you wanted him.

A. That was the reason I wired his brother-in-law.

The Court: Give him a chance to think. The matter was back, I suppose, a few years.

By the Court: Do you know what the litigation was about?

The Witness: That was what it was about, there was some misunderstanding about a contract.

The Court: Well, if you don't know say so, if you can't recall it.

The Witness: Well, I just can't recall at this present time.

Q. Powell had nothing to do with that contract?
A. Who?
Q. Powell?
A. With what contract?
Q. The contract you are talking about.
A. No, not with Paul Parrell's contract, no.
Q. And you knew where Paul Parrel was?
A. No, I didn't.
Q. Didn't you write a letter to Paul Parrell at that time?
A. I may have.
Q. Well, then you knew where he was if you wrote a letter to him?
A. I knew his home address, yes, but I was following the instructions of Mr. Brunen.
Q. Didn't Charlie Powell write you a letter and tell you he had seen your ad in the Billboard and tell you where he was?
A. I don't recall that he ever did.
Q. How did you find out he was in Wilkes-Barre?
A. I received a letter from Mr. Powell telling me that he had been trying to get in communication with me for about the past two months, or the past month and a half, if I recall correctly. Mr. Powell in that letter stated that he had sent me two other letters to Riverside and couldn't quite understand why I had not answered them.
Q. Where is that letter?

A. Oh, I haven't got them.

Q. Oh, you don't save your letters?

A. No reason why I would want to save that letter.

Q. Did you save any letters that Charlie Powell wrote you?

A. Well now, I did, yes.

Q. Where are they?

A. Well, I don't know. I was brought here and arrested on April 29th, and I haven't been given a chance to get possession of my letter files around the show.

Q. Your wife has been out and could get possession of them?

A. No, she didn't have no right in the office.

Q. Your lawyer has been out preparing your case and he could get possession of them?

A. No, my lawyer—I was denied counsel for the first ten weeks.

Q. You haven't been denied counsel for the last four months?

A. No.

Q. Then he had four months to get all letters, didn't he?

The Court: One moment, you must give the witness a chance to answer.

A. A whole lot of things can happen in ten weeks, Mr. Peacock.

Q. Have you made any effort to recover those letters?

A. I sure did.

Q. All the letters you referred to in your direct

examination from Charles Powell you haven't got one of them any more, have you?

A. All the letters that I have referred to?

Q. This morning, yes.

A. Why, no, I don't suppose, I have just telegrams.

Q. When did you first go to Wilkes-Barre?

A. The early part of November.

Q. When you met Powell at Wilkes-Barre, where did you go with him?

A. The first time?

Q. Yes.

A. A restaurant.

Q. Where?

A. To a restaurant.

Q. The restaurant that Mr. Powell has described across from the Readington Hotel?

A. Correct. I don't know whether it is across from the Readington Hotel. I take it for granted that is where it is, though.

Q. Yes, almost opposite the station, but if you were in that restaurant, you went in there, who did you see?

A. Who did I see relative to who I knew?

Q. Yes.

A. Didn't know nobody outside of Mr. Powell.

Q. Mr. Keown asked Mr. Powell if a man named John Hanley was there?

A. John Hennessey.

Q. Was he in there?

A. No.

Q. You don't know Larry Doyle?

A. No.

Q. You saw him on the witness stand?

A. Yes.

Q. Remember him being there?

A. No.

Q. Do you know the date the first time that you went to Wilkes-Barre?

A. No, not the exact date, I don't.

Q. How did you come to go there?

A. At the suggestion of Mr. Powell.

Q. What?

A. At the suggestion of Mr. Powell.

Q. How did he suggest it?

A. Why, he wrote me a letter, special delivery letter, informing me that he had promotions.

Q. Yes.

A. And needed financial assistance. Well, at the first thought I decided not to go.

Q. Not what you thought, is that the reason you went there?

A. Yes, that—

Q. Because you thought Powell needed financial assistance?

A. No, I went up there to make some money.

Q. Where did you leave to go there the first time, what point?

A. From Pottstown, Pennsylvania.

Q. Who was with you at Pottstown?

A. There were about five or six different people I knew.

Q. Mary Miller with you?

A. Yes.

Q. Where did you take her from?

A. From Camden or Philadelphia, I am not sure.

Q. And left her at Pottstown?

A. What?

Q. And left her at Pottstown?

A. Yes, sir.

Q. From there you telegraphed to Charlie Powell you were leaving Pottstown?

A. I did.

Q. Did you see Larry Doyle on the train?

A. No.

Q. Didn't see him at any time? How did you know Larry Doyle worked on Lew Walker's show?

A. From what I heard.

Q. Where did you hear that?

A. From Mr. Bentum, I think.

Q. When?

A. I heard that through Mr. Keown.

Q. Oh, you just heard that lately?

A. Yes, sir.

Q. He worked for Lew Walker, didn't he?

A. I am not sure.

Q. Wasn't that on the Brunen show?

A. Yes, sir.

Q. Lew Walker's show?

A. Correct.

Q. Then Larry Doyle did work on the Brunen show?

A. I don't know.

Q. You know he worked for Lew Walker?

A. I have only got what Harry Bentum stated.

The Court: He got it by hearsay.

The Witness: Bentum wasn't on the show in the 1921 season, when Mr. Doyle was supposed to have been on this show.

Q. The only information you have concerning Larry Doyle is what Bentum told you?

A. Yes, sir.

Q. He is a friend of yours, Bentum?

A. He is.

Q. How many times were you in Wilkes-Barre?

A. Twice.

Q. What did you go there the second time for?

A. To carry through our plans.

Q. Well, did you carry any plans through while you were in Wilkes-Barre as to promotions and so forth?

A. Partly.

Q. Did you have any promotions in Wilkes-Barre, you and Powell?

A. Yes, sir, we did.

Q. Where were they?

A. I couldn't tell you, I couldn't give you the location of this church.

Q. You and Mr. Powell had promotions in Wilkes-Barre and you can't tell me the churches, that's correct?

A. Yes, sir.

Q. You were only there twice?

A. That's all.

Q. One time you stayed five days?

A. Probably six days.

Q. What did you do the six days?

A. Tried to go out and promote these. We interviewed these various churches in the vicinity of Wilkes-Barre.

Q. Will you give me the name of one church you went to?

A. They are all Polish churches.

Q. Didn't go to anything but Polish churches?

A. There might have been an Italian church; however, they were all foreign churches, anyway.

Q. Then you were there six days interviewing churches with Charlie Powell, and you can't give me the name of one church, is that correct?

A. They are all headed under the Polish Catholic or Lutheran or something.

Q. Powell was with you all the time?

A. No.

Q. Who was?

A. On one occasion Mr. Powell went with me,

on another occasion I went alone, and Mr. Powell went in one direction and Mr. Collins, a man I had employed, went in another direction. We did that to cover territory.

Q. How long did you and Powell stay in the restaurant the first day you were there?

A. Not more than a half hour.

Q. What did you talk about?

A. Nothing more than he had suggested to me about these promotions.

Q. That the entire conversation?

A. Yes, sir.

Q. Did you go to Powell's house from there?

A. I did.

Q. Told him you wanted to see the baby?

A. Yes, sir.

Q. Went there and saw Marie and the baby?

A. Yes, sir.

Q. And then you went back to Philadelphia, didn't you, the same night?

A. The next morning. I stayed over night because I couldn't get a train out until the next morning. I didn't go to Philadelphia either, I went back to Pottstown.

Q. Where did you stay there?

A. I didn't stay in Pottstown.

Q. Well, did you leave there?

A. Yes, sir. I went back to get my car.

Q. Did you meet Miss Miller and take her back?

A. No, sir.

Q. When was the next time you saw Powell on your second visit to Wilkes-Barre?

A. It was either two or three days after I had made the arrangements.

Q. You told Mr. Keown that you sent Charlie one money order for $50. Did you send him any more?

A. I believe I did.
Q. How much?
A. I don't recall.
Q. Did you send him one for $20?
A. I may have, yes.
Q. On November 30th, 1921?
A. I believe so.
Q. What was that for, purely business reasons, too?
A. Yes, sir.
Q. All these telegrams that have been offered in evidence and shown you requesting Charlie Powell to come to Philadelphia were purely business telegrams?
A. Positively, and he knows it himself.
Q. "Meet me Pennsylvania station leaving Pottstown 5.19." That is purely business, isn't it?
A. Yes, that was.

Mr. Keown: What exhibit is that, Mr. Peacock?

Mr. Peacock: S11.

Q. S14: "Meet me Pennsylvania station at 10 P. M." November 20th, 1921. That is purely business, isn't it?
A. Yes, sir.
Q. One marked D17: "Call Riverside, Burlington County, 27J up until midnight tonight." What was that, business?
A. That business was in answer to Mr. Powell calling Riverside, wanting to get in communication with me. Somebody called my attention to it in the house, as near as I can recall, and I thought perhaps he wanted further financial assistance or wanted to tell me something about the promotions where I had invested my money.

Q. And you were so anxious to assist him financially that you told him to call you up till midnight?

A. No, it was in response to his request.

Q. And you were so anxious to assist him financially that you wired him he could call you up till midnight on November 28th; that is correct, isn't it?

A. Yes.

Q. "November 30th. Come at once. Will pay your expenses. Wire when you leave, Riverside, Burlington County. Harry C. Mohr." Why did you want him to come at once?

Mr. Keown: What number was that?

Mr. Peacock: D20.

A. Just simply the same as all the rest of them, pertaining to our business.

Q. Telegram December 13th. "Sending $50. Wire when you will leave. Will arrange for room." What was that business about?

A. Just the same as all the rest of them.

Q. Sending $50 to come to Camden, weren't you?

A. No, this telegram was sent in answer to a letter of his covering a contest that Mr. Al Collins had promoted while there, and Mr. Powell required, from the information as I received it from his letter, about thirty some dollars, which he wanted to use for premiums.

Q. And you wired on $50 to pay for that?

A. No.

Q. What was it?

A. In addition to that I wired him $20 to cover his carfare to bring him to Camden or Philadelphia. We had not at that time decided as to where he was going to live.

Q. You hadn't made any arrangements at that time where he was to live?

A. No, sir.

Q. Hadn't you made arrangements with Mrs. Earnest?

A. What is the date of that telegram, please?

Q. December 13th.

A. I don't recall that.

Q. How many times did you give Powell money all together?

A. Where at?

Q. Any place.

A. You mean from the time I have known Mr. Powell?

Q. The time you met him in Wilkes-Barre.

The Court: As near as you can, so as to be expeditious.

A. Well, I gave him, if you call advancing money to the Karr & Auerbach novelty house, if you call that advancing money—he was in on the proposition, and I considered that that part of the money, yes, I believe I have advanced about $400, covering everything.

Q. On how many different occasions would that be, Mr. Mohr?

A. At any time that Mr. Powell happened to ask me for money while I was in Wilkes-Barre I would give him some.

Q. Did you ever have any of this repaid to you?

A. Sir?

Q. Did Powell ever repay you any of this $400 to $600?

A. Yes.

Q. When?

A. He gave me a ten dollar bill.

Q. On this $600?
A. No, not $600.
Q. $400?
A. $400.
Q. Was Powell with you when you purchased the stocks and dies in Philadelphia?
A. I don't know whether he was or not.
Q. Did you tell him about it?
A. Sir?
Q. Did you ever tell him about purchasing the stocks and dies in Philadelphia?
A. I may have; that I don't know. I don't remember that.
Q. Did you give them to him to take back?
A. Yes, I think Mr. Powell did bring back that stock.
Q. Why did he take that back?
A. Because I couldn't—or the wholesale house that I had made application to furnish these dies for this stock sent me a letter or notified me that the stock was obsolete and they didn't make the dies to fit this particular stock.
Q. Didn't you give the stocks and dies and the revolver to Powell to go pawn so he could get carfare back to Wilkes-Barre?
A. A revolver?
Q. That is what I said, yes.
A. No, I gave him the stock and die.
Q. How much did he get on these stocks and dies?
A. I think it was about $3 or $3.50.
Q. Where did he go after he returned those?
A. I don't recall that.
Q. Was he with you when you pledged the diamonds?
A. I don't know whether he was or not. I don't believe he was though.
Q. When did you pledge those?

A. Oh, I would only guess at it. I can't say.

Q. April 4th, wasn't it?

A. I am not sure.

Q. Two days before Charles Powell was arrested?

A. I don't recall.

Q. On your direct examination you said, "I pledged the diamonds to get money because the estate was held up by caveat." Is that not true?

A. Yes. I believe that was the reason.

Q. Wasn't the caveat withdrawn by Mrs. Jaeschke when she went home to Chicago on March 25th?

A. I believe it was.

Q. Then if you pledged the diamonds on April 4th, the estate was not held up by the caveat, was it?

A. Well, the money that I got there was for Mrs. Brunen. I don't know anything about that. I am just telling you what I done.

Q. Yes, but you told Mr. Keown that the estate was held up by caveat. That is not true, is it?

A. Well, I don't remember.

Q. And didn't you go back two days later and redeem them, on April 6th?

A. I don't remember whether I got them back or not.

Q. You say you didn't do it or you don't know?

A. I don't remember it.

Q. Did you tell Charlie Powell anything about the trouble that your sister was having at her home with her husband during all your visits to his home?

A. No, because I never interfered with my—that is, I never told any strangers anything about my domestic affairs.

Q. Well, he was not a stranger to you?

A. Well, I considered him as such.

Q. Now, you mean?

A. No, then or at any other time.

Q. Did you tell him about what happened at the Brunen home on Christmas night?

A. I may have, yes.

Q. About your sister shooting at Mr. Brunen?

A. I have answered that. I say I may have.

Q. Did you tell him that Mr. Brunen was arrested?

A. No.

Q. Did you tell him that he was taken to the city hall at Riverside?

A. I don't believe I did.

Q. Did you tell Charlie that Mr. Parker was down there?

A. I don't remember if I did.

Q. Did you tell Charlie in the presence of Mr. Voshell that "This is the place John Brunen was the night that he and Doris had a racket at our home?"

A. In the presence where?

Q. Of Mr. Voshell, the day you and Charlie were at the City Hall in Riverside.

A. I don't remember anything like that.

Q. Did you tell Charlie to send flowers to the funeral?

A. No.

Q. Were there flowers at the funeral from Charles Powell?

A. I don't know.

Q. You don't know?

A. No.

Q. Don't you know as a matter of fact that there were?

A. No, I don't.

Q. How many times have you been to the Powell home in Camden, 45 Cooper Street?

A. You mean right in the house? Is that what you mean?

Q. In the house or out front talking with Charlie.

A. Well, practically three or four times, a week, sometimes five, probably two or three times the same day.

Q. What would you be there for all this number of times?

A. Well, I would be going back there from Riverside to Philadelphia, buying some raw materials for winter quarters, running errands for Mrs. Brunen.

Q. When did Charlie arrive in Camden from Wilkes-Barre, do you know?

A. When did he arrive?

Q. Yes. Arrived in December or November, 1921; you know the latter part of 1921, don't you?

A. Yes, I do. I believe Mr. Powell came there sometimes in December, I am not sure.

Q. And when you gave Mr. Parker this list of concessionists on April 8th, the name of Charles Powell, with the P marked out, Camden, New Jersey, you knew where he was living, didn't you?

A. It says on there Camden, New Jersey, yes.

Q. It doesn't say 45 Cooper Street, though, does it?

A. I didn't know Mr. Powell's number at that time.

Q. Well, you had been visiting him at 45 Cooper Street from December up until April?

A. Yes, sir.

Q. And didn't know his number?

A. No, sir.

Q. You knew he lived on Cooper Street?

A. Because I rented the man's room, I knew where he lived.

Q. And you didn't put it opposite his name when you gave it to Parker, did you?

A. I didn't make out that list of names.

Q. You sent it to him, didn't you?

A. Yes.

Q. You have Marie Miller, St. Louis.

A. I didn't put "St. Louis" down there along with Miss Miller's name.

Q. Isn't it there? "Miss Miller, candy, St. Louis, Missouri"?

A. That is not my handwriting.

Q. Yet you sent it to Mr. Parker, didn't you?

A. Yes.

Q. And you knew what was in the letter when you sent it, didn't you?

A. Dr. Knaub was the secretary, so he wrote that letter.

Q. Did you send it?

A. Yes.

Q. You knew what was on this list of concessions when you sent it, didn't you?

A. I believe I did.

Q. Then why did you give Marie Miller's address as St. Louis when you knew she was living in Camden?

A. I told you that Dr. Knaub knew Miss Miller as living in St. Louis, and when he made out that list that is how he happened to put it down, thinking that she was in St. Louis. He didn't know at that time that Miss Miller lived in Camden.

Q. You knew it, didn't you?

A. I knew it, sure.

Q. Then why did you send it to Parker with St. Louis, when you wanted to assist him?

A. I didn't know it at that time.

Q. This is the first time you knew it?

A. Not until it was read out in court yesterday.

Q. How long had Miss Miller been at this address in Camden?

Mr. Keown: If your Honor please, I do not think

that this transaction was covered on the direct examination and I certainly do not think that it is material to this issue at this time about where Miss Miller might have been at that time.

Mr. Peacock: Right along the same line of examination I am following it, impeaching the credibility of the defendant.

The Court: Well, I don't place very much importance on that testimony. I can very readily see where two or three hands are employed at a matter that easily a mistake might arise. Let it go in for what it is worth.

Mr. Peacock: Does your Honor rule it out?

The Court: I am not ruling anything out. I say it doesn't impress me.

(Question repeated.)

A. I don't remember just how long she had been there. I don't know how long Miss Miller lived there.

Q. How long did you live there?

A. Where?

Q. With Miss Miller?

A. I didn't live there.

The Court: One moment. He need not answer that. It is very improper. You have no right. That is not a part of this case at all.

Mr. Peacock: The witness testified he did not know how long and I am trying to prove that he does know how long.

The Court: This defendant is charged with murder, and any evidence which relates to the issue that is being tried is admitted, but any other acts on his part that might involve criminality have nothing whatever to do with this case and I shall charge the jury to disregard it.

Q. Did you live at the De Haven Apartments in Camden?

A. I did.

Q. How long?

A. About three or four weeks.

Q. Were you at the Powell home the morning after John Brunen was killed?

A. The morning after?

Q. Yes.

A. Yes.

Q. What were you doing there?

A. To find out where Mr. Powell was.

Q. Didn't you say to Marie Powell, "Tell Charlie to clean up?"

A. No.

Q. Didn't you give Charlie Powell $100 and tell him to buy a suit of clothes and get cleaned up?

A. I did not.

Q. You know he did buy a suit, don't you?

A. I don't know anything about it.

Q. And don't you know the suit he has on in this court he showed you and told you he had bought with the money you gave him?

A. No, he never did tell me that. He knows he didn't tell me that.

Q. Didn't you go to the Powell home on Sunday or Monday night following the murder at twelve o'clock at night or one o'clock in the morning?

A. When was that?

Q. Monday night following the murder.

A. At what time?

Q. Twelve o'clock at night or one o'clock Sunday morning?

A. I don't recall whether I did or not.

Q. And Mrs. Earnest left you in the front door, as she testified here?

A. I don't remember that.

Q. Do you deny that you were there?

A. No, I don't deny it.

Q. Didn't you go into the Powell rooms and call Charles Powell out in the kitchen and talk to him for quite a while that night?

A. I don't remember whether I did or not. I know I have been there several times.

Mr. Keown: If your Honor please, I think that was a mistake on the part of Mr. Peacock. I think Mrs. Earnest's testimony was that she left this witness in at seven o'clock, not at eleven or twelve.

The Court: Well, the witness knows what time he was there.

The Witness: Well, that is just what I was going to say. I don't think it was that late.

The Court: Well, answer the question.

A. Well, I can't recall just what day it was.

The Court: No, it is not a question of days. Mr. Peacock has called your attention to a certain night, on the night of the murder, and the question put to you is whether you were there at twelve o'clock or one o'clock in the morning.

The Witness: Didn't I understand Mr. Peacock to say Monday night?

Mr. Peacock: Yes.

The Court: Didn't you say the night of the murder?

Mr. Peacock: No, Monday night after the murder.

The Court: That is my mistake. Now what is your recollection on that?

A. Well, I have been at Mr. Powell's house two or three times, but I just can't recall at this time just what day or at what time or anything else. The only recollection I have was the next morning I went around there.

Q. You would remember being there at twelve o'clock at night, wouldn't you, Mr. Mohr?

A. If I had been there I think I would, yes.

Q. Do you remember being there any time at twelve o'clock at night after the murder?

A. I can't recall that I have ever been there that hour.

Q. And didn't Mrs. Powell start to light the gas light and you said, "Never mind, somebody will see us."

A. No.

Q. And didn't you take Powell out in the kitchen and talk to him?

A. Not at that time I didn't, no.

Q. Did you at any time?

A. No. We have talked together in the kitchen, we have talked together in his bedroom.

Q. You said you went to Powell's home the morning after the murder to find out where he had been so you could tell Mr. Parker. Is that true?

A. Yes.

Q. Did you find out where Powell had been?
A. Yes.
Q. Did you ever tell Mr. Parker?
A. No, I never did tell Mr. Parker.
Q. Well, you were trying to assist Mr. Parker in trying to find out the murderer of John Brunen, weren't you?
A. I surely was.
Q. You got the whereabouts of Charles Powell, and yet you never told him, did you?
A. I just gave him the information as to those that had had quarrels with Mr. Brunen, yes. I was satisfied in my own mind that Mr. Powell did not commit this crime. He was corroborated by his landlady and landlord. What more information could you ask?
Q. Well, you didn't tell Mr. Parker, did you, as to the names?
A. Well, I didn't tell Mr. Parker a hundred other names that I could give you some information about.
Q. You told him all about those fellows at Williamstown, did you not?
A. No, I didn't.
Q. Told him all about Benny Franklin?
A. All about Benny Franklin?
Q. Yes.
A. What did I tell Mr. Parker?
Q. Did you tell him anything about Benny Franklin being connected with this murder?
A. No, I don't think I told Mr. Parker anything about Benny Franklin, because he had that information in his possession.
Q. Did you tell him anything about Paul Parrell?
A. In answer to Mr. Parker asking me a question as to had had recent quarrels with Mr. Brunen, of course I mentioned Mr. Parrell had, and I men-

tioned the German cook having had some trouble with him down at Williamstown.

Q. Dutchy Werner?

A. I think so.

Q. Told him he might have committed the murder, didn't you?

A. No, sir.

Q. Told him Louis Freedman might have committed it?

A. I didn't tell him that, because he had the indictment for Mr. Brunen and knew Mr. Brunen was going to New York the next day for the purpose of apprehending Mr. Freedman.

Q. Who told you that Brunen was going to New York?

A. Mr. Brunen himself, wanted me to go along.

Q. What did he say he was going there for, besides identifying these men?

A. Well, that is all I can recollect, outside if I had went over there I would probably have went around and met up with a few show people that we have usually done business with.

Q. You told Powell that Mr. Brunen told you he was going to New York, did you?

A. Told Powell?

Q. Told Powell, yes.

A. No. What reason would I have for telling Charles Powell?

Q. Why did you testify today on the stand that you told him that Mrs. Brunen——

A. I didn't pay any attention what Mr. Powell says, because he is not responsible.

Q. When did you first come to the conclusion that he was not responsible?

A. Since I have been in jail.

Q. That is the first time, isn't it; all these years prior to that that you have associated with him,

you have always thought he was responsible for everything he did, didn't you?

A. Oh, no, not exactly.

Q. But since he has said that you were the murderer of John Brunen you have come to the conclusion that he is not responsible; is that so? Since you have been in jail?

A. Since what? Let me have that again.

(Question repeated.)

A. The man don't know what he is talking about.

Q. Answer my question, please.

The Court: Well, he has—

Mr. Peacock: He has not answered it, sir.

The Court: Well, I don't think he ought to pass upon the responsibility of this man.

Mr. Peacock: I certainly do. This man has volunteered the proposition that this man is not responsible. Now I think I have the right to prove that in the associations with him for six or eight years he did not come to that conclusion, but only came to that after he was put in jail for this murder.

The Court: Well, that is a matter of argument.

Q. You told Charlie about the telegram you got from John Brunen in Chicago, didn't you?

A. No, sir.

Q. How did he know of it?

A. I guess Mr. Parker told him.

Q. Parker told him all those things he has testified to?

A. Yes, sure he did.

Q. Did you tell Mr. Parker anything about this case?

A. About what case?

Q. The one you are being tried for. Did you ever make any statement about it?

A. Well, I guess I have, yes. It was given to Mr. Keown. I suppose Mr. Keown sent it to him.

Q. You never told Charlie Powell that you had fixed a time with Jules Kresge for the night of this murder, did you?

A. That is another invention.

Mr. Keown: Just answer the question.

A. No.

Q. Did you not tell Charlie Powell you had told Jules Kresge you were with some one you didn't want your wife to know and you and Kresge had fixed your time for you?

A. No, positively no.

Q. That is true, is it?

The Court: He says no.

Q. You were very much surprised to meet Kresge that night, weren't you?

A. Very much surprised?

Q. Yes, at your sister's house.

A. I don't see why I should be. The man lives right there.

Mr. Keown: Just answer the questions. Don't get into an argument.

The Court: Just answer yes or no, whatever the question calls for.

Q. Didn't you in your statement to Mr. Parker say you were very much surprised?

Mr. Keown: I object to that question unless I first find out from what book he is reading.

Mr. Peacock: Well, you are not going to find out.

Mr. Keown: Then I don't think he has any right to read and quote from a paper which is not a signed statement from the witness.

(Testimony repeated.)

The Court: Have you got a statement made by this witness?

Mr. Peacock: Yes, sir.

The Court: Well, show him the statement and let him read it.

Mr. Peacock: I withdraw that question for a minute, until Mr. Kelsey gets that.

Q. How long have you known Jules Kresge?

A. I have known Jules Kresge about two years, I believe.

Q. He is a friend of your sister Mattie Mohr, isn't he?

A. A friend of the family.

Q. Did he visit you at the Brunen home at Riverside?

A. Well, I have only seen Mr. Kresge at the house about once or twice.

Q. When was the last time that you saw Mattie Mohr prior to the day that John Brunen was killed?

A. I think at the house.

Q. When?

A. When? Probably a week or ten days or something like that before, probably Sunday and probably a little later. I don't know.

Q. You knew she had been at the Brunen home that afternoon, didn't you?

A. No, sir.

Q. Didn't Hazel tell you she had been there?

A. Hazel?

Q. Hazel Brunen?

A. No, she has never—my sister wasn't at the house. I don't believe she was. If she was I didn't have no knowledge of it.

Q. If your sister says she was at the Brunen house upon the day John Brunen was killed would you believe it?

A. Well, she was not there at the time I was there.

Q. I know that. But didn't Mrs. Brunen tell you that she had been there that day?

A. I believe, if I remember correctly, she did.

Q. Yet you went out to her house the night that John was killed because you thought that she was sick; is that true?

A. Yes, that was the reason I went there.

Q. Knowing that she had been at the Brunen home that day you said that you were going out to visit her because she was sick; is that correct?

A. Yes.

Q. And Jules Kresge was at that time waiting for you when you arrived there, wasn't he?

A. Not waiting for me, no.

Q. He was present when you arrived there the first time, wasn't he?

A. Yes.

Q. And wasn't he with you the second time when you received a phone call?

A. He was.

Q. Where were you at that time?

A. When we received the phone call?

Q. Yes.

A. Why, in my sister's room.

Q. How long did you and Kresge stay there?

A. Well, I guess we were in there about—it might have been for five minutes and it might have been ten minutes, I don't know; a very short time.

Q. Did you make a statement to Mr. Keown that that you said to the Prosecutor of the Pleas in this case—

Mr. Keown: I certainly object to any statement that this man made to me. It is a privileged communication. It is certainly not evidential.

Q. You said it to the Prosecutor, didn't you?

The Court: Any statement that this defendant made to his counsel is privileged, and aside from that, even if it were not privileged, Mr. Keown could not bind this defendant unless the defendant was present. Anything Mr. Keown said you would have to show that this defendant consented after he had made a statement that it should be sent, communicated to somebody else, whoever that individual was. I will not permit that statement unless it is consented to by counsel for the defendant.

Q. Did you consent that Mr. Keown send a statement of yours to the Prosecutor of Burlington County?

A. At the time Mr. Keown asked me for a state-

ment, that the Burlington County authorities wanted a statement from me and the rest of the family, and I gave it. Whether he sent it or not I don't know.

Q. Did you consent for him to send it to the Burlington County authorities?

A. It was all right, sure, as far as I am concerned.

Q. And isn't that what you made it for, to send to Mr. Kelsey?

A. Mr. Keown did one day, I believe, for that purpose. I was not sure of it, though.

The Court: Show him the statement and let him see if he made that statement. Let him look it over.

(Statement shown to witness.)

The Court: Examine it. Read it over.

The Witness: Shall I read it out loud?

The Court: No, read it to yourself and see whether you made that statement.

(Witness examines statement.)

Mr. Keown. If your Honor please, at this time I must object to this for this reason. At the request of the Prosecutor of the Pleas of Burlington County there were numerous communications passed between me and him at or about the time of the tragedy. I presume that that covers, maybe, between twenty-five and thirty pages. Now the information that was given by me to the Burlington County authorities should not be binding upon my clients. They told me generally about cases and where they were and different things, and I then went and redictated,

sometimes not in my client's presence, and communicated the information to the Prosecutor. At that time my clients were not even suspected. I certainly do not think that the Prosecutor at this time should bind my clients upon any inconsistency that I may have made in any communication that I addressed to him, and for that ground I certainly object to the Prosecutor using it at this time, even by way of reference, by way of contradiction of anything. In other words, the jury would think that my clients had deliberately told one story, when as a matter of fact it may have been my misunderstanding or may have been my way or it may have been my stenographer. I just sent them in promiscuously to the Prosecutor. And I think along those grounds—they were not sent by my clients, and I certainly think that any mistake of mine should not reflect upon my clients, and I object to the Prosecutor using them.

The Court: Well, you have read these statements. Do you remember those statements?

The Witness: Well, just vaguely.

The Court: Do you remember whether you made them or not?

The Witness: Yes, I do. I have made them.

Mr. Peacock: Does your Honor rule I cannot ask him anything about this statement?

The Court: Well, of course whether these statements were sent by Mr. Keown as a sort of confidential communication to the Prosecutor, with no intention that they should be used, is entirely an-

other matter. Under what Mr. Keown says it would be certainly a breach of confidence.

Mr. Kelsey: May it please the Court, I think that Mr. Keown will admit that the understanding was that we were to interview—that I was to interview Mrs. Brunen and Harry Mohr and Hazel Brunen, but Mr. Keown says, "I will take their statements just the same as if you were present and give you that information."

The Court: Well, I am rather doubtful about this matter, and where there is a doubt it is always my practice to deny.

Mr. Peacock: Did you make any statement to Mr. Parker?

The Court: In connection with what matter? You are not going over a lot of matter that he has told Mr. Parker. It must have reference to some matter that is pertinent to this issue.

Mr. Peacock: I cannot put the question until I find out if he has made a statement.

Q. Answer yes or no.
A. In what regard? What respect?
Q. Did you make a statement to Mr. Parker on April 29th, 1922, at 10.45 A. M., at the jail?

The Court: Did you?

A. I believe I did.
Q. Did you in that statement say, "I met Jules there, but he was a little surprised to see me?"
A. I don't remember whether I did or not.

Q. Do you deny that he said it or you don't remember?

A. I don't remember.

By the Court: You don't deny it?

A. No, sir.

By Mr. Peacock:

Q. Mr. Mohr, did you have a conversation with Mrs. Brunen concerning sending you a telegram when you were at Staunton, Virginia?

A. No, sir.

Q. Do you know that she did send you a telegram to come home on February 1st, 1922?

Mr. Keown: If your Honor please, the testimony in the case is that Mr. Powell sent that telegram.

Mr. Peacock: I know that.

The Court: Did he?

Mr. Peacock: Certainly; I am asking him if he had a conversation with Mrs. Brunen that a telegram had been sent to him while he was at Staunton, Virginia.

The Court: Asking him that?

Mr. Peacock: Yes. I assume Mr. Powell sent the telegram at Mrs. Brunen's request.

The Court: What is the date of that?

Mr. Peacock: February 1st. It is in evidence, Exhibit S23.

The Court: Now the question is ——

Mr. Peacock: Who sent the telegram?

The Court: The telegram was sent by Charles Powell at the request of Mrs. Brunen.

Mr. Peacock: I am asking if he had a conversation with Mrs. Brunen when he returned home concerning this telegram which was not delivered.

The Court: That question is admitted.

Mr. Keown: I have no objection to that question, but the question that is there was misleading. That question is admitted. You may answer that question.

A. I believe I recall Mrs. Brunen said she had wired me to Staunton. Mr. Powell sent the telegram.

Q. Did she tell you why she wired you to come home at once?

A. Yes.

Q. What was it?

A. She said there had been quite some trouble there again with Mr. Brunen and herself and Hazel; it was over the daughter Hazel; and she just became a little worried and wanted me to come right back home again, thinking that I could probably prevent any further trouble.

Q. Did she tell you she had been to Powell's house to get him to send the telegram?

A. No, I never heard it that way. I never received the telegram, because I didn't go to Staunton.

Q. Didn't she tell you she had been to Powell's and had Charlie send the telegram to you?

A. No, she didn't say nothing about Charlie. I didn't know that until it was suggested here in court.

Q. She told you she had sent a telegram to you about that time when she thought you were in the South, didn't she?

A. Yes.

Q. I show you two pieces of paper, Mr. Mohr, and ask you if they are in your handwriting.

A. Yes.

Q. When did you last see those?

Mr. Keown: I think they ought to be marked.

The Court: Yes.

Mr. Peacock: I am going to offer them in evidence.

A. Shortly following my arrest.

Q. You gave those to Bessie Mohr while you were confined in the jail, didn't you?

A. I did.

Mr. Keown: Now, if your Honor please, I object to any communications, either in writing or verbally, between this man and his wife, on the ground that it would be a privileged communication.

The Court: The objection is sustained.

Mr. Peacock: This is not a communication between this man and his wife.

The Court: Well, it is something that he gave to his wife, you say?

Mr. Peacock: He gave them to his wife and they were taken from her by the turnkey at the jail when she left the jail.

The Court: Well, it was a confidential communication between husband and wife, and that will be ruled out.

Mr. Peacock: I don't know that. The notes themselves, I think, if your Honor wants to look at them, will show that they are not confidential communications.

(The Court examines the papers.)

The Court: I will rule these out.

Q. I am showing you a letter dated February 18th, 1922, marked Exhibit S5, and ask you if you wrote that to Charles Powell.

A. Yes, sir.

Q. That was not a business letter, was it, Mr. Mohr?

A. If I read the contents I will tell you about it.

Q. Pardon me. I thought you had.

(Witness examines paper.)

A. Shall I read it to the court?

Q. Yes, read it.

The Witness: "My dear Bill:

Just a few lines to let you know I arrived here

O. K. (This letter was sent from Chicago) after a long and tedious journey. George Coleman met me at the station and escorted me to this hotel. I will know something tonight if I am not mistaken. Will keep you posted.

Well, I have got to get busy and meet up with some of the secretaries and will cut this for this time. With my best to you, Marie and baby, as ever, your pal,

Harry C. Mohr.

At the hotel will reach me while in Chicago."

Q. Did you expect to receive a message from Charlie Powell while you were in Chicago?

A. Well, I don't know how to answer that correctly. I can't say that I was, and I can't say that I wouldn't.

Q. Wasn't Charlie Powell to let you know he killed John Brunen while you were in Chicago?

A. No, positively no.

Q. Yet you gave him your address in case he should locate you if he wanted to?

A. Why, he has had my address for the past six years.

Q. And you kept him posted from the time you left Camden up until the time he was arrested, didn't you?

A. Well, at that time Mr. Powell had no work.

Q. Answer that yes or no.

A. Yes, he knew about where I was going.

Q. On Monday March 13th, were you at the City Hall in Camden?

A. Monday when?

Q. March 13th.

A. City Hall in Camden?

Q. Yes.

A. I don't remember that.

Q. Do you remember going to the City Hall in Camden and calling up Doctor Poulson in the presence of Captain Hyde and Policeman Hulmes?

A. Yes, I do.

Q. Did you from the Camden Police Station call up and say, "What time did I leave your place on Friday night?"

A. No, I didn't say that.

Q. You did not?

A. No, sir.

The Court: What date was that?

Mr. Peacock: Beg pardon, sir, Friday night of the murder. This telephone call was supposed to have been made on March 13th, at the Camden police station.

The Witness: I made it, but I didn't say it in those words.

Q. Never mind, you have answered the question.

The Court: That was three days afterward.

Q. I show you a piece of paper and ask if you have ever seen that before?

The Court: Well, look at it.

A. Well, it has got some of my writing on. I don't believe I could deny that.

Q. That handwriting is your handwriting, isn't it?

A. Yes, sir.

Q. What are the words in your handwriting?

A. John Potter, 26th and Westfield Avenue.

Q. When did you last see that paper?

Mr. Keown: Is that to be marked, Mr. Peacock, or for identification?

Mr. Peacock: I will let you look at it.

Q. When did you last see that?
A. I don't remember.
Q. Did you drop that paper on Market Street, Philadelphia?
A. I don't remember.
Q. But it is in your handwriting, the handwriting on it?
A. Yes, sir.

Mr. Peacock: I ask that it be marked.

Mr. Keown: For identification, that is marked for what?

Mr. Peacock: Yes.

The Court: Do you intend to follow it up? Do you want the contents to go in evidence?

Mr. Peacock: The whole thing.

Mr. Keown: I object to this piece of paper going in evidence.

The Court: Why?

Mr. Keown: On the grounds it does not contain anything but some typewriting matter on a piece of paper and then a man's name down at the bottom of the piece of paper. Now, that certainly could not be binding upon this man whatever might be on that piece of paper.

The Court: What part of the paper do you offer?

Mr. Peacock: I understood Mr. Mohr to say that was his paper.

Mr. Keown: I have no objection to the name John Potter being offered in evidence.

Mr. Peacock: I will ask another question on that, your Honor.

Q. That is your paper, is it not?
A. I don't know. You mean the paper itself?
Q. The whole thing.
A. It is nothing more than part of a statement I have made.

The Court: I will let it go in.

Mr. Keown: May I have an exception, your Honor?

The Court: Yes.

(Exception noted for defendants.)

SAMUEL KALISCH,
Judge.

Q. Now, read it, will you?
A. I was at Riverside on the afternoon of the murder. I arrived at Riverside about four o'clock P. M. I remember writing a couple of letters, one to Harry Bentum at Baltimore and the other to George Coleman at Chicago. I presume that it was about five o'clock P. M. when I left Riverside in my Ford car to keep an appointment in Camden

concerning the booking of the show at Salem. When I arrived at Camden I went to the post office and deposited my mail. I did not connect up with my Camden appointment and I went to Philadelphia to attend an interview with the 83rd Barry Post of the American Legion at 5948 Spruce Street, Philadelphia. I first called for Dr. Poulson at his home at 5948 Spruce Street and he and I went from there to the Post Headquarters at 52nd and Locust Street to see Post Commander Warren Haight and I left Dr. Poulson at the American Legion Headquarters at 52nd and Locust Street, Philadelphia, and then I went to my sister's home at 921 North 16th Street, Philadelphia, Pennsylvania, where I received word of the tragedy and immediately left and went back to Riverside, and it has John Potter, officer, 26th and Westfield.

Q. When you wrote that statement you didn't put in anything about Jules Kresge, did you?

A. I don't know whether I did or not.

Q. You just read it, didn't you?

The Court: Well, it isn't there?

The Witness: No.

The Court: That is self-evident. Do you still object to it?

Mr. Keown: Yes, sir.

The Court: Your objection is overruled.

(Paper marked Exhibit S31.)

Re-direct examination.

By Mr. Keown:

Q. Mr. Mohr, what was the conversation that you had with Dr. Poulson at the time that you went to police headquarters and you were making this phone call to him?

The Court: How is that in this case?

Mr. Peacock: I object to that. I asked if he had the conversation.

The Court: What did you say, you said you didn't remember, didn't you?

A. I said I didn't say it in those words, as Mr. Peacock addressed it.

The Court: What were the words?

The Witness: I asked Dr. Poulson's wife did she remember of me being at the house that night.

The Court: That answers your question.

Mr. Keown: Yes, that answers my question. I think that is all, Mr. Mohr.

(A recess of five minutes was here taken.)

DORIS BRUNEN, sworn for the defense.

Direct examination

By Mr. Keown:

Q. Mrs. Brunen, you are one of the defendants charged with the murder of John Brunen?
A. Yes.
Q. What is your age, Mrs. Brunen?
A. Thirty-six.
Q. And where were you living on the 10th day of March, 1922?
A. Riverside, New Jersey.
Q. With whom?
A. My husband and daughter.
Q. Was there anyone else living there with you at that time?
A. And my brother.
Q. Anyone else?
A. Mother.
Q. What is the age of your mother?
A. Sixty—I think it is sixty-five or sixty-six, I am not sure.
Q. When did you move from Riverside?
A. Why, about five weeks after the tragedy.
Q. Where did you move to?
A. Ridge Avenue.
Q. What city?
A. Philadelphia.
Q. With whom?
A. My mother, which my home had been sold three months before the tragedy, so it was time I had to vacate, and so I went with mother. We had left everything in the home, just took our trunk.
Q. When were you arrested, Mrs. Brunen?

A. On the 13th—on the 12th of June, just the day before my daughter's birthday.

Q. And how long were you in jail before you were permitted to see me?

A. I believe almost four months.

Q. You mean four months or four weeks?

A. No, about four months, Mr. Keown.

Q. Did your brother Harry Mohr own a Ford car?

A. Yes, sir.

Q. Do you know how long he had that Ford car prior to the tragedy?

A. Probably about five months or so, I am not just certain.

Q. Did Mr. Brunen ever use that Ford car?

A. Always, and had bought chains for the back wheels for it to use during the stormy weather.

Q. Did your husband also have a car?

A. Yes, a big touring car, open car.

Q. Did you have a garage in the back of your property at Riverside?

A. Yes, sir.

Q. And were the cars kept in that garage?

A. Both of them, yes.

Q. Do you remember the 10th day of March?

A. I do.

Q. Do you remember what happened on that day?

A. I do.

Q. What happened, what happened on that day?

A. What happened on that day, do you mean the shooting?

Q. What time did it happen?

A. Well, now, I just couldn't just exactly say the time, whether it was half-past seven or a little after seven, I don't know, but I know my husband—we had dinner, I had my dinner with Hazel and mother and myself, then when Mr. Brunen came home for

his dinner, I had a piece of pie and a cup of tea with him, and I had washed the dishes and went up—no, I hadn't washed the dishes. My husband was sitting in the rocking chair at the window, as usual, and read his paper and said he was going to New York, to get his bath ready. I went down and put some coal on the furnace to get the water good and hot and went upstairs and prepared his clean linen. I got through there, came down and got more things, toweling and things, and I was just coming downstairs when I heard the shot.

Q. What did you do when you heard the shot?

A. When I heard the shot I ran down, well, I just—I was excited—I couldn't tell you. I ran in the dining room, in the sitting room and library—I just don't know where I did run. Then I ran outside and I saw a machine. It wasn't going fast, and I first saw two fellows on that, and being Mrs. Walters was always my neighbor I went over there and hollered. The door was shut. I hollered "Barbara! Barbara! Barbara!" three times, and I tried the door and it was open, which I walked in, it was a summer kitchen, and I saw Fred Sheetz there and I said to Mr. Sheetz "Fred, for God's sake come over. Something terrible has happened." With that we both ran back to the house, and he ran into the kitchen and said, "Mrs. Brunen, your husband has committed suicide." I said, "What?" With that I couldn't go back, with the terrible blood I had seen oozing from my husband. With that, with that, I notified the doctor.

The Court: Wait a few minutes to compose yourself.

The Witness: With that I notified the doctor.

Q. What doctor did you call?

A. Our family physician, Dr. Maul, and I said to the doctor, "Doctor, something awful has happened." I says, "Come down immediately," which he did. He came down and I was waiting on the porch for him as he came, and he went in and he said, "You sit down," and I sat down. I said, "Is my husband dead?" He said, "Mrs. Brunen, your husband is dead."

Q. Then what happened?

A. Then I don't know what happened. I was so excited how could I just remember what happened?

Q. Did anyone phone, did you send anyone out at that time?

A. Oh, at that time, immediately after the doctor came, I sent Fred for my daughter, and said, "Tell my daughter and mother to come down immediately," which they did.

Q. Now, after they arrived home, what happened, if anything?

A. Well, I went on so, my daughter says, "Mother, don't get yourself so excited. Just wait a minute," she said, "until I phone Uncle Harry." With that she phoned to my brother. I just can't recall everything, Mr. Keown, being if you had been in prison as long as I have, you wouldn't remember everything.

Q. Mrs. Brunen, do you remember what happened around the house earlier in the day?

A. What happened?

Q. Yes. Do you remember what happened during that day?

A. Why, there wasn't anything that happened, Mr. Keown.

Q. Well, just tell us what did occur around the house that day. Did your husband get up in the morning?

A. I got up, generally. I used to get up at six or a little after six and prepare the breakfast, and my husband got up at half-past six, had his breakfast and was in a very good mood. Indeed, it pleased me when I would see a smile on his face. And then he left about seven o'clock. That was the last I saw of him until he came back home.

Q. Who got up later in the day in the household?

A. Why, my brother got up about half-past seven, and my mother and Hazel both came down about eight for breakfast. Then we do our work and we had our lunch, and I had some ironing to do, and I put my irons on and went around to Mrs. Walters. I used to get my fresh eggs off her—and just stayed a few moments, and came back and finished my ironing.

Q. Was your sister Mattie Mohr there that day?

A. Yes; my sister hadn't been there for a week, she had the grippe, an awful cold, and being my sister is a very affectionate girl to her mother, which she used to phone, she works half time, sometimes whole time, so she had a lunch and had to get right back to report for work and change clothes.

Q. After your sister went that day was Harry Mohr around the house?

A. Yes, he came some time in the afternoon but what time I don't remember.

Q. Do you remember what he did on that afternoon?

A. Yes, I think he went upstairs just to write some letters, and had a cup of coffee and toast.

Q. Do you remember what time he left?

A. I think around five o'clock, because he left a note and said be sure and give it to John when he came in.

Q. Witness is shown a paper marked Exhibit D22,

and is asked whether she saw that paper and if that is the paper she is referring to.

A. Yes, that's what my brother left for my husband.

Q. Now, Mrs. Brunen, what time did your husband return on the evening of the tragedy?

A. I believe it was about half-past six, or quarter after six, I just couldn't state the time.

Q. And did you have any conversation with him upon his arrival?

A. Yes, as my husband came in he looked very dirty, and I said to him, "Why, John, you look awfully dirty." He said, "Yes, I have been going pretty fast I thought there was two guys following me, and I put my foot on old Hortense," and he went, and he had said to Hazel after he got washed, "Well your Dad isn't so bad looking after he has cleaned up;" and that was all that was said.

Q. Mrs. Brunen, did you ever go down to Mr. Powell's and have him send a telegram to your brother Harry?

A. Yes, I did.

Q. And when was that, do you recall?

A. No, I went down one afternoon. I had a little trouble with my husband, which Hazel knows of, and it was Hazel's suggestion, "Mother, why don't you try to find Powell?" I said to her, "I just don't remember the number." I had went down once to Philly with my husband to buy some things at the Reading market, and he said, "There's where that little rat lives," and I remembered the three houses together, which one I didn't know, and I just happened to go to the middle one, and that's where he lived. I have never seen Charles' baby, and I said, "There's a chance for me to see the baby," and I saw the baby, and I said to Charlie, "Do you know where I can locate Harry?" He

said, "Why, I don't just exactly know, Mrs. Brunen, but," he said, "I may." "Well," I said to him, "will you send a telegram for me? I have just got fifty cents and my carfare." He said, "Mrs. Brunen, if the telegram should be more than fifty cents, I will lay that much to it and send the wire to Harry;" but that was all that was said. I had never seen the baby before, and with that his wife came in. I don't think I was three minutes in the house.

Q. Mrs. Brunen, did you tell Powell on that visit that you wished someone would some night, while Mr. Brunen sat at the window, shoot him through the window?

A. I never said such a thing to Charlie Powell.

Q. Was there any reason why——

A. I never said such a thing. As I said, at times my husband was very cruel to me, but I have always overlooked it, being he was drinking, and forget all about it later on; when he was sober he was all right.

Q. Mrs. Brunen, do you remember the position your husband was sitting in when you last saw him before the tragedy?

A. Why, he was sitting reading a newspaper, in fact he was reading a piece out of the paper to me about a lady in California, I just don't recall what it was, but it was something about three or four people into it, and he said to me, "I don't think, mother, that that lady knew anything about this crime." And that was the last and I went upstairs.

Q. Well, do you remember the condition of the curtains, or the condition of the room at that time?

A. Why, we always had the curtains not up all the way, because my husband always wanted to look out to the garage.

Q. Which window was he sitting opposite?

New Jersey State Library

A. Why, where the rocking-chair was.

Q. And where was the rocking-chair, please, Mrs. Brunen?

A. Right next to the pantry.

Q. Mrs. Brunen, have you ever had any conversation with Miss Hazel about her going to Williamstown?

A. Yes, indeed I did manys a time, Mr. Keown, because I loved Hazel. I forgive her for everything she ever said about me. I was always a good mother to her. I pitied her. I was afraid she may get hurt, because her father said they were always after her.

Q. Is that what you meant when you——

A. That is just exactly what I meant.

Q. Now, do you remember Miss Hazel going out to the movies that night?

A. Yes, she went every single night, never missed a night.

Q. Did your mother go with her on this occasion?

A. Sometimes, if it wasn't very stormy mother would go, and when Mr. Brunen wouldn't be home for supper, why, I would go with her.

Q. On the night of the tragedy do you remember whether she went?

A. My mother and Hazel went. I would have went if Mr. Brunen hadn't went to New York. I would have went on account of preparing the bath.

Q. Did you ever tell Mattie Mohr, in the presence of Hazel Brunen, or at any other time, for Mattie Mohr never to be surprised if at any time she should get a phone call saying that father was killed?

A. I never said such a thing to my sister or to my daughter.

Q. Now, Mrs. Brunen, do you remember any conversations that were had on the night of the tragedy,

after the tragedy, do you remember saying that you went out to empty the garbage?

A. Yes, which is nothing unusual, which I done every evening.

Q. Where is the garbage pail?

A. The garbage pail, when you went off the stoop, first came the paper barrel, and then the garbage pan, and which, if the cellar door was open, it would rest right on the garbage pail. I was out there, because I had threw out all the bean soup that I had.

Q. Did you tell Mr. Parker that you had been out in the yard that night to put the dog in the cellar?

A. I don't know what, I don't remember what I said to Mr. Parker, I was so excited, but if Mr. Parker said so I presume I said it.

Q. Do you remember whether you were out that night?

A. I was out to empty the garbage.

Q. Were you out about putting the dog away?

A. Why, the dog was out and in all the time, and the minute he would bark I would open the door and lead the dog in. She wasn't vicious, but she would bark after people, and anyone who came, if anyone would have a dog on a chain she would fight with this dog. She wouldn't bite people, but just had the habit of running after them.

Q. Mrs. Brunen, did you go out and put the dog in the cellar from outside that night?

A. I don't remember whether I did or not. I couldn't have put the dog in, because when I ran over to Mr. Walters, the dog was with us, and when we came back Fred put him in through the dining room, so I couldn't have put the dog in the cellar.

Q. Is it possible you could have put the dog in the cellar from the outside cellar door?

A. You cannot open it, it has a big bolt so long (indicating), you have to come downstairs, and it has two big clasps that hold this bar; you cannot open it from the front.

Q. Is this Harry's overcoat (indicating)? Do you recognize it as being Harry's overcoat?

A. Yes.

Q. Do you remember whether Harry changed overcoats on the day of March 10th?

A. No, that I don't remember.

Q. Did you ever say to Hazel Brunen never to mention that Harry had changed his overcoats?

A. I would never have no occasion to say that to my daughter, Mr. Keown.

Q. Just answer my question. Did you ever say that to her?

A. I never said that to my daughter.

Q. Do you know upon what occasions Harry wore that big overcoat?

A. The only time my brother would wear that overcoat, my attention would be drawn to that, would be when he would holler to me, "Say, Dot, bring me my overcoat. I am going with John in the big car." That is the only time my brother would wear that big coat.

Q. What do you mean by big car?

A. My husband's car.

Q. Open or closed?

A. Open car.

Q. What kind was Harry's?

A. Coupe.

Q. What kind of coat would he wear?

A. He had a rain coat with the straps across, and my husband used to wear my brother's other light one; he had three.

Q. Now, was your husband supposed to go to New York on the day following the tragedy?

A. Yes, he came home and told me he was going to be prepared for the next day to go to New York.

Q. And did you know why he was going to New York?

A. Why, he told me he was going after these boys, these Freedman boys.

Q. Did you see any communication there at that time?

A. Yes, there was papers there from Mr. Parker, which Mr. Parker had sent to him for myself and he to be identified to a certain party in New York.

Q. Did you hear whether your husband was going to attend to any other business while he was in New York at that time?

A. Why, he was to see several things, several people in New York.

Q. Do you know anything about whether he was going to attend to getting a carrousel or merry-go-round for Mr. Parker?

A. He was going to see if he could get a second-handed one, but Mr. Parker didn't want to pay much money for it, and he didn't want to waste much time, and as a mere jest, he said, "I will tell Ellis we can't get any without tails."

Q. Witness is shown a letter under date of March 1st, signed by Ellis H. Parker, County Detective, and is asked whether this batch of papers were the papers turned over to Mr. Brunen and the papers that he was going to take to New York with him.

A. Yes, those are the papers, I have seen them before.

Mr. Keown: May I read the letter to the jury, if your Honor please?

The Court: Yes.

Mr. Keown: (Reading.) "J. J. Gegan, Commissioner of the Bomb Squad, 240 Centre St., New York City. Dear friend John: This letter will introduce to you Mr. John Brunen and his wife. They have copies of indictments against three men that are wanted here for robbery, having held Mrs. Brunen up at the point of a revolver, and relieving her of over $3000 worth of jewelry. They will state the facts of this case to you, and I trust that you will assign a couple of your men and help us out. Wishing to be remembered to the boys and trusting I may meet you soon, I remain, your friend, Ellis Parker." Letter addressed to John Brunen, under date of March 1st, "I am enclosing herewith your copies of indictment, and a letter addressed to J. J. Gegan, New York City. Trusting you will have success, wishing to be remembered to you and your family, I am, yours very truly, Ellis Parker, County Detective," and annexed thereto are copies of the indictments. I offer those in evidence at this time.

The Court: They will be admitted. They are only admitted to show, not as to their contents, merely that they were to go to New York on the mission which is testified to. I don't think it is disputed at all.

(Batch of papers comprising two letters and copies of indictments pinned together and marked as a whole, Exhibit D23.)

Q. Mrs. Brunen, were you to go with your husband?

A. No, I was to go first with my husband, and he

said he didn't need me, that he knew the boys himself.

Q. Had he told you of any previous trip that he had made?

A. Why, he said he had met one of them in the Continental Hotel, one of the brothers, I believe there are three brothers of them.

Q. Did he tell you the conversation?

A. I just can't recall it just exactly, but I will do the best to my ability that I can. He said to me, my husband went up and one of them said, "Say, John, I understand that you said that I touched your wife, or one of my brothers touched your wife off." And my husband, I think he said, "No, I didn't say it," or something like that. "Well," he said, "someone told me you did," and he said, "I am just telling you you had better lay off of us. My brother killed one, so I think that will hold you." That's all I can remember.

The Court: How is this testimony competent?

Mr. Keown: It has been injected into the case before.

The Court: The principal fact to be established was he was down there on a mission, and that mission was in regard to a robbery that had been committed. Now, that is as far as you can go. Anything the deceased said to his wife will be admitted. As to what somebody else told you, that ought to be all stricken out.

Q. Mrs. Brunen, do you know whether there were any diamonds on your husband when he was shot?

A. Yes, my husband had a stud and my husband had a ring.

Q. Were they on him when he was shot?

A. Yes, they were on him.

Q. Do you know who took them off him?

A. Well, now, I don't know whether it was the doctor or the coroner. I just couldn't say, but one of the two took them off and gave them to Hazel, and Hazel gave them to me, I think.

Q. What did you do with them?

A. I put them away.

Q. Where?

A. I wrapped them up in a little pocket handkerchief I had and pinned them on to my corset.

Q. Did Miss Hazel know where they were?

A. Why, she seen me where I always had them.

Q. Now, Mrs. Brunen, did you ever hear Harry Mohr say, in the presence of Hazel Brunen, or in the presence of anyone else, that the guy who did this ought to get a gold medal?

A. I never did.

Q. Did you ever hear any conversation around the house about a statement of that kind?

A. No, I just heard once while we were riding in a machine.

Q. What did you hear?

A. And Mr. Bentum had told my brother that Benny Franklin said the guy that killed him ought to get a gold medal, with that I said, "Harry, don't say those things; I don't like to hear them."

Q. Now, Mrs. Brunen, was Mrs. Jaeschke visiting you part of the time?

A. Yes, she was there.

Q. She came down for the funeral?

A. Yes.

Q. And stayed with you some time after the funeral?

A. Yes.

Q. And was there any litigation pending between you and Mrs. Jaeschke at that time?

A. How do you mean, Mr. Keown?

Q. Any court trouble.

A. Why, yes, Mrs. Jaeschke had a caveat that everything was tied up that we couldn't get any money ourselves.

Q. Now, how much money did you have after Mr. Brunen's death, I mean immediately? Was there any money taken from your husband?

A. Yes, I couldn't say whether it was $115 or $118, something around that. I just couldn't say to the penny.

Q. And what happened to that money, do you know?

A. Why, I spent it.

Q. Did you give Harry Mohr any?

A. Yes, I gave my brother some. The first day I gave him a ten dollar bill.

Q. For what purpose?

A. Why, to go to Williamstown, and things. There was all them boys, for them to eat.

Q. Do you remember whether you gave Harry a fifty dollar bill?

A. Yes, I gave my brother a fifty dollar bill.

Q. Do you remember whether any of that money had blood stains on it?

A. I never looked, I couldn't say.

Q. Was Mrs. Jaeschke ever present with you at the surrogate's office?

A. Why, Mrs. Jaeschke came up with us. Why, don't you remember, Mr. Keown, and Mr. Parker, I just don't recall the surrogate's name, phoned to Mr. Parker to come over that she could be identified, that Mrs. Jaeschke could be identified to lift the caveat.

Q. At that time were you appointed administratrix of your husband's estate?

A. Yes, sir.

Q. And Mr. Parker was present?

A. Yes, sir.

Q. Did you have a conversation with Mr. Parker at that time?

A. Yes, Mr. Parker called me in the back room, which I said, "I may take a trip to New York," and I said, "If I have the chance I will go down to Coney Island to see Mr. Mangle about a second-handed merry-go-round." Is that right, Mr. Parker?

Q. Don't ask Mr. Parker the question.

A. I beg your pardon.

Q. Now, did you recover any insurance after your husband's death?

A. Why, $1000.

Q. Insurance?

A. Yes, sir.

Q. Wasn't that a $2000 insurance policy?

A. Why, no, I thought it was $1000.

Q. Now, how long was it after the death of your husband before you recovered that money?

A. You mean the insurance, Mr. Keown? Well, now, I was so upset I just couldn't tell you that when I got it, I know I had to wait for it.

Q. Now, were you calling at my office frequently after the tragedy?

A. Why, every day my brother and Hazel and I, we would go.

Q. And what was that about?

A. Why, about business matters, and to carry on the business just as if my husband was there.

Q. And at that time did your husband own the entire show?

A. No, my husband was short of funds which he took in Mrs. Bernardi, as a partnership.

Q. Mrs. Brunen, have you ever done any acts at all to assist in the murder of your husband?

A. How do you mean acts?

Q. Have you ever done anything at all to assist anyone in killing your husband?

A. Oh, Mr. Keown, how can you talk like that? All I ever done for my husband is slave and work all my life for thirteen long years, cooked all winter for twenty-five roughnecks, my daughter and I. That's what that girl is sick from today, from the hard working. That's all I ever done to my husband.

Q. Have you ever talked with Charlie Powell or talked with anyone about killing your husband?

A. I have never in my life talked about killing my husband. Why should I talk about killing my husband?

Q. Did you do anything at all on the night of ——

A. Why certainly not.

Cross-examination.

By the Prosecutor:

Q. Where were you born, Mrs. Brunen?

A. New York.

Q. New York City?

A. Yes.

Q. Where did you live up until the time of your marriage?

A. You mean us children?

Q. Yes.

A. Why, we always lived in New York.

Q. Where were you married?

A. What do you mean, where I was married?

Q. Yes?

A. Jersey City.

Q. Have you been married more than once?
A. No, I was married before.
Q. And who was your husband?
A. My first husband?
Q. Yes.
A. Mr. Ashley.
Q. Is he living?
A. Yes.
Q. Were you divorced from him?
A. Yes.
Q. When?
A. Why, I think it was fourteen years ago.
Q. Do you remember the date?
A. I just don't remember the date.

The Court: Have you got any paper to refresh her memory?

The Prosecutor: Yes, sir.

The Court: Just call her attention to it.

The Witness: Mr. Keown, will you kindly just look? I haven't got my glasses to see.

The Court: Can't you see without glasses?

The Witness: No.

The Court: Then see what date it is.

Mr. Peacock: Marriage certificate of Herbert Askley and Doris Brunen. Do you admit the date of it, the marriage, Mr. Keown?

The Court: The date of the marriage of the

witness to Herbert Ashley was when? Have you got the marriage certificate?

The Prosecutor: That is a photographic copy of the marriage certificate, certified from the bureau (indicating).

Mr. Keown: I think you are more acquainted with it than I am. Maybe you can answer the questions better than I can. I have never seen it.

Q. When were you divorced?

Mr. Peacock: Mr. Keown, will you admit Herbert Ashley and Doris Mohr were married March 11th, 1899, as per this marriage certificate, is that correct?

The Court: That is 1899. Twenty-three years ago, about.

Mr. Keown: No, that can't be. This is the marriage to Herbert Ashley? What is the date?

Mr. Peacock: 11th day of March, 1899, New York.

The Witness: I was sixteen at my marriage to Mr. Ashley.

The Court: You were sixteen?

Q. You are now how old?
A. Thirty-six.

The Court: Well, what is the idea of this?

Mr. Peacock: Proving her first marriage, sir, to Herbert Ashley.

The Court: Is there a divorce?

The Prosecutor: Yes.

The Court: When was the divorce granted?

The Prosecutor: That is what I have asked her.

Q. When were you divorced, do you know, Mrs. Brunen?

A. What did you say?

The Court: Have you got the date there, Mr. Kelsey? If you have got the date why ask the witness if you have the certified copy?

Mr. Keown: If your Honor please, is this material?

The Court: I haven't heard any objection.

Mr. Keown: I object to this examination now on the ground it is not cross-examination and it is immaterial to the issue.

The Prosecutor: Now, if it please the Court, I think I have a perfect right, and I will connect this matter up and show my reasons that it is material, but at this time ——

The Court: I don't know whether it is or not. I ask you now what is the date of the divorce?

Mr. Peacock: I offer an exemplified copy ——

The Court: What is the date of the divorce?

Mr. Peacock: December 1st, 1909. I offer that in evidence.

The Prosecutor: I am not ready to offer it in evidence yet.

Mr. Keown: I object to it.

The Court: You musn't disagree between counsel at the same time, there must be some harmony.

The Prosecutor: What is Mr. Keown's objection? Has your Honor ruled?

The Court: What is the object of this testimony?

The Prosecutor: I want to show the date and I want to impeach the credibility of the witness.

The Court: How? Has she been convicted of any crime?

The Prosecutor: No.

The Court: You can't do it this way.

The Prosecutor: I don't want to at this time, may it please the Court. I state my reasons but I think your Honor can see my reasons. Unless you desire ——

The Court: I think the testimony is inadmissible.

The Prosecutor: Your Honor then, if I state my reasons ——

The Court: You needn't state your reasons. The woman is divorced and she has been living with John Brunen as John Brunen's wife, and even if she had married him before she was divorced, it would make no difference, for she was his common-law wife, and he her common-law husband, and they lived together as man and wife. I am not going to let you off with testimony which has no bearing whatever on the question at issue in this case.

By Mr. Kelsey: When were you married to John Brunen, do you know?

A. What did you say?
Q. When were you married to John Brunen?
A. Thirteen years ago.
Q. I show you a certificate of marriage and ask you ——

Mr. Keown: If your Honor please ——

The Court: What are you showing her, a certificate of marriage to whom?

Mr. Kelsey: To John Brunen.

The Court: When?

Mr. Kelsey: On June 26th, 1908.

The Court: Well, that is thirteen years ago, isn't it?

Mr. Kelsey: Yes.

The Court: She says she was married thirteen years ago.

The Witness: The 16th of June, your Honor.

The Court: What year?

Mr. Kelsey: 1908.

The Court: Now is that a fact?

Mr. Kelsey: No.

The Court: What is it?

Mr. Kelsey: The 26th of June, 1908.

The Court: Well, ten days difference.

Q. At the time you were married to John Brunen ——

The Court: I was going to say you may show the relations that existed between husband and wife, between John Brunen and his wife.

Mr. Kelsey: That is what I was going to show.

The Court: I am not going to let you go outside of that; so as to show whether or not there was a motive for the commission of this deed. I do not see how these papers or this testimony that you now offer have the slightest of any tendency to establish the relation between husband and wife, and therefore I rule it out.

Q. When did you first meet Marie Powell?
A. The first time that I had ever went down to Charlie Powell's home.
Q. How did you know where Marie Powell lived?

A. I went to Camden at one time with my husband—to Philadelphia, rather—to the Reading Market, and he passed there and he says, "That is where Charlie lives." That is how I knew where Charlie lived.

Q. I understand you to say that you were there on February 1st?

A. I don't recall what day it was. I don't remember.

Q. Was it the day that Charlie sent the telegram?

A. I was only there once, the day that I asked Charlie to send the telegram.

Q. What was the telegram?

A. Asking him if he could tell me where I could locate my brother.

Q. Yes, but what was the telegram that you asked him to send?

A. Just to tell my brother to come home, and signed "Dot."

Q. When you got to the house was Marie Powell there?

A. No, Mrs. Powell wasn't at home. I think she was to the store; just Charlie and the baby.

Q. And how long were you there?

A. Just about three minutes.

Q. How long after you were there did Charlie Powell come to the house?

A. What do you mean, to the house?

The Court: Charlie come home. What time did he come home?

A. Just as I was going to get ready to get up in the chair when the door opened and Mrs. Powell came in.

Q. You were talking with Charlie Powell just before his wife came in?

A. Just about two minutes. I wasn't there all told three minutes.

Q. Did you say anything about the telegram in her presence?

A. Now that I couldn't say, whether I had told it to Charlie before or when she came. I couldn't say that. I don't remember that to say.

Q. What did you say to Mrs. Powell when she came in?

A. I just said, "How do you do?"

Q. Is that all you said to her?

A. That is all. I didn't know the lady.

Q. Did you say you came to see the baby?

A. I said, "I had heard what a wonderful baby you have."

Q. Who had told you about the wonderful baby she had?

A. Charlie told me, because everybody congratulated them on the outfit the night it was born.

Q. Where did Charlie live on the night it was born?

A. I couldn't tell you where. His wife was in the hospital.

Q. Where?

A. That I don't know.

Q. Well, in Camden?

A. I couldn't tell you that. I don't know where the baby was born.

Q. Now what time did you return?

A. I know I made that four o'clock car back home.

Q. How did you go?

A. Trolley.

Q. How did you come back?

A. Trolley.

Q. How much money have you received from the estate since your husband was murdered?

Mr. Keown: If your Honor please, is that material and proper? It certainly would not ——

The Court: It may be on the question of motive.

Mr. Keown: After the decease?

The Court: What?

Mr. Keown: Any money that she could receive from the estate would certainly be after the commission of this offense. How would that be admissible to show motive?

The Court: Well, I know, but it would bear up in what had gone before hand, if there was an idea that the deceased had money and there was a plot, and as it has been testified to by one witness, the brother to obtain the control of the show and his wife being entitled under the Statute of Distribution to one-third of the personal property of the deceased if he died without a will, why doesn't that all have a bearing?

Mr. Keown: I don't think it is proper then ——

The Court: It may be remote but it has a bearing. I don't know what they are going to prove. I think you had better go on.

Mr. Keown: Well, isn't it objectionable on another ground, that it is not proper cross-examination?

The Court: No, it is not objectionable on that ground at all, because when the defendant goes upon the stand the State has a right to go into all

the past and present history, to test the credibility of the witness. But the State is not entitled to show the commission of any crime or anything of that sort, because the statute limits the proof of that for the purpose of discrediting the witness to the record of a conviction and judgment. Therefore you can ask the question merely whether a person had been convicted of crime, but you cannot show that another crime has been committed by a question; otherwise we would be trying half a dozen different issues. We are now trying the question whether this defendant was implicated in the murder of John Brunen, and all testimony that tends to establish that there was a motive is proper. But it does not follow that because there was motive that the crime was committed by the person who is charged with it.

Mr. Keown: Now I make a motion that the testimony be not allowed on the ground that it does not show motive; and will your Honor allow me an exception?

The Court: Repeat the question.

(Question repeated.)

The Court: I will admit the question and grant you an exception.

(Whereupon the defendants, by their counsel, pray a bill of exceptions, which is hereby allowed and sealed accordingly.)

Judge. (Seal)

A. Well, I can't just remember. The check will show that.

Q. Did you receive $2,000 life insurance?

A. Yes.

The Court: That is not from her husband's estate.

Mr. Kelsey: From her husband's estate.

The Court: No.

The Witness: It is life insurance.

The Court: It is her money; she was the beneficiary.

Q. Were you not advanced $5,000 from the Brunen estate?

A. No.

Q. How much were you advanced?

A. What do you mean, advanced?

Q. How much money have you received from your husband's estate?

A. I don't know, as I just told you before, we have to look up the checks and then I can tell you better.

Q. How was it paid to you?

A. In checks.

Q. From whom?

A. I would have to sign the checks, whoever those bills that was paid out.

Q. Have you the checks with you?

A. Why, my attorney has them.

The Court: Was there an accounting in this case in the surrogate's office?

Mr. Keown: Not yet, sir.

The Court: Now where is the account? Has anybody prepared the account?

Mr. Keown: No, sir.

The Court: Any bills presented to the estate?

Mr. Keown: Yes, sir. It would be a matter, if your Honor please, that would take us two days to go into. It would take fully two days to go in and explain intelligently to anyone as to the transactions. And I want merely to call your Honor's attention to this fact. It may be that the Prosecutor would not want me to make the statement before the jury. I will make it privately.

(Consults with the Court at side bar.)

The Court: I will limit the question. The question is limited to what this witness has received for her own personal use in the estate; not what you have paid creditors, but for your own personal use and your clothing, household expenses, rent or anything of that sort.

A. Well, that I just couldn't say, because we lived and paid rent and bought clothes and everything else.

Mr. Kelsey: I think the State should know and I ask Mr. Keown to produce the books if they have them.

The Court: No, you can't ask him to produce anything.

Mr. Kelsey: Then I will ask the defendant to produce the checks for the moneys that she received for her own personal use.

The Court: We are not going into the account.

Mr. Kelsey: No, I don't wish that.

The Court: You can state generally. The burden is on the State to establish the guilt of this defendant and she is not bound to establish her innocence.

Q. What moneys did you receive, Mrs. Brunen, in the way of life insurance from your husband's estate?

A. $2,000.

Q. Did you receive $1,500 from the Mason's Protective Association?

A. I did not.

Q. Did you not receive $250 from the Moose Lodge?

A. I received $100 from the Moose Lodge.

Q. Now, Mrs. Brunen, after Hazel was married to William Parkstrom you went away with her, didn't you?

A. I did.

Q. Where did you go from?

A. I don't understand you.

Q. Where did you start from?

A. Why, we left from Riverside.

Q. Who left from Riverside?

A. Hazel and I.

Q. And where did you go?

A. Jersey City.

Q. Who went with you?

A. Just Hazel and I, and we met her husband.

Q. Where did you go in Jersey City?
A. Well, I just can't recall the name of the hotel where we stopped.
Q. Who did you meet in Jersey City?
A. Who did I meet in Jersey City?
Q. Yes.

The Court. Don't repeat the questions, just answer them.

A. I met Mr. Ward, Doc Ward.
Q. And where did you meet him?
A. I went up to his mother's, sent my daughter's husband up there after him.
Q. Did he come around to the hotel with you that night?
A. No, he didn't.
Q. Did you go out to the movies that night?
A. Yes, we went to the movies.
Q. Where did you go the next day?

Mr. Keown: Now, if your Honor please, I object to this question or any further examination along this point, on the ground that it would not in any way show any motive for the ——

The Court: The relations, attitude of mind that might have been inspired by the relations that existed between husband and wife? I don't know what they are. Proceed.

Mr. Keown: Your Honor will allow me an exception?

The Court: Yes.

(Whereupon the defendants, by their counsel,

pray a bill of exceptions, which is hereby allowed and sealed accordingly.)

Judge. (Seal)

Q. Where did you go the next day?
A. What did you say?
Q. Did you see Doc Ward the next day?
A. Yes, we met him in the hotel dining room as we were eating breakfast.
Q. Where did you go?
A. We looked around for an apartment.
Q. Who was with you at the time?
A. My daughter and her husband and Doc Ward.
Q. Where did you go?
A. To get apartments.
Q. Where?
A. In Hoboken somewhere.
Q. Where did you get apartments?
A. I just couldn't tell you the street. Probably my daughter could tell you the street. I don't remember the street.
Q. Did you get two apartments or one?
A. Two. We couldn't get that in the house, because they didn't have no apartment.
Q. Were you located on Bloomfield Avenue?
A. I just told you I didn't know the name of the street.
Q. How long did you stay there?
A. Three days.
Q. Do you remember the lady's name that you engaged the rooms from?
A. No, I don't.
Q. How did you introduce yourself to her?
A. I don't remember just how I did.
Q. Did you introduce yourself as Mr. and Mrs. Nolan?

A. No, I didn't.

Q. You are sure of that, are you?

A. I didn't say Mr. and Mrs. Nolan, I said Mrs. Nolan.

Q. And how did you introduce Doc Ward?

A. I don't remember of ever introducing Doc Ward.

Q. He was with you, wasn't he, when you got the rooms?

A. No, he wasn't.

Q. Who was with you? How long did you stay there?

A. Five days.

Q. And where did you get your meals?

A. I cooked the meals for my daughter and her husband and myself.

Q. All three of you got your meals together?

A. Yes.

Q. You didn't go out to a restaurant?

A. No.

Q. Did Doc Ward go to a restaurant?

A. Sometimes he came around and had dinner with us.

Q. Didn't Doc Ward live there with you ——

Mr. Keown: I object to that question. That would tend to prove another crime, and your Honor has said that that could not be evidential.

The Court: Well, I suppose they are going to show the difficulty between the husband and wife on that account.

Mr. Keown: Well, if your Honor please, wouldn't that be part of their case and not cross-examination at this time? Shouldn't that be affirmative proof, that there was something there, not just merely

ask the woman a question like that which would perhaps infer, the answer might infer guilt? In other words, the question is, "Did you live with Doc Ward there?" Now the answer yes, even though they may have lived in different parts of the house, yes, might infer guilt.

The Court: Well, she can explain that. There might not be anything wrong in the whole transaction, for all I know.

(Testimony repeated.)

Q. At that time in Hoboken?

A. No.

Q. Didn't he stay there all night and each day go out to work for an Italian?

A. No.

Q. And come back there at night?

A. Not that I ever remember.

Q. Well, if he had you would remember it, wouldn't you?

A. I don't remember that.

Q. At the time you were arrested weren't his clothes hanging back of the door?

A. Not that I know of.

Q. You know Sergeant Larkins, or Captain Larkins, and Sergeant Lynch, don't you?

A. I don't know them personally, sir.

Q. You remember when they came in and arrested you, don't you?

A. I didn't know I was arrested.

Q. Didn't they take you in custody and take you to jail?

The Court: Arrested where, was this, Hoboken, by her husband?

Mr. Kelsey: Yes.

A. When my husband came he never told me we were arrested.

Q. The police officers were there?

A. I know, but nobody told us we were arrested.

Q. You were taken to City Hall?

A. Just told us to come down; I didn't know we were arrested.

Q. What happened after you got to the station house?

A. My husband forgave my daughter, which I asked my daughter to ask her father for her pardon, which she did, then my husband says that—I just recall that the Captain says, "You want to overlook everything, Mr. Brunen, and take the folks back home," which my husband says, "I have. I want to take them back home and forget everything."

Q. Mrs. Brunen, didn't you tell Captain Larkins and the other police officer of your relations with Doc Ward at that time and coax them not to tell your husband?

Mr. Keown: I object to that.

The Court: I will sustain the objection. I think you have gone far enough.

Q. Didn't you tell Sergeant Lynch that you hated your husband John Brunen at that time?

A. I never said that to Sergeant Lynch.

Q. Didn't you tell him that you loved Doc Ward?

A. I never remember of saying that.

Q. Didn't you say that your husband John Brunen was a brute?

A. I don't remember of saying that.

Q. And didn't you say that you hated to go back home and didn't want to?

A. I don't remember saying that.

Q. Well, did you or not? You surely ——

A. I don't remember, I said.

Q. Didn't you say that you had lived a life of a dog?

A. I don't remember ever saying such a thing.

Q. And didn't you say that if they told your husband that he would kill you and Doc Ward?

A. I don't remember of ever saying those things.

Q. Did you not say to William Parkstrom at that time, "I will get a divorce from my husband"?

A. I don't remember ever saying that to William Parkstrom.

Q. You don't remember ever saying it?

A. No.

Q. Did you say it?

A. I don't remember of ever saying those things that you are just asking me.

Q. Didn't you say it to Hazel too?

A. I don't remember ever saying that to my daughter.

Q. You say they took the clothes, Doc Ward's clothes, down back of the door, didn't you?

Mr. Keown: The witness has said they were not.

The Court: I think that is what she testified.

Q. Now afterwards, after you came home, you wrote to Doc Ward, didn't you?

A. Yes; he sent us a Christmas present.

Q. How many letters did you write to Doc Ward?

A. I don't remember how many I wrote.

The Court: Mr. Kelsey, I have already told you.

Was that communicated to Mr. Brunen? Will you prove that the letters which she wrote to Doc Ward had been communicated to Mr. Brunen?

Mr. Kelsey: Yes, I can, your Honor.

The Court: That Mr. Brunen had knowledge of those letters, the contents of them?

Mr. Kelsey: Well, I think in one case.

The Court: Well, I don't care what you think; I want to know what you know.

Q. Did you go over to Jersey City to see Doc Ward?

A. Yes, I did.

Q. Did your husband John Brunen know that you went there?

A. No, my husband wrote to the Elks to have Doc Ward thrown out of the Elks and have said things that were not true; and I went over to find out the number of the lodge that he belongs to, to write that the things was not the truth that was said.

Q. When you went over to see Dr. Ward did he not say to you, "Just don't ever mention my name"?

A. No.

Q. And you didn't once in a while?

A. No.

Q. Did you not send a letter to Doc Ward that Mrs. Robbins had written from Jersey City?

A. No.

Q. Can you read and write?

Mr. Keown: I think that is not a fair question to ask.

The Court: Well, I can see no harm in asking it.

Q. Will you answer that question, please?

By the Court:

Q. Can you read and write?
A. Yes, sir.

By Mr. Kelsey:

Q. Did you write your letters?
A. Sometimes I did.
Q. Who wrote them at other times?
A. Well, now, Mr. Kelsey, that is rather a personal touch, don't you think so?

Mr. Keown: Just answer the question.

A. No.
Q. Did anyone write the letters for you?
A. Sometimes they did.
Q. Did Hazel write letters for you?
A. Maybe she did.
Q. Did Mattie Mohr write letters for you?
A. Never.
Q. Then you and Hazel wrote the letters?
A. Sometimes.
Q. Now on Christmas night, Mrs. Brunen, was there trouble at the house that night?
A. What say?
Q. Was there trouble at the house that night, at your home, on Christmas night?
A. On Christmas afternoon, yes.
Q. Between whom?
A. My husband and I.

Q. Did you shoot five or six times at your husband?

A. My husband pulled a revolver from me ——

Q. Answer the question. Did you?

A. I didn't shoot at my husband. I shot in the pantry and in the kitchen.

Q. Where did you get the gun?

A. Where I always had it, in a hamper, in the dirty clothes.

Q. Where was the hamper?

A. In the pantry.

Q. Right where you were?

A. No, I was in the kitchen.

Q. Hazel ran between you?

A. Hazel ran out of the dining room to stop her father from shooting me.

Q. Well, your husband didn't shoot before you shot, did he?

A. My husband started to shoot me first, my daughter ran between and then he stopped. When my daughter ran away then I wanted to run out of the kitchen and then he fired and hit me in the abdomen.

Q. How did he start to shoot you? You say he started to shoot?

A. Yes.

Q. Did he shoot or did you shoot first the six times?

The Court: Mr. Kelsey, the testimony is that the husband was the aggressor on that occasion, the testimony on the part of the State. There isn't any question about that. That is the testimony.

Q. Where did your husband go after you started to shoot?

A. That I couldn't tell you. I was so excited I don't know.

Q. Where were you when your husband shot?

A. What did you say?

Q. Where were you when your husband shot?

A. I was going to run out, when he just caught me as I was going to open the door where a window box was, and the bullet struck me in the abdomen.

Q. Wasn't it in the dining room?

A. No, sir.

Q. Your husband was in the dining room, wasn't he?

A. Yes. He shot at me as I was going to run out of the kitchen door. I was just trying to explain it to you.

Q. How many times did you shoot?

A. Well, I don't know that, I couldn't tell you.

Q. Well, was it six times?

A. I couldn't tell you.

Q. How many times did he shoot?

A. He shot me once and I fell to the floor.

Q. That is the only time he shot, once?

A. Yes, when he hollered, "Mother, did I kill you?"

Q. Now, Mrs. Brunen, when did your husband tell you that he was going to New York?

A. Why, when he came home.

Q. When?

A. When he came home for supper. You know sometimes, there are lots of times my husband would say he was going places and he has changed his mind.

Q. Was that Thursday night?

A. No, I think it was the only time, it was the day that he was shot that he told me he was going to New York, but I remember.

Q. Wasn't he going to New York on Friday, the day that he was shot?

A. I am just telling you that when he came home he told me that he was going to New York.

Q. Well, that was Friday night?

A. Yes.

Q. And wasn't he going to New York on Friday?

A. Thursday or Friday.

Q. Friday, the day he was shot, he expected to go to New York, didn't he?

A. Yes.

Q. And when he got up in the morning you say that you were the first one that got up?

A. Yes.

Q. Your husband was the next one that got up?

A. Yes.

Q. And your husband told you that he had changed his mind and was not going to New York until the next day?

A. Well, I don't just remember whether he said that morning ——

Q. Didn't he say, "I am going to Williamsport today"?

A. Williamstown.

Q. Williamstown, I mean.

A. Yes.

Q. And then he left?

A. Yes.

Q. Now on Christmas day had you and your husband both been drinking?

A. I hadn't drank anything but a small glass of wine. My husband drank a quart and a pint, almost.

Q. What time did your husband get home? You said half-past six that night?

A. I just couldn't recall whether it was a little after six or half-past six. I don't just remember.

Q. You said that you were going to the movies?

A. I would have went if he wouldn't have taken a bath to go to New York.

Q. So you were not dressed for the movies?

A. I never dress; I just wear my apron and a large coat.

Q. You didn't expect to go to the movies?

A. Probably I would have went if he would not have went away, because we generally used to go every night.

Q. When did you pull the curtain down, when you went out?

A. We always have the curtains the one way.

Q. Had you been to the moving pictures the night before?

A. Well now, that I just couldn't recall, whether I went the night before or not.

Q. Don't you know?

A. No, I don't, because I don't want to say anything I don't know, that I am sure of.

Q. Your husband and you had had trouble over Doc Ward, hadn't you?

A. No, we didn't have any more trouble, because everything was forgiven.

Q. Hadn't he accused you and Doc Ward, mentioned Doc Ward's name on numerous occasions?

A. No, he hadn't.

Q. About Christmas?

A. No, he didn't mention him.

Q. Wasn't he mad at Mattie Mohr on account of Doc Ward?

A. Why my sister knew nothing about Doc Ward.

Q. He was mad at your sister, wasn't he, Mattie Mohr?

A. They always quarreled about things.

Q. He told Mattie Mohr not to come to your house, didn't he?

A. No, indeed. No, it was my sister that had left the house. He didn't tell her to leave.

Q. Mattie Mohr was there at the house that day, was she not?

A. Christmas day?

Q. No, on the day John Brunen was murdered.

A. My sister hadn't been there for a week. She was sick with the grippe.

Q. But she was there?

A. That was the only day she had off to go.

Q. What time did she come?

A. I think it was eleven o'clock.

Q. How long did she stay?

A. Just stayed for lunch, because she had to go right back and change her clothes to go to work.

Q. How long did Mattie Mohr stay at your husband's home?

A. Stayed just long enough to have lunch, as my sister had to get back and change her clothes.

Q. What time did she leave?

A. I think she took that two o'clock car or something, or one something; that I don't just remember.

Q. Do you know Jules Kresge?

A. Yes.

Q. Did he go with your sister Mattie? Does he keep company with your sister Mattie Mohr?

A. Well, I don't know whether he keeps company or not, but he goes with her once in a while.

Q. Quite friendly, isn't he?

A. I believe so.

Q. He comes up to your house quite often?

Mr. Keown: If your Honor please, is this Kresge?

The Court: I don't see what bearing it has on the case.

Q. Who is Hazel Brunen?

Mr. Keown: If your Honor please, is that cross-examination?

The Court: Well, I told you it would be limited.

Mr. Keown: Is it material to the issue at this time as to who Hazel Brunen is?

The Court: It appears who Hazel Brunen is. She has testified who she was and I guess we all know who she is. I don't know as you need any testimony on that point. She was the daughter of the first wife of Mr. Brunen, I understand, and the defendant was her step-mother. Now what more do you want?

Q. Mrs. Brunen, did you have a private box in Palmyra?

A. No, I did not.

Q. Or Riverton?

A. No, I did not.

Q. Did you receive letters in the name of Miss or Mrs. Nolan?

A. No, my daughter and I did both.

Q. Your daughter, you mean Hazel?

A. Yes, from her husband, when she would get letters from Billy.

Q. Did you receive any from anybody else except your husband ——

A. My sister.

Q. What sister?

A. My sister Mattie.

Q. Why did you receive letters in the name of Nolan?

A. Because we couldn't have any mail come home, my husband would destroy them.

Q. Why did he destroy them?

A. That I couldn't tell you.

Q. Didn't he give any reason at all why he destroyed these letters?

A. Just, I suppose, to be mean, that is all.

Q. Did you have any letters sent to the Philadelphia general delivery?

A. One.

Q. To Miss Nolan?

A. One.

Q. Who was that from?

A. Doc Ward.

Q. You didn't want your husband to know about that, did you?

A. Why, it was in regards to the Elks, as I told you before.

Q. Well, why didn't you want your husband to know it?

A. Why, because my husband had a habit of writing these slanderous letters to different people.

Q. Did you meet Doc Ward in Trenton?

A. Yes.

Q. And did your husband come near catching you there in Trenton? Did he see you?

A. Not that I know of.

Q. You knew he was going? You told Doc Ward that he was going to New York at the same time and that he must have seen you there in Trenton?

A. Not that I know of.

Q. You mean not that you know of ——

The Court: You are asking her things that she can't tell. If her husband saw her how did she know? Whether he came near catching her, how does she know?

Mr. Kelsey: No, I am asking if she said that her husband saw her.

Q. Did Mattie Mohr phone to you on the 10th day of March before she came there?

A. My sister always phoned before she came.

The Court: Answer the question. That is not the question.

A. Yes.

Q. What time did she phone to you?

A. Just before she came in.

Q. What did she say when she phoned to you?

A. Just wanted to know if it was all right to come in there. She didn't want my husband to see her because they would always have arguments.

Q. Did she say, "Is John away?"

A. No, she said, "Is everything all right to come?" Not me, my daughter got the phone message.

The Court: Then it is improper to ask her, if she didn't get it.

Q. Did you know it?

The Court: Well, it doesn't make any difference whether she knew it or not. That is hearsay if her daughter told her.

Q. How were you dressed on the 10th day of March, Mrs. Brunen?

A. I had a plaid yellow apron on, trimmed with black blocks across.

Q. When you went up to the bathroom that night did you shake a duster out of the window?

A. Why, no, because we couldn't open any of those windows in the whole house.

Q. Did you dust the bathtub?

A. No, I didn't have to dust it, because I always scrubbed the bathtub out.

Q. Did you put the parrot in the cellar that night?

A. The what?

Q. The parrot.

A. We always had him in the cellar all day, because he screeches so.

Q. You have told Mr. Parker you put the dog in the cellar, didn't you, at six o'clock?

A. If Mr. Parker says I said it; I don't just remember, as I told you before.

The Court: She has answered that before.

A. I didn't remember what I had said.

Q. Now you said that the door was locked so that you couldn't open it from the outside, with a bar?

A. Yes.

Q. You can open it from the outside, can't you, if the bar is up and down?

A. Well, never could. You can do more than I could then, Mr. Kelsey. I never could.

Q. You can't open the door from the outside?

A. You can't open that door unless you go down the cellar and push the bolt back. It had a lock bolt like this that went across and you would have to go down the cellar and open that.

Q. Sometimes the bolt is back, ain't it?

A. Well, I don't just remember that.

Q. What was the dog's name?

A. Snooky.

Q. The night of the robbery, Mrs. Brunen, or

the day of the robbery, didn't some one call the dog Snooky?

A. Yes, my dog was tied back after Mr. Voshell had sent an officer around that the dog had to be tied, it was annoying people.

The Court: What have we got to do with the robbery? That is ruled out.

Q. You were on friendly terms with the Stechers, were you not?

A. Yes.

Q. There was a light in their house that night?

A. I don't know whether there was or not. I didn't look over.

Q. Stecher's house is a good deal closer, isn't it?

A. Yes, but Mrs. Walters was always my neighbor.

Q. And was there any light in the Walters house?

A. Yes, there is a light in the Walters house, but when the summer kitchen is closed there is no light there; you have to open the summer kitchen to go in and then you see all the light that you want to see.

Q. You got $500 from Mrs. Walters, didn't you? When did you get the $500 from Mrs. Walters? Look at me, not at your counsel.

The Court: One moment. What is the object of this testimony?

Mr. Kelsey: I want to show at the time, and then the trouble that ensued relative to the $500.

The Court: She got $500 from Mrs. Walters?

Mr. Kelsey: Yes, and the trouble between her and her husband afterwards.

The Court: About what, the $500?

Mr. Kelsey: Yes, about the $500.

The Court: Well, then go on. Answer the question.

A. I told you I got it.

Q. Well, when was it?

A. I just don't recall the date. I can look at the notes.

Q. Was it at the time that you and Hazel and Parkstrom went away?

A. I had it several days before that.

Q. Why did you get it before that?

A. For my husband.

Q. Didn't you and your husband have trouble over the $500?

A. No, he didn't want me to pay it. He tore he note up when he came home, in front of Mrs. Walters.

Q. Didn't you have trouble, you and your husband, in the presence of Mrs. Walters?

A. No, he tore up the note.

Q. And didn't your husband tell Mrs. Walters that she had no business to let you have the money, but he would pay it back to her?

A. I couldn't tell you what my husband told Mrs. Walters.

Q. In your presence?

A. I wasn't there when my husband said that to Mrs. Walters.

Q. Isn't it true that you went to the Walters

house so as to give Charlie Powell and Harry Mohr time to get away?

A. I never did.

Q. Did you tell Mr. Parker that you fainted in the dining room?

A. I never told that to Mr. Parker.

Q. And that you didn't know how long it was?

A. I told Mr. Parker that I didn't know how long it was but I never told it to Mr. Parker that I fainted.

Q. You fainted over at Scheetz's house, didn't you?

A. I don't think I did. I was out of breath and excited.

Q. Didn't you faint in his arms?

A. Not that I know of, that I fainted.

Q. Didn't he give you some wine afterwards?

A. I think he gave me a little drink of wine, yes.

Q. And how long were you over there at Scheetz's house after you fainted?

A. I don't know how long. We ran right back.

Q. Didn't you say to Mrs. Jaeschke that you knew there was something going to happen to John?

A. When I was talking to Mrs. Jaeschke did I what?

Q. That you knew something was going to happen to John.

A. I never said that to Mrs. Jaeschke.

Q. Didn't you say that you knew that your husband was going to make a will?

A. I never said that, as my husband had never spoke of a will.

Q. Didn't you tell him that he was going to leave her something in the will?

A. Oh, why talk so ridiculous? No.

Mr. Keown: Just answer the question.

By the Court: Did he or didn't he? Just state the facts.

A. No, he didn't.

By Mr. Kelsey:

Q. Did you know that your husband had written a letter to his sister?

A. Only what she told me and published in the newspaper.

Q. You didn't know anything about it?

The Court: She has said already only what was published and what she told her.

By the Court:

Q. Had you any knowledge, personal knowledge of what he wrote?

A. Why, no.

By Mr. Kelsey:

Q. Do you recall a Mrs. Hartman?

A. Hartman?

Q. Yes.

A. No. Where does she live?

Q. Coming to see you at the jail?

A. Hartman?

Q. Hartman, a newspaper reporter.

A. I don't know who came, whether she was on a newspaper. I don't know who came, there was so many there.

Q. Didn't you tell her that your husband John —

Mr. Keown: If your Honor please, I think this

ought to be fixed, who this party is and the exact time that the newspaper woman spent in talking to her.

Q. On the 10th day of December, that is, the Sunday previous to the trial, that your husband told you that he had written a letter to his sister.

A. He wrote several letters to his sister.

Q. And stated that he was going to make a will and that he was sorry that he wrote the letter.

A. I never mentioned anything about no will.

Mr. Keown: If your Honor please, along another line, would this witness be bound by anything that she may have said to a newspaper reporter that visited her cell and talked to her?

The Court: I don't know about that. You are asking me a general question. When it comes to be asked I will rule on it. The contents of the letter would not be evidence of the truth. That has been held by our courts, the mere contents of the letter would not be proof of the facts stated in the letter. Letters of that kind you speak of are generally admitted to show relations between the parties, or if there was something in the letter which indicated, which tended to show that there was going to be a disposition of the property which might deprive the witness of his property, of an interest in the property, in case of the husband's death, and then merely on the ground of motive. You have got to lay some basis for it.

Mr. Kelsey: Well, she says she didn't.

The Court: No, she says she didn't.

Adjourned till December 19th, 1922, at 9.30 A. M.

Mount Holly, N. J., December 19, 1922.

(Trial of the cause resumed at 9.30 A. M.)

DORIS BRUNEN, resumed.

Cross-examination continued.

By Mr. Kelsey:

Q. Mrs. Brunen, you said that on Christmas day your husband drank a quart and a pint of liquor?
A. Why, I said he drank a quart. There was a pint still left.

The Court: Wine, I think she said. Liquor, was it?

Q. Whiskey?
A. Yes, sir.
Q. Your husband drank a good deal, didn't he?
A. At times.
Q. And when he drank did he drink to excess?
A. Yes, sir.
Q. And when he was drunk or under the influence of liquor was he cruel?
A. Sometimes.
Q. Well, other times how was he?
A. All right.
Q. Did he have a temper sometimes when he was sober?
A. Always had a temper.
Q. And when he had a temper was he cruel at those times?

A. At what times?

Q. In his temper.

A. Well, that would all depend what the things would matter.

Q. Well, was he cruel to you and everyone else that he came in contact with?

A. He was very mean while he was drinking.

Q. Yes, but I mean when he had a temper, when he was sober.

A. Yes, sir.

Q. And how often would he get in a temper?

A. Well, now, that would all depend who would cross him.

Q. Was he quarrelsome?

A. At some times.

Q. And would he accuse you and everybody else of everything that he could think of at those times?

A. No.

Q. Well, what would he do at those particular times? What was the trouble that he had? Did he mention those things?

A. No.

Q. What would he do when he was quarrelsome? Just tell us how he would act.

A. Why, he would then take up a few things and break them and then go and lie down.

The Court: Need we go into those particulars?

Q. He cut a dress ——

The Court: You have had the statement that when he was drunk he was boisterous and quarrelsome, and when he was sober, while he had a temper, he did not always exhibit it, unless he had some trouble with somebody else, as I understand the testimony.

Q. You said on your direct examination that you worked all your life for thirteen long years cooking all winter for twenty-five roughnecks?

A. Yes, sir.

Q. And that Hazel worked hard also, and that is the reason she was ill?

A. Yes, Hazel always helped me. While I was doing the cooking she went and done the marketing, carried back heavy baskets.

Q. And so worked very hard, did you, during that time?

A. Always worked very hard; during the week after I got through cooking, selling tickets.

Q. Tell us about the time that your husband cut your dress, cut your clothes.

A. I wasn't there, so I couldn't tell.

Q. Did you have a conversation with your husband afterwards about that, didn't you?

A. No, he just said that he was sorry that he had done it and he was going to get me some new clothes.

Q. Why, did he say, did he tell you?

The Court: How does she know? I don't think, Mr. Kelsey, that ought to occupy the time of the Court in going into all these details.

Q. What was the trouble between Mattie Mohr and your husband?

A. Not any trouble, just family affairs. If he said things to me my sister would say, "You oughtn't to say those things."

Q. Was that the way she said it? Was that all that happened?

A. That's all that happened while I was there that I know of.

Q. Was that what caused her to not come to the house while he was there?

A. That's the reason, not to have any quarrels.

Q. Nothing more than that?

A. Nothing more than that that I know of.

Q. Mrs. Brunen, on Christmas day what did your husband say to you, on Christmas day just before the shooting took place?

A. Why, he called me some names that I don't just wish to say right here.

Mr. Keown: If your Honor please, may I state at this time the State has proven as to the happenings on Christmas day, and the witness was not examined on that, and those facts certainly stand in the case now uncontradicted, and I should think it would bar the prosecution from examining on those subjects that stand admitted.

The Court: I don't see what the object is unless you are going to show a different state of facts. You had witnesses on the part of the State, had witnesses to testify to it. You had Hazel Brunen on the stand and she testified to what took place and this witness testified as to what took place. Now, unless you are going to develop something new, I don't see the object in going over the same ground.

The Prosecutor: I don't think I am going over the same ground. I don't think anything has been said about why the shooting took place.

The Court: We don't want that. That hasn't anything to do with this case. That has nothing to do with this case. If you want to show the state of feeling, you can show the state of feeling exhibited by weapons. You can show any of the circumstances that have already appeared in this case,

that have occurred in this case. You have a right to do it, but I don't think you ought to take up the time of the Court by reiterating matters already testified to on the part of the State, not only on the part of the State, but on the part of this defendant.

Q. Now, Mrs. Brunen——

The Court: I will say this. I will allow you to show as to the actual transaction, you can cross-examine on that, the use of the weapon, and who started first and who wound up, I will let you do that.

Q. Until the remark was made by your husband there had been no attempt at shooting at all, had there?

A. My husband always carried a revolver.

The Court: No, answer the question the Prosecutor puts to you. He isn't asking you what your husband always did. Repeat the question.

(Question repeated.)

The Witness: My husband didn't speak to me Christmas morning, he didn't have breakfast. I had prepared his breakfast ——

Q. You haven't answered my question.

A. I am trying to do that, if you will allow me to do that.

The Court: Repeat the question. Just listen to the stenographer while he repeats the question.

(Question repeated.)

The Witness: No.

Q. After your husband made a remark you made a remark, did you not?

A. I just said, "Don't call Hazel and I such terrible names." That is what I said to my husband.

Q. Did your husband call you at that time a whore?

A. Both of us, my daughter and I both, plumbers.

Q. And then what did you say?

A. I told you I said, "Don't call us such terrible names."

Q. Then what took place immediately after that?

A. My husband then drew his revolver, which my daughter jumped in front of me and I went into the pantry and got the one I had.

Q. At that time didn't you try to shoot your husband?

A. No, I did not.

Q. Didn't Hazel grab hold of your arm and prevent you from shooting him?

A. Why, I shot in the pantry and in the kitchen.

Q. Your husband was in the kitchen, wasn't he?

A. My husband was at the dining room door leading to the kitchen.

Q. In the kitchen, wasn't he?

A. Yes, at the dining room door.

Q. Your husband ran into the dining room, didn't he?

A. I couldn't tell you, because I was so excited.

Q. Now, Mrs. Brunen, see if I can refresh your memory about the Hoboken case.

Mr. Keown: If your Honor please, I thought your Honor decided that that matter was a closed issue.

The Court: No, I don't preclude the State from attempting to show—I don't know what. If the question is put you may object if you think it is improper.

Q. How many days were you away?
A. Three days.
Q. From the time you left Riverside?
A. Three days.
Q. Until your husband found you in Hoboken it was only three days?
A. Yes, sir; probably three or four days. I think that it was three days. While I am not just—

The Court: Well, three or four days.

Q. What day of the week did you leave?
A. That I couldn't say, just what day it was.
Q. Wasn't it a week?
A. That we went away?
Q. Yes.
A. No, we wasn't away a week.
Q. Weren't you in Hoboken five days?
A. I just told you that I just didn't remember how many days. Three or four days.
Q. Well, isn't it possible that it was a week from the time you left until you got back?
A. I don't think it was.
Q. But it might be?
A. Not a week. It was three or four days.
Q. You were in Jersey City all one day, weren't you?
A. Yes.
Q. And a night?
A. That was Saturday.
Q. How many days were you in Hoboken?
A. Three days.

Q. Only three days; that would be four days?
.A Yes, three or four days.
Q. Now you are sure that is right, are you?

The Court: Well, she says that is the best of her recollection. Now you have got the answer.

Q. The day your husband found you he was at the house, the quarters on Bloomfield Avenue?
A. Yes.
Q. You had been out shopping and had just come back?
A. I had just got a bottle of milk, I believe.
Q. Who was with your husband?
A. I didn't know the gentlemen's names.
Q. Wasn't Doc Ward there?
A. No.
Q. And two officers?
A. I don't know whether it was two officers or one. I didn't even know they were officers.
Q. You came in with Hazel, did you not?
A. I did not.
Q. Hazel was not with you when you met your husband?
A. No.
Q. You were alone?
A. Yes.
Q. Did Hazel and Parkstrom come shortly afterwards?
A. Yes.
Q. Then your husband left, didn't he, with one of the officers?
A. Yes, sir.
Q. And you were there with the other officer, or two officers?
A. I think with one, if I am not mistaken.
Q. It was not with two?
A. I don't remember if there was two or one.

Q. Did you see Doc Ward there?

A. No, I didn't.

Q. Didn't you say to the officers, as soon as your husband left, "Get Doc Ward's clothes away and hide them before my husband comes back"?

A. I never said that to the officers.

Q. Didn't you say, "Get his valise away, so he won't see that"?

A. I never said that to the officer.

Q. Didn't the officer take four suits of clothes, two good suits and two working suits, and put them between the mattress and the spring?

A. Not to my knowledge.

Q. Well, didn't he?

A. Not to my knowledge.

The Court: Now, Mr. Kelsey, what is the object of that?

Mr. Kelsey: Well, I am going to follow that up with a conversation.

The Court: Well, I don't care what you are going to follow it up with. But it seems to me that it is supposed to operate on the question of motive. It would show the motive of the husband against her, not her against her husband—just the opposite. If you are going into particulars about her attempting to save a man who had been intimate with her, alleged to have been intimate with her, or she intimate with the man, I don't see how that can affect this case in any way. Why don't you come right to the point that you want to come to?

Q. Didn't you say to the officer, "I love Doc Ward"?

A. I never said that to the officer, sir.

Q. Didn't you say, "I hate John Brunen"?
A. I never said that.
Q. "He is a brute"?
A. I never said that.
Q. "I live a dog's life"?
A. I never said that.
Q. "I am going to get a divorce?"
A. I never had such a conversation with that gentleman.
Q. Do you remember Mrs. Klotz, the landlady, coming up there?
A. Yes, sir.
Q. That is after your husband went away?
A. No, I had never seen my landlady but once.
Q. Didn't she come up while you and the officer were there and say, "I will lock up the room"?
A. No, sir; she didn't.
Q. And didn't she say, "What is the trouble?"
A. She did not. I never saw the lady.
Q. And didn't the officer say, "This is a married woman"?
A. I never heard the officer say such a thing.

The Court: Now, Mr. Kelsey, haven't you gone far enough?

Mr. Kelsey: Just a word.

The Court: We are not trying any other case than the one at issue here and I won't let you go any further. Put your question and I will rule on it.

Q. And didn't she say to the officer, "Why, she introduced herself and the man that was with her as Mr. and Mrs. Nolan"?

A. Mr. Kelsey, as I told you before, I had never saw the landlady but once.

Q. Then you didn't say it?

A. I did not say that.

Q. Now, Mrs. Brunen, you were all taken or all went to the police station in Jersey City, didn't you?

A. Yes.

Q. That is you, Hazel, Parkstrom and your husband?

A. Yes.

Q. And you were before the police officers, the same ones that were down in Hoboken?

A. Yes.

Q. Did you have a conversation with the captain of police at that place?

A. Well, now I don't just remember because I don't want to say anything I am not sure of.

Q. Didn't you tell the captain of police in the station when your husband went outside, in the presence of Parkstrom and Hazel Brunen, that you were going to get a divorce?

A. My daughter said that.

The Court: I am not going to allow you to ask that. That is overruled. That is stricken out. You have been over that and it doesn't make any difference if she said that or didn't.

Q. Didn't you say that you hated your husband?

A. I didn't say that.

Q. Didn't you say that he was a brute?

A. I didn't say that.

Q. Didn't you say that you lived the life of a dog?

A. I didn't say that.

Q. Didn't you say that you loved Doc Ward?

A. No, sir; I never made such an insertion.

Q. Mrs. Brunen, did you shake a table cover out of the window on the night or the day of the murder?

A. No, sir. I shook my table cover from the porch, as I done every night.

Q. Did you tell Mr. Parker that you might have shaken the table cover?

A. Why, certainly, as I told you, I done every night, from the porch.

Q. Now, Mrs. Brunen, do you recall the time that Mrs. Powell came to your house the day that Charlie was arrested or the day after?

A. Yes, sir.

Q. What time was it?

A. Well, now, I couldn't just say the time, because we were all in bed, and I heard her knock and I waked up.

Q. Well, then, it must have been early morning?

A. Yes, I guess it was early in the morning.

Q. And who went downstairs?

A. I did. I opened the door for Mrs. Powell.

Q. And did you leave her in?

A. Yes.

Q. And what did Mrs. Powell say to you?

A. Well, if I can just remember, she says, "Where is your brother?" I says, "Why, my brother is sleeping." "Mr. Mohr," she said. I said, "Why?" So she says, "Why, your husband is arrested." "Well," I says, "sit down and I will wake my brother up," which I called my brother from the stairs, which he came down.

Q. Then you and Mrs. Powell and Harry Mohr—you referred to as your brother ——

A. Yes, sir.

Q. And what was said at that time?

A. Why, there was nothing said, merely that her husband was arrested; and I said to Mrs. Powell, "Well, don't worry. He will be out. They are just taking everybody." That was the words I had said to Mrs. Powell.

Q. Did you say, "Sh!"?

A. No, I never said that to Mrs. Powell. I had no cause to say that.

Q. Then Mrs. Powell is incorrect when she says that?

The Court: No. Now that is for the jury to say.

Q. Did you call up Mr. Parker, to see if they had arrested Charlie Powell?

A. No, I didn't.

Q. Why didn't you call him up?

A. Why should I call him up when Mrs. Powell told me he was arrested?

Q. Weren't you interested?

A. Why, yes, I knew he was arrested. It was in the paper, wasn't it?

Q. Weren't you interested as to who killed your husband?

A. I certainly was.

Q. And you didn't think then it was your place to call Mr. Parker up?

A. I knew he was arrested. It was in the paper.

Q. Now, Mrs. Brunen, you knew that Harry Mohr called on Charlie Powell quite frequently, didn't you?

A. I don't know nothing about what my brother did. I wasn't there.

Q. Well, didn't he ever tell you?

A. I never had a conversation with my brother.

Half the time we wouldn't see each other, and my brother would just eat and go out with my husband.

Q. He never told you that he went to see Charlie Powell any time?

A. I never had any conversation with him.

Q. You never had any conversation with him about Charlie Powell; he never told you he was at his house?

A. Told me that he had some flags that he was distributing, selling for us.

Q. That was the only time that he mentioned being at Charlie Powell's house?

A. And saying that he was a promoter for certain things in Philadelphia.

Q. Did he speak to you about promotion?

A. Yes.

Q. What else did he say?

A. That is all I remember.

Q. Did he say when he would see Charlie Powell?

A. No.

Q. And haven't you seen Charlie Powell?

A. Why, yes, I seen Charlie Powell.

Q. Haven't you seen Charlie Powell riding around with your brother?

A. Some time I did, yes.

Q. In Riverside?

A. Yes.

Q. And how many times have you seen him?

A. When he would come to the house for flags.

Q. Well, that was only once, wasn't it?

A. No, sir; three or four times he came for flags.

Q. Three or four times?

A. Yes, sir.

Q. Didn't your brother take the flags down to Charlie Powell's house?

A. No, they were thrown out of the attic window.

Q. Didn't he take them down to ——

A. Put them in the car. Some time. Once Charlie took a package in the trolley car.

Q. That was once?

A. Yes.

Q. Well, the other times your brother would take the flags, wouldn't he, in his car?

A. No, the only time when Charlie would come we would pack them in the car.

Q. How many times did Charlie come after the flags?

A. To my knowledge three or four times. I don't just remember.

Q. Was Mohr with him at that time?

A. Yes.

Q. You saw Charlie Powell in Philadelphia the night he was arrested, didn't you?

A. At a meeting?

Q. Didn't you see him in Philadelphia?

A. I never was at any meeting.

Q. Didn't you see Charlie Powell at the Windsor Hotel?

A. Yes.

Q. And wasn't your brother there also?

A. I couldn't if I wasn't there.

Q. Your brother was there, wasn't he?

A. Yes.

Q. And that was the night that he was arrested, wasn't it, just previous to his arrest?

A. I couldn't tell you. I don't remember when Charlie was arrested.

Q. Do you remember Mrs. Powell coming up to your house the next day?

A. Yes, but you said the house—the time that he was arrested at the Windsor Hotel. I don't remember that.

Q. You know that Marie was up there the next morning, don't you, up to your house?

A. Yes. Well, I don't know whether it was the next morning or not.

Q. You don't know whether it was the next morning or not?

A. The next I saw Charlie is that once at the hotel.

Q. Didn't seem strange to you that you having seen him such a short time before, doesn't that refresh your memory in any way?

A. How do you mean strange?

Q. Why, she coming up so early the next morning and you having seen him just the night before.

A. No, as I said, it wasn't no surprise, as they were taking everybody, Mr. Kelsey.

Q. Did you say that night, "I am the Mighty Doris now"?

A. I never said such a thing.

Q. You didn't say that at the Windsor Hotel?

A. Why, I certainly didn't. Why should I say such a thing?

Q. Now you said they were arresting everybody?

A. Yes.

Q. Tell me who they arrested besides Charlie Powell.

A. Why, Mr. Parker was telling us he was taking all the show people. Only what he told me.

Q. You said they were arresting everybody.

A. Yes.

Q. Now tell me one person that he has arrested that you know of before Charlie Powell.

A. I believe they took Paul Parrell.

Q. Was Paul Parrell arrested?

A. Well, I thought he was.

The Court: She got her information from Mr.

Parker, as I understand. Now don't waste time with going into mere technicalities.

Q. Did Mr. Parker ever tell you that he had arrested anyone, Mrs. Brunen?

A. Mr. Parker had told me he was taking all the show people.

Q. And by that you thought he was arresting each one of them?

A. Certainly.

Q. There is just one question, may it please the Court, that I have neglected. I show you a paper marked D22 and ask you where you kept that paper all this time.

The Court: What is D22?

The Prosecutor: That is the paper ——

The Witness: Why, this is the paper ——

The Prosecutor: Just a moment. That is the paper Harry Mohr said he left on the typewriter for John Brunen on the day of the ——

The Court: That is the letter left on the typewriter for John Brunen on the day that the homicide occurred. Now answer it.

A. Why, my brother had left this so in order to get the ad in for the Billboard, for Mr. Brunen when he returned.

Q. That is not in response to my question.

The Court: Repeat it.

Q. I ask you where that paper has been all this time?

A. I don't know where it has been. It was on the typewriter.

Q. Did your husband ever receive that paper?

A. He certainly did.

Q. And where has it been since that time?

A. He put it back on the typewriter.

Q. Well, where has it been since your husband's death?

A. That I couldn't say, I don't know.

Q. Did you put it away yourself?

A. No, sir.

Q. Did you give it to Harry Mohr?

A. No, sir.

Q. But it has been in your possession or his possession since that time?

A. Not in my possession. I told you that was left on the typewriter, that I rememebr of.

Q. But you have moved, since that time?

A. I don't know, it was left on the typewriter, that's all I know.

Q. That was the last you saw of it?

A. That was the last I saw of it.

Re-direct examination.

By Mr. Keown:

Q. May I ask you, Mrs. Brunen, when again did you see that paper?

A. What do you mean?

Q. You say the last time you saw that paper was when it was left on the typewriter?

A. Yes, sir.

Q. Had you seen that paper again before I showed it to you yesterday?

A. No, sir, I have never seen it since you showed it to us here.

ERNEST L. MAYO, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Mayo, you have been convicted of a crime?
A. Yes, sir.
Q. And where are you at present confined?
A. New Jersey State Prison, Trenton.
Q. Were you ever in the Burlington County jail?
A. Yes, sir.
Q. If so, when?
A. From May 16th up until October 23rd.
Q. Was Charlie Powell confined in the Burlington County prison during the time you were there?
A. Yes, sir.
Q. Have you ever had any conversations with Charlie Powell when he was confined in the Burlington County jail?
A. Yes, sir.
Q. And if so ——

The Prosecutor: I ask the witness not to answer too quickly in response to the questions. Allow me a chance to object.

The Court: Well, are you objecting or what?

The Prosecutor: The objection at this time ——

The Court: What is your objection?

The Prosecutor: I didn't say, I asked the witness to refrain from answering so quick so as to allow me time to object.

The Court: When a question is asked, just give an opportunity for counsel to object before answering.

Mr. Peacock: That is objected to if it is for the purpose of contradiction.

The Court: One moment. The question is not put. Repeat the question.

(Question repeated.)

Mr. Peacock: My understanding of the question as repeated by Mr. Macdonald is that this witness is brought to repeat a certain conversation.

The Court: He can show the conduct of Powell or what Powell said, as to whether he was rational or not. Powell was asked upon the witness stand whether he didn't say so and so, and he said, "I don't remember," as I recall his testimony. He answered he didn't remember as to his conduct, didn't have any recollection of it, didn't know that he barked like a dog, and certain other things were asked of him. That is my recollection of the testimony. I may be mistaken, but if that is so this witness is now brought on the stand for the purpose of showing what his conduct was. It is part of their defense.

Q. Mr. Mayo, my question was had you had any conversations with Charlie Powell while he was confined to the Burlington County Prison, and if so what did he say and do on those occasions? The Court says you can answer those questions in your own way.

A. Well, I have been in his cell two or three

times, shook hands with him, talked to him, and asked how he was getting along. That is about all. Nothing spoke about the case or anything.

Q. What did Mr. Powell do on those occasions?

A. Why I would ask him how he was getting along, and he would shake hands with me, and that would be all that he would do. He would never say anything to me.

Q. Have you ever heard Mr. Powell do anything or say anything other than usual conversation?

A. Yes, sir.

Q. That is what I wish you to testify to.

A. I have heard him at night barking like a dog. "Don't bother with me. I am here under the bath tub, call the cops, and don't bother me. I am a T. N. man."

The Court: What?

The Witness: T. N.

Q. When was it you heard Mr. Powell make the statements?

A. In the month of May.

Q. Do you remember when Mr. Mohr was brought to the county jail?

A. No, sir, I wasn't in there then, sir.

Q. Covering a period of how long did those remarks that you have just enumerated cover?

A. Well, I heard them off and on for about two months, sir, from the last of May up until all of June.

Q. Was Mr. Powell in prison before you?

A. Yes, sir.

Q. And when did you go to the county prison?

A. May 16th this year, sir.

New Jersey State Library

Cross-examination.

By the Prosecutor:

Q. Mayo, you are serving a life sentence there?
A. Yes, sir.
Q. As a murderer, for murder?
A. Yes, sir.

GROVER LANDIS DUNCAN, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Duncan, have you been convicted of a crime?
A. Yes, sir.
Q. Are you now confined to the New Jersey State Prison at Trenton?
A. Yes, sir.
Q. Were you ever confined to the Burlington County prison?
A. Yes, sir.
Q. When, sir?
A. When I was locked up on the 13th of January, 1922.
Q. And when did you leave the Burlington County prison?
A. I left on the 31st of May, 1922.
Q. Was Charlie Powell confined to the Burlington County prison during any part of the time that you were confined there?
A. Yes, sir.
Q. Have you ever heard Powell make any queer

yells or rackets while you were in the Burlington County prison?

A. Yes, sir.

Q. Will you just please tell his Honor and the gentlemen of the jury what you have heard Powell say while you were confined in the prison?

A. Well, I have heard him holler, yell, he would make some pretty wicked yells, "Help! Help! Help! here I am under the bath tub," and he screamed for the night watchman that was on duty to come up, that the man was out in the back yards trying to get to him with guns to kill him.

The Court: Go ahead.

The Witness: And he would holler, "No, that man doesn't live there, that's not Charlie Powell, here is Charlie Powell next door."

The Court: Anything else?

The Witness: Then he would holler, "Help! Help! Help! don't hit me with that stick. Here I am under the bath tub. Come around this way. Don't let the man hurt you there."

Q. Have you ever heard any noises from the cell, coming from anything other than Charlie Powell's voice?

A. Yes, sir.

Q. Just please tell us what you heard.

A. Well, I have heard noises in there like he was probably hitting his head against the wall, or something.

The Court: Did you hear him bark?

A. Yes, sir.

Cross-examination.

By the Prosecutor:

Q. Duncan, you were convicted of murder, weren't you?

A. Yes, sir.

Q. You heard noises too there, didn't you?

A. No, sir.

Q. Did you ever hear the dogs bark out in the yard?

A. No, sir.

Q. Jail yard? You know there were dogs there, don't you?

A. There was two out there.

Q. Could you tell the difference between their bark and Charlie Powell's bark?

A. Yes, sir.

Q. You said he barked. Did he ever bite you?

A. No, sir, he was locked up and so were I. He couldn't get to me.

Q. How many other men were in the cell, that is, with Charlie Powell?

A. Well, there were, after he made this wild yell spree, they put two men in there to watch him.

Q. Could you see him? Could you see when he barked?

A. No, sir, I was locked up in a cell.

The Court: He said he heard it. How could he see him if he was in another cell?

Q. They were watching you too, weren't they?

A. Sir?

Q. They were watching you too, weren't they?

A. Well, I don't know about that.

JOHN DENNO, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Denno, have you been convicted of a crime?
A. Yes, sir.
Q. And where are you now confined?
A. Trenton States Prison.
Q. Were you confined to the Burlington County prison?
A. Yes, sir.
Q. When?
A. Why, some time in February.
Q. How long?

The Court: February of what year?

The Witness: 1921, 1922 rather.

Q. Was Charlie Powell confined there during any of the period you were there?
A. I don't know.
Q. Have you ever heard Charlie Powell during that period ——

The Court: He says he doesn't know whether he was confined there.

By the Court:

Q. Did you hear anybody there ——
A. Yes, your Honor.
Q. Did you say you heard somebody?

A. Yes, sir, your Honor, please.

Q. Well, now, let us see. What do you know? Did you hear any noises coming from any of the cells there in the jail?

A. Yes, your Honor.

Q. What kind of noises?

A. Why, I heard a man hollering, "Help! Help! Help! Here I am under the stove. Don't hit me anymore with them sticks. I don't know anything about it. Help! Help! Help!"

Q. Did you hear anything else?

A. "Here I am under the stove, here I am under the stove." For three nights in succession I was awakened by it.

Q. How often did it occur?

A. Your Honor, I heard it for three days, continuous, that was.

Q. But of course, you didn't see the man?

A. No, I didn't see the man.

Q. Did you know what cell it was?

A. Well, I couldn't say exactly, it sounded very near, but I couldn't say where it was.

Q. Were you in an upper tier?

A. I was in a dungeon, your Honor.

Cross-examination.

By the Prosecutor:

Q. Wasn't that when you broke out of jail they were yelling after you?

A. No, no.

Q. How many times have you been convicted?

A. I couldn't say how many.

Q. A dozen times?

A. I don't know.

Q. Do you think it is a dozen or over?

A. I wouldn't say it is or it ain't.

Q. Do you mean you have been convicted so many times you don't know or don't want to know?

A. I don't think it concerns the Court what my past is. I am here for something else.

Q. I want you to answer that question, if you will.

The Court: He says he has been convicted.

A. I won't answer it.

The Court: He has been convicted.

Job Noe, sworn for defendant.

Direct examination.

By Mr. Keown:

Q. Have you ever been convicted of crime?

A. Yes.

Q. And where are you now confined?

A. Trenton, New Jersey, State Prison.

Q. Were you ever in the Burlington County prison here?

A. Yes.

Q. When, sir?

A. Between the 29th of May, 1922, until the morning of June 10, 1922.

Q. During that period while you were in the Burlington County prison did you ever hear any peculiar sounds or noises from Charlie Powell?

A. Yes.

Q. Just please tell his Honor and the gentlemen of the jury what you heard.

A. I heard Mr. Powell—I don't know whether it is Charlie Powell or not, but I heard a noise.

Mr. Peacock: I object to it, unless it is proved it was Charlie Powell. I will withdraw the objection.

A. Shall I proceed with my statement?

The Court: Yes, you will proceed.

A. Why, some guy, it was a man there—I will say a man; of course I mean a man—some man over in this end, down below, he made a peculiar noise. Well, I was in great pain, I wanted him to stop the noise, and of course that caused me to walk a great deal. He had a way of making this noise late at night and early in the morning, just before the officer arrived who gave us our breakfast, and of course I walked up and down the room and sometimes I would lay down, and this guy made this noise—it was a kind of noise—barking, and somebody was trying to catch him; he thought was trying to shoot him, something or other; and I don't know what he imagined. I know that he—whomsoever the guy was—he continued with that noise on the 5th, 6th, 7th, 8th and 9th, and I inquired about him and they says, "Why, they carried him away." I says, "They have?" And then the fellow commenced to holler, "Take this guy out of here. I won't stay here. Take care of this guy. Take him out." Some red-headed fellow. And eventually this guy came up, stirring up, and he says, "I got out from it."

By the Court:

Q. You said he was barking at times?
A. He barked at times.
Q. Barked like that?
A. He barked something like a dog, but it was not quite the bark of a dog, because it had that man's twang.
Q. Did he do that often?
A. He did it. I could almost remember the date. I heard him the first time last Saturday—Sunday —I was not in this room a day, I don't think, until I heard this fellow. I heard him Saturday, Sunday. He didn't bark any during the church, but he barked, by jacks, right afterwards. He barked Sunday, Monday, Tuesday, Wednesday, and I inquired about him Thursday and that was the day I came over here, when I came to court. I didn't hear him when I got back until that night, and he barked that night and he barked the next morning, and the next morning I was brought away, that was Friday. That is, I was carried away.

By Mr. Keown:

Q. Have you ever taken any precautions by reason of these sounds you heard?
A. Yes, sir.
Q. Just tell your Honor what you did.
A. Well, there was a young man in the next room to me and he had a good voice. I had never seen this young man, neither had I ever seen this other party. So this young man said he was afraid of him and what he would do and what he did do, had he broken out. And I was a little afraid that if this fellow broke out he could easily get me, because

I had one arm then; and I used to put my bed up close to the door, in order if he broke through he wouldn't get me in my room. I kept my bed up at all times during the night up close to the door. And when this young fellow used to hear about what he had done in the preparation he had made in order if this fellow broke out, he says, "He will never get me, by jacks, I will get him first." I didn't want to say that "By jacks." He says, "I will get him first."

Cross-examination.

By Mr. Kelsey:

Q. Your door opened out, didn't it?
A. My door opened out?
Q. Yes, out into the corridor.
A. Out from what?
Q. Out into the corridor from the cell.
A. Sure the door did, but he could never get past me, by jacks. He could never get by me if he ever came in that cell, because there was two beds in the room, understand, and one bed on that side and one bed on that side. I pushed that other bed up to the door.

By the Court:

Q. Blockaded the door?
A. Blockaded the door. I put that bed across, understand, and put my bed there at all times. I used to lay there.

By Mr. Kelsey:

Q. You were suffering from gunshot wounds?

A. Yes.

Q. And that aggravated your condition?

A. This noise aggravated me at times, the pain of the shot.

Q. Tell us how he barked.

A. Well, he made a noise.

Q. Just give us an illustration.

A. He tried this thing, whoever he was, or this guy.

Q. Now you bark like he did.

A. I can't exactly bark like that.

Q. Try it.

A. I would not attempt to, because I can't

Q. But he barked like a dog?

A. Listen, let me tell you what happened. This guy ——

Q. Answer the question. You said you can't bark?

A. No. I am not a dog, am I?

Q. How many times have you been convicted?

A. Oh, one, two, three, four—we will say fifty, more or less, and all in the State of New Jersey with the exception of one.

Q. How old are you?

A. Now listen ——

Q. Answer the question.

A. I don't know.

Q. You have served over twenty years in jail, haven't you?

A. Well, we will state it correctly. Fifteen years in the State of New Jersey and seven years and twenty-one days in Pennsylvania, consequently it is twenty-two years and twenty-one days at the present time. Is there anything else you desire to ask me?

The Court: That is all.

JOSEPH BALLMAN, sworn for the defendants.

Direct examination.

By Mr. Keown:

Q. Ballman, have you ever been convicted of crime?

A. Yes.

Q. And where are you now serving time?

A. Trenton.

Q. Were you ever in the Burlington County prison here?

A. Yes.

Q. Were you in there during the same time that Mr. Powell was in there?

A. Yes, sir.

Q. Mr. Charlie Powell?

A. Yes, sir.

By the Court:

Q. Do you know him?

A. I know him when I see him from being in the jail.

By Mr. Keown:

Q. Has Mr. Powell ever made any queer noises or sounds while he was in the prison over there that you heard?

A. I seen him jumping around hollering, "Here I am under the bathtub. Come and get me;" jumping over the tub, seen a gentleman that was in there, Mr. Eckert, taking care of him, watching him up and down when he was raving, one of his fits.

Q. How many times have you heard this kind of noises from Mr. Powell?

A. I just exactly don't know how many times, but numerous times; seen him jumping around; seen him down in the yard; come down in the yard; the man couldn't hardly walk straight, couldn't hardly stand up on his feet, walking around. When I was in the yard the man told me upstairs, "There is a crazy man down there." I went upstairs and he went in the yard.

Q. Anything else that you heard of or saw, or I mean things that you have heard from Mr. Powell or seen from him while you were over there?

A. Why, I seen the man jumping around there, and a big man, Mr. Eckert, walking him up and down, and once in a while hollering, "Here I am under the bathtub. Come and get me;" and hollering, "Mr. Horner, Mr. Horner, Mr. Horner."

Cross-examination.

By Mr. Kelsey:

Q. How many times have you been convicted, Joe?

A. Once.

Q. Weren't you in Rahway once?

A. That is the only time.

Q. Where are you now?

A. Well, this is the second time. I am talking about one time previous to this.

Mr. Keown: If your Honor please, there will also be more boys right along this line from Rah-

way. They have not arrived yet. May I proceed along another line?

The Court: Yes. You are through with these?

Mr. Keown: Yes.

The Court: They shall be at once taken back to State Prison. Have them taken there at once.

Mr. Keown: May I at this time make a brief request to interview some prisoners who are now in the prison? That right has been denied me unless I have an order from your Honor. There are some prisoners over there that I would like to interview. May I have that right?

The Court: Well, I can't stop the Court for that purpose.

Mr. Keown: No, I don't mean that, sir. I would have one of my associates ——

The Court: You may talk to them, yes. You may have a person there.

MELVIN KNAUB, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. What is your name?
A. Melvin Knaub.
Q. And where do you reside?

A. Reading, Pennsylvania.

Q. You are a doctor of medicine, are you?

A. No, sir; a graduate of the College of Mechano-Therapy.

Q. Did you know John Brunen?

A. I did.

Q. How long have you known him?

A. About six years.

Q. Will you please explain to the Court and the jury the circumstances concerning your first meeting?

A. Well, in 1916 Mr. Brunen was in need of a promoter, or what is termed that for a show. I applied and was employed by Mr. Brunen for a short period in that position. About four weeks afterwards I became general agent of that year. Then the following year I was business manager of the show, and then in subsequent years secretary and treasurer, up till 1921, August, the last of August, 1921.

Q. Do you know Harry Mohr?

A. I do.

Q. When did you first meet Harry Mohr and for how long have you known him?

A. The same time as Mr. Brunen, with the exception of being away from the show I was with, having went out with his own for a year or two.

Q. Did you know Doris Brunen?

A. I did.

Q. When did you first get acquainted with her?

A. The same time and circumstances concerning this meeting; the same time as with Mr. Brunen.

Q. Did you know Hazel Brunen?

A. I did.

Q. When did you first get acquainted with Hazel Brunen?

A. The same time as with Mr. Brunen.

Q. How long did you work for Mr. Brunen?

A. About six years.

Q. What were your relations with Mr. Brunen during the time that you worked for him?

A. Very friendly.

Q. Did you ever have any quarrels with John Brunen during that time?

A. Oh, yes.

Q. And what would happen to you?

A. Well, I quit on one occasion for about fifteen minutes. Might I explain that to the Court?

Q. Yes, please.

A. Mr. Brunen was a man of——

Mr. Kelsey: I object. What is the object of this testimony? It hasn't any relevancy to this case whatever—a quarrel for fifteen minutes six years ago.

The Court: I think it is too remote. I will rule it out.

Q. Did you ever know of John Brunen threatening to take the life of anyone?

A. I did.

Mr. Kelsey: I object to this. Now what has this got to do with the case?

The Court: It would not be evidential of anything unless the person who took Brunen's life was informed of that fact and did it in self-defence or something of that sort. I do not see how you make it evidential.

Mr. Keown: Have I not the right at this time

to prove that some one other than Charlie Powell may have had grudges against Mr. Brunen and may have committed this murder? And the fact that anyone has made a threat against Mr. Brunen, would that not ——

The Court: I will let you do that; I will let you show, but you are saying that John Brunen made a threat. You asked him if John Brunen made a threat against him. How does that prove that the other person made a threat against John Brunen?

Mr. Keown: Merely to show that that thing itself would make enemies for Mr. Brunen.

The Court: Well, I don't know about that.

Mr. Keown: That is my purpose in asking this question. I thought the fact that Mr. Brunen had enemies, that this witness would testify ——

The Court: Well, when was this? First find out. Get it down close to the time of the homicide and then I will see whether it has any pertinency.

Q. Well, when was it, Doctor?

A. The middle week of August, 1919.

The Court: Well, now, that is rather remote, isn't it?

Mr. Keown: All right. I won't press it, sir.

Q. Have you ever heard any quarrels between Harry Mohr and John Brunen?

A. I have.

Q. Did you hear a quarrel at Salamanca?

A. I did.

Q. What was the quarrel about?

A. State the incident relative to it?

Q. Yes, please.

A. It was in regard to a supposed order that Mr. Mohr had given to a concessionaire that did not meet with the approbation of Mr. Brunen, and as a result Mr. Brunen censured Mr. Mohr in the presence of some of the committeemen, which appeared to cause an argument.

Q. Did Harry Mohr have any conversation with you about this quarrel?

A. He did. He came to me and told me he had left; that is, had left the employment of Mr. Brunen and that he intended getting his shows and wagons. He says, "I am going to attach this show," he said, "and take my circus, by Joe, and my athletic show and wagons by means of an attachment."

Q. Do you know whether Harry Mohr owned the shows and wagons of which you were just speaking?

A. I do.

Q. Did he own them?

A. He did.

Q. Where did you leave the Brunen shows?

A. In Lebanon, Pennsylvania, the last week of August, 1921.

Q. When did you first learn of Mr. Brunen's death?

A. Shortly after midnight on the night of the tragedy.

Q. And how did you learn of the tragedy?

A. Mr. Parker had requested by phone two detectives in Reading to call me to have them ascertain the address of a certain Bobby Connor.

Q. Did you furnish that information?

A. I did.

Q. When did you arrive at the Brunen home after the tragedy?

A. About one o'clock on the following day.

Q. Why did you go to the Brunen house at this time?

A. Owing to the fact that I had been a friend to the family for about six years and that Mr. Mohr had requested me to get in touch with him through the detectives; that is the detectives had told me that he requested me to get in touch with him by long distance phone.

Q. Did you get in touch with him?

A. No, sir; I took the train, as I told the detectives I would, in the morning; and went right over.

Q. How long did you remain at the Brunen home?

A. Till the afternoon of the funeral, that is, after the funeral had been over, at which time I returned to Reading.

Q. When did you next arrive at the Brunen home?

A. About—I can't say whether it was one or two days later.

Q. How long did you remain at the Brunen home on this visit?

A. About five weeks, until they moved out of Riverside into Philadelphia.

Q. Did you stay at the Brunen home day and night?

A. I did not. I had rooms at the hotel where I spent the night; merely remained at the home during the day.

Q. What were you doing for the family at that time?

A. Well, I suppose I will have to state that Mr. Mohr requested me to remain there, owing to the

nervous condition of his mother and sister, and see that reporters did not annoy them, also I was to take full charge of the corresponding and the writing of contracts that had not been written; in fact, a form of secretary, like I had formerly been with the show.

Q. Do you recall writing a letter to the Burlington County authorities in regard to the people employed on the Brunen show during the season of 1921?

A. I do.

Q. What did that letter contain?

A. Well, it contained the usual form. I can't give you the exact words, but similar—"Enclosed find copy of names of concessionaires connected with the show during the season of 1921."

Q. Did Harry Mohr read the letter before signing it or did he check the addresses of the persons contained in that list prior to the mailing of it?

A. Well, as to reading the letter, I couldn't say, because every night there would be a bunch of letters there which I had written during the daytime and which he would merely put his signature. I never signed his name for him. And I know the most of those letters he didn't read. And in regard to whether or not he checked up the list of names, I am positive he did not, because I was in a position to know those names as well or possibly better than he would.

Q. Where did you get the information to prepare that list?

A. Merely from memory.

Q. Who comprised the Brunen household while you were in Riverside?

A. Mrs. Brunen, her mother, Hazel, Harry Mohr, and occasionally Mr. Mohr's wife would be on a

visit, but I don't think we termed her a member of the household.

Q. Was Hazel Brunen at the house the entire time that you were there?

A. Barring the periods that she would go on errands or be away with her mother evenings.

Q. Did she ever speak about her father in your presence?

A. She did.

Q. What was her conversation?

A. Well, I couldn't quote her exactly, but I know that on one or two occasions they were disrespectful, and one conversation especially I remember at the supper table, in the presence of Mrs. Mohr, Mrs. Brunen, Hazel and myself. Hazel was having an exceptionally good appetite and I remarked jestingly about the same. She said, "Well, Doctor," she says, "since father is gone I can now enjoy my meals, but before his death I would possibly be enjoying a meal when I would hear him approach and I would become frightened, not knowing what trouble he would start, and lose my appetite."

Q. What were the relations existing between Doris Brunen and Hazel Brunen throughout your acquaintance with them?

A. More like two girl chums than mother and daughter; very friendly.

Q. Where did you go after the Brunen household moved from their home in Riverside?

A. To the Windsor Hotel in Philadelphia.

Q. Why?

A. Because Mr. Mohr requested me to at least continue the secretary work until the show went on the road. I had refused to go on the road.

Q. How long did you remain in Philadelphia?

A. Well, I couldn't answer that accurately, but I would say about possibly a week and a half or

two weeks, but that is not an absolutely accurate statement, it is merely approximately.

Q. Did you visit the Brunen home while they were living at 3029 Ridge Avenue, Philadelphia?

A. I did.

Q. Did you hear Hazel Brunen make any statements in the presence of Miss Mattie Mohr at this Philadelphia residence?

A. I did.

Q. What did she say?

A. Well, I think on the first occasion that I visited the home Hazel made a remark to me—it was after the incarceration of her uncle, and they talked of them keeping her uncle locked up on the word of a drunken dope fiend like Charles Powell.

Q. What was her attitude towards Charles Powell after the time that Harry Mohr was arrested?

A. Very bitter.

Q. Did Hazel Brunen ever write to you any letters during this summer?

A. She did.

Q. Have you that letter?

A. I have not.

Q. Can you remember the contents of the letter?

A. Yes, sir.

Q. Please tell the Court and jury what it said.

A. Hazel wrote to me—I can't give you the exact date, but approximately in July, and asked my advice regarding putting a notice in the "Billboard" for the friends that were acquainted with her step-mother to come forward and testify at the trial in her step-mother's behalf. Of course she used the word "mother" didn't use the word "step-mother" in the letter.

Q. During the time that you have been with the Brunens did Mrs. Brunen cooperate with Mr. Brunen in the business?

A. She did.

Q. What did she do?

A. I have known Mrs. Brunen to take charge of the privilege car in 1919. By the privilege car I mean the place where the refreshments are served, meals cooked, etc. And also I have seen her be ticket salesman, or what we would call naturally in the show business a ticket seller, in the circus sideshow in 1921. But as long as I can remember her, I always remember her as working very hard to aid and abet Mr. Brunen in making a success of the show.

Q. Do you remember whether Mr. Brunen had any enemies?

A. Oh, yes, he had enemies.

Q. Do you know who any of those enemies were?

A. Well, now, I would have to merely give the hearsay testimony from Mr. Brunen's words. I would not have any direct evidence, as they haven't told me directly, but Mr. Brunen has frequently spoken to me. We were very confidential.

Q. Who are they?

A. Well, on one occasion Mr. Brunen—I am disgressing, possibly, but I have been to South America and returned, and then he told me there was a robbery taken place in which his wife was robbed, not of a certain amount but of all her jewelry, and that he thought Charlie Freedman—in fact he didn't say he thought so, he said he did; and I tried to say that Mr. Freedman didn't, because I had known him on a show prior to that, but Mr. Brunen, the moment I would make an argument he didn't, became very bitter and became aroused and emphatically declared the Freedman boys were guilty of that robbery.

Q. Any other names mentioned?

A. I don't recall at this time.

Cross-examination.

By Mr. Peacock:

Q. How long were you with Mr. Brunen, Doctor?
A. Six years, about.
Q. Let's see. You are a doctor?
A. Of Mechano-Therapy.
Q. How long have you practised?
A. I haven't practised for thirteen years. I was advanced from promotion to general agent, to business manager, and from business manager to secretary and treasurer.
Q. You are a great friend of Harry Mohr?
A. Of Mr. Brunen and Harry Mohr, equally.
Q. You would do anything to help Hary Mohr out?
A. Anything I would believe just.
Q. You were at the Brunen home after the murder?
A. Yes, sir.
Q. Took charge of the front door?
A. Yes, sir.
Q. Took full charge?
A. Yes, sir, absolutely.
Q. Mr. Parker asked you to write out a list of concessionaires?
A. Yes. I think Mr. Mohr did, or it may be one or the other.
Q. And didn't you tell Mr. Parker you couldn't make them out, you would have to get them from Mr. Mohr?
A. I have already stated I do not know whether the order came from Mr. Mohr or Mr. Parker.
Q. Which was it?
A. I am not positive on that point.

Q. You didn't know where these people were located?

A. Oh, no, I would simply know from what they told me formerly.

HARRY BENTUM, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Bentum, how old are you?

A. Thirty-eight.

Q. Do you know the defendant, Harry C. Mohr, and Mrs. Brunen?

A. Yes, I do.

Q. And how long have you known them?

A. I have known Mrs. Brunen for twelve years and Harry Mohr for about six years.

Q. How did you first get acquainted with Mrs. Brunen?

A. Mrs. Brunen, I met Mrs. Brunen when I was business manager of the Rutherford Greater shows, and Mr. Brunen and Mrs. Brunen had some concessions and a show there.

Q. Where did you get acquainted with Harry Mohr and under what circumstances?

A. When I was business manager of the Mighty Doris shows, Harry Mohr became secretary and treasurer of the show.

Q. What was the Mighty Doris show?

A. The Mighty Doris show, you mean what it was?

Q. Yes; and what was the name of the Mighty Doris shows, who was that named after, do you know?

A. Oh, after Mrs. Brunen.

Q. And is that where you got acquainted with Mr. Mohr?

A. That's where I got acquainted with Mr. Mohr.

Q. What is your present position?

A. I am manager of the Bernardi Greater shows, and I have a business down in Petersburg, Virginia.

Q. Did you work for the Brunen shows during the season of 1922?

A. Yes, at the start until the name was later changed to the Bernardi Greater shows.

Q. When was the name changed?

A. The name was changed about July.

Q. But stayed with the same show until the close?

A. Yes, I am at present employed by the same show.

Q. When did you join the Brunen shows in the 1922 season?

A. 1922, I joined, I took active part in it March 11th.

Q. What was your position with the Brunen show during the 1922 season?

A. Was the general advance man and had charge of the entire promotion for the entire show.

Q. Do you know Charles Powell?

A. I do.

Q. When and where did you first get acquainted with him?

A. I got first acquainted with him during the season I was business manager of the Mighty Doris shows, and he was called into the army, then I only met him about one or two days, and he was called into the army, then I saw him again in Timonion Fair in 1920.

Q. Oh, I beg your pardon. When was the first time you saw Charlie Powell during the year 1922?

A. The first time that I saw him it was, I think, around March, the 19th or 20th, something like that.

Q. Do you know where Charlie Powell lived in Camden?

A. Yes, sir, 45 Cooper Street.

Q. How do you know that?

A. Why, Harry Mohr came to me one time and I told him that I needed an advance man, my man that I had engaged didn't show up, and I said if he knowed anybody he could recommend to me, and he said, "Yes, I think Charlie Powell is over here, and if you can use him." I said, "What kind of promoter is he?" I never knowed he was a good promoter, because I never heard of him before. He told me about the circumstances his wife was in, and that Charlie wanted to go out west and take his wife out west on account ——

The Court: Well, now, we don't want to go into all that conversation.

Q. When did you first hear of John Brunen's murder? The night of March 12th, about twelve or one o'clock? How did you get this information?

A. Harry Mohr called me on the long distance telephone.

Q. Upon your arrival in Camden, by whom were you employed?

A. By Harry C. Mohr.

Q. What was your position then with the Brunen show?

A. I was general advance agent and promotion agent for the show.

Q. Did you have charge of the promotion of the Brunen show at 10th and Luzerne Streets, Philadelphia?

A. Yes, sir.

Q. At that time was Charlie Powell employed to assist in the promotion of the show?

A. Yes, sir.

Q. By whom was Powell employed?

A. By me.

Q. By whom was Charlie Powell paid?

A. By me.

Q. What was your contract with the Brunen show?

A. I received a certain salary and net profits of the promotion. I was to give the show a certain percentage and the committee a certain percentage, and whatever was left was split between my assistants and myself.

Q. Did you make any arrangements with Charlie Powell as to what he was to receive?

A. Yes, sir.

Q. What was that arrangement?

A. He was supposed to get $30 a week salary and 25% of the promotion.

Q. Do you recall the night that Charlie Powell was arrested?

A. Yes, sir.

Q. On the night that Charlie Powell was arrested where were you?

A. We were attending a smoker in Philadelphia of Veterans of Foreign Wars.

Q. What do you mean by "we?"

A. Mr. Powell and myself.

Q. Part of your business?

A. Yes, the Veterans of Foreign Wars gave a smoker, and of course, while we couldn't attend to any business that night we went up there to a social function there.

Q. Were you soliciting this organization?

A. That was the organization our show played under.

Q. Did this organization later play at 10th and Luzerne?

A. Yes, 10th and Luzerne, that is the same one.

Q. Now, where did you leave Mr. Powell on that night?

A. I left him on Market Street and I think 11th Street, Market and 11th Street, left him I should judge around 1.30 in the morning.

Q. Now, did you three or four days later accompany Mr. Mohr to the home where Mr. Powell lived?

A. Yes, sir.

Q. And interview Mr. and Mrs. Earnest?

A. Yes, sir.

Q. Was that at 45 Cooper Street?

A. That's right.

Q. Was Marie Powell present at that time?

A. She was.

Q. What did Mr. and Mrs. Earnest tell you in Mr. Mohr's presence, and the presence of Marie Powell, with regard to the movements of Charles Powell on the night of the tragedy?

A. Well, I asked them the night this murder was committed, I asked the lady whether she seen Charlie Powell, rather Mr. Earnest, rather, and they said positively seen Mr. Powell at 7.30 in the bathroom in their own house, and later on while I made several trips I happened to run across—my wife and myself happened to run across Mr. Earnest, and I asked him the same question again, and I said, "Is it really true you seen Charlie Powell at 7.30 in your house?" and he said, "Yes."

Q. Was that conversation after Charlie Powell was arrested?

A. It was after Charlie Powell was arrested. One conversation was about three, four months later, and the other was about four or five days after the murder.

The Court: With whom was this conversation?

The Witness. Mr. Earnest, the man that owns the boarding house.

The Court: Was Mr. Earnest asked about this?

Mr. Keown: I think so. No, we will recall Mr. Earnest. I think your Honor did not allow me to go into this, and we will recall Mr. Earnest on this question.

The Court: How do you make it evidential?

Mr. Keown: I grant, your Honor, it may not be evidential.

The Court: Then I will strike out all this testimony.

Mr. Keown: That only is as to the last conversation, which is a matter I did not know the witness was going to testify to.

The Court: There was testimony by Mrs. Earnest?

Mr. Keown: The conversation in Marie Powell's presence three or four days after the tragedy.

The Court: That has been testified to by Marie Powell, and Mrs. Earnest had reference to that conversation.

Mr. Keown: Yes, sir.

The Court: That may stand, but this is entirely

outside of the proper scope of the examination. I will strike that all out. No objection was made to it.

Q. Now, was Marie Powell present, did she corroborate what Mr. and Mrs. Earnest said at the time you had the conversation three or four days after the tragedy?

A. Yes, sir.

Q. I mean after the arrest?

A. After the arrest, that's what I mean too.

Q. How many times have you visited the Brunen home at Riverside since the tragedy?

A. Practically every day except when my duties kept me in Philadelphia, then I stayed in Philadelphia.

Q. Did you have opportunity to observe the actions of Hazel Brunen on these occasions?

A. Yes, sir.

Q. Did you observe, pardon me?

A. I certainly did. In fact I was remarking several times ——

The Court: Never mind what you have remarked. You have answered the question.

Q. Did you ever see Hazel Brunen shed a tear over the death of her father, Mr. Brunen?

A. No, sir.

Q. Did you attend the funeral of John Brunen?

A. I did.

Q. Did you say to Harry Mohr, in the presence of Hazel Brunen that Bennie Franklin told you, just before leaving Baltimore, "The guy that killed John Brunen ought to have a gold medal?"

A. I did.

Q. Did Bennie Franklin make that statement to you?

Mr. Peacock: I object to that, what Bennie Franklin said. He is not a party to this issue. It is hearsay testimony.

The Court: Didn't you introduce that?

Mr. Peacock: No, Hazel Brunen said that Harry Mohr said, "The guy that killed your father ought to have a gold medal." This man's testimony is that he told Harry Mohr, and Harry Mohr told Hazel Brunen.

The Prosecutor: One moment ——

The Court: One counsel at a time. I understand the object is to contradict Hazel Brunen's testimony. She attributed this statement to Harry Mohr and the defense is attempting to show now that the statement was not made by Harry Mohr, but that this witness made a statement that somebody else made the remarks which were testified to by Hazel Brunen as coming from Harry Mohr. Is that what ——

Mr. Keown: Exactly, sir.

The Prosecutor: Now, may it please the Court, Mrs. Brunen said on her direct testimony that Harry Mohr told her that someone had told him that the man that shot John Brunen should have a gold medal, in her direct testimony.

The Court: Well, that is what this witness says.

The Prosecutor: Yes.

The Court: Then there seems to be no dispute about it, that Harry Mohr didn't say it. I don't know what position you are taking. Do you attribute this remark as coming from Harry Mohr?

The Prosecutor: Yes, most assuredly.

The Court: Then the position of the defendant is it did not come from Harry Mohr. That is what this witness is testifying to. That is the way I understand it.

Mr. Keown: What was the question, Mr. Macdonald, please?

(Question repeated.)

The Witness: He did, in Baltimore.

Mr. Peacock: That was the statement concerning the awarding of the gold medal to the party that killed John Brunen.

The Court: He is the author of that statement, so the witness testified.

Q. Now, are you sure that Hazel Brunen was present when you made that statement to Harry Mohr telling what Bennie Franklin had told you?
A. Yes, sir. In fact, there was more present.

The Court: Who were they?

The Witness: Why, Dr. Knaub was present at

that time and Mrs. Brunen and Mrs. Mohr, the grandmother, and Hazel Brunen was present.

The Court: Where was this made?

The Witness: In the Riverside home.

The Court: In the morning or afternoon, or do you recall?

The Witness: I don't quite recall, Judge, because I was there two or three times a day sometimes.

Q. Do you remember the day that it was, Mr. Bentum?

A. It was four or five days after the murder was committed, or right after the funeral, I think it was.

Q. You mean to say right after the funeral? Do you mean on the day after the funeral or on the day of the funeral?

A. One or two days after the funeral.

Q. Did you ever visit the Brunen household after they moved to 3029 Ridge Avenue, Philadelphia?

A. I did.

Q. Did you make a visit there shortly after Harry Mohr was arrested?

A. Shortly after Harry Mohr was arrested? No, I didn't.

Q. Have you ever heard any remarks passed by Hazel Brunen concerning her father at the Riverside house?

A. Yes.

Q. Will you please state what those remarks were that Hazel Brunen made?

A. One of them was that Hazel made, that was before the funeral, in one way she was glad her

father was dead, now she would have more freedom, that he kept her too strict in the house and surroundings; and I even told her, I said, "Hazel, that is no way to talk about it." And "Well," she said, "well, that is the way I feel about it."

Q. Did you ever hear any remarks made by Miss Brunen at the Ridge Avenue house prior to Harry's arrest?

A. You mean Mrs. Brunen?

Q. No, any remarks by Miss Hazel Brunen?

A. You mean after Mr. Powell got arrested?

Q. Yes, and before Harry Mohr was arrested.

A. Why, one time she said she couldn't understand why Mr. Parker should arrest Harry and Powell, and why he should arrest Harry Mohr on account of a statement of a dope fiend.

Q. Do you know anything of your own knowledge about Mr. Mohr and Charlie Powell having any business dealings in Wilkes-Barre?

A. Yes, sir.

Q. What do you know about it?

A. In the fall of 1921, after the show closed in Camden, New Jersey, Harry Mohr showed me a letter from Wilkes-Barre. It was written by Charlie Powell, and he asked Harry, "Now there is a good chance for us all to get together and go to Wilkes-Barre and start in the promotion game;" and he said, "I think ——"

The Court: No, what did you do?

The Witness: Well, I didn't do anything.

The Court: You mustn't state the conversation you had between ——

Q. Do you remember what was in that letter?

A. About asking Harry Mohr to come to Wilkes-Barre and run punch board campaigns.

Q. Did Mr. Powell have any money due him at the time he was arrested?

A. Yes, sir.

Q. How much?

A. About twenty dollars or twenty-five dollars, I think.

Q. Did you pay this money to anyone?

A. I paid it to Mrs. Powell.

Q. Have you ever given Mrs. Powell any other sums of money?

A. I might have given her five or seven dollars more.

Q. For what purpose?

A. Because we felt sorry. In fact I made out a little collection at the Windsor Hotel to give to Mrs. Powell.

Q. That was after Charlie's arrest?

A. It was after Charlie's arrest.

The Court: Now is it a convenient place to stop right here to give the jury a recess. I am requested to give them a recess for five minutes.

Mr. Keown: Yes, sir.

(A recess was here taken.)

Q. Do you know how John Brunen had the name "Honest" John Brunen affixed?

A. Why, it just happened about fifteen years ago.

The Court: Are we interested in that?

Mr. Keown: I beg pardon.

The Court: We are not interested in that. The dead man's reputation has nothing whatever to do with the case.

Mr. Keown: That concludes my examination of the witness then.

Cross-examination.

By Mr. Peacock:

Q. Baltimore is your home town, Mr. Bentum?
A. Yes, sir.
Q. You were in Baltimore at the time Mr. Brunen was killed?
A. Yes, sir.
Q. And you received a letter from Harry Mohr the day after the killing of John Brunen?
A. I did not receive it. I was called on the long distance telephone and I left at six in the morning, but my wife received a letter the following day, and she told me so on the telephone. It was written on March 10th, the day Mr. Brunen was killed.
Q. It was written on March 10th, the day John Brunen was killed?
A. Yes.
Q. And what is your telephone number in Baltimore?
A. Madison 0153-W.
Q. Harry Mohr telephoned you the night after John Brunen was killed at 1.29 A. M.?
A. Something like that. I was asleep when the telephone came, I was asleep at the time. I didn't look at the time.
Q. Did he telephone you to come to Riverside at once?
A. He said, "John is shot, come at once." I said,

"Shot when?" He said, "Come at once. I will tell you all about it when you get there."

Q. Did I understand you took the Brunen job on March 11th?

A. I took the job earlier but my salary started March 11th.

Q. The salary started the day after John Brunen was murdered?

A. Yes, sir.

Q. Harry Mohr hired you and paid you?

A. Yes, sir.

Q. When did he engage you?

A. Some time in February.

Q. Didn't the letter he sent you on March 10th engage you with this show?

A. No, the letter he sent was simply a letter about a side show engaged and cancelled again.

Q. But your salary started the day after Mr. Brunen was murdered?

A. Yes, sir.

Q. And you have been connected with it ever since that time?

A. I am still connected with it.

Q. How long had it been since you had seen Mr. Mohr prior to the day you arrived after the murder?

A. Three times prior to that. Once in February, and then February again, I think it was, and one time in January.

Q. Did you have a conversation with Mary Miller in the room above last week concerning this case?

Mr. Keown: If your Honor please, I do not think that is proper cross-examination.

The Court: If you want to ask him you ought to have asked Miss Miller. You must put the question. Ask him whether he had a conversation,

whether he didn't say so and so, and so and so, and then you may call Miss Miller, providing it has reference to some material matter in this case.

Mr. Peacock: I was going to follow that up with the question, sir.

The Court: Put it direct.

Q. Did you not say to Mary Miller upstairs last week it was a good thing John Brunen was killed?
A. I did.
Q. You are a very close friend of Harry Mohr's?
A. I was a close friend to John Brunen, too.
Q. Being a close friend of John Brunen you said it was a good thing he was killed?
A. The world at large is better off without John Brunen.
Q. And you have obtained that from your consultations and friendship with Harry Mohr?
A. No, sir.
Q. You don't base it on that?
A. No, sir.
Q. What do you base it on?
A. On the general harm Mr. Brunen did to the entire public in general and to individual business dealings he had with other individual show men and committees and secretaries of fair associations.
Q. He was unjust to everybody?
A. Unjust practically to everybody.
Q. You said he was a home breaker also, didn't you?
A. Positively.
Q. Now, the day of the funeral you and Hazel and Mrs. Mohr, Harry Mohr's mother and quite a few people were at the Brunen home talking about John Brunen, were you not?

A. What day was that?

Q. The day of the funeral.

A. Yes, sir, we were.

Q. And after you had buried John Brunen your topic of conversation was that he was better off dead than alive?

Mr. Keown: I don't think that is cross-examination. There has been no foundation laid.

Q. Didn't you testify a moment ago you were all sitting around the room and Hazel said well, she was glad her father was dead, she would get more freedom?

A. Yes, sir.

Q. And you said Bennie Franklin told you the guy that killed him ought to have a gold medal?

A. Yes, sir.

Q. Anybody else say they were glad he was dead?

A. I heard quite a few others remarking it. I didn't say I was glad.

Q. You didn't say you were glad?

A. No, I didn't say that.

Q. Didn't you say it was a good thing for the general public?

A. I said it was a better thing.

Q. I say, you were all commenting on this in the Brunen home after you had placed him in the ground?

A. I said Miss Hazel ——

The Court: You are now attributing to him a remark said to have been made upstairs.

Q. Did anybody else make a statement at the Brunen home that afternoon that they were glad he was dead?

Mr. Keown: I object to that on the ground it is not proper cross-examination.

The Court: I think it is proper.

Q. Tell us.
A. There were quite a few other show men present at the time the funeral took place.

The Court: You were asked in the room, was there anybody made any comment besides those you said were made by Hazel Brunen.

The Witness: And Bennie Franklin, that I remember.

The Court: No other comment? I know, except general talk, that is what counsel is asking you, who made that talk?

The Witness: Hazel Brunen and Bennie Franklin, but Bennie Franklin was not on the funeral.

Q. No one else?
A. No one else.
Q. Only yourself?
A. I didn't myself either.
Q. You testified that Mr. Mohr showed you a letter from Powell while the show was in Camden. Is that correct?
A. That is right.
Q. When did that show leave Camden?
A. Well, she left—the Bloomsburg Fair was, I think it was the third week in October, the second week in Philadelphia, and from there we went to Philadelphia, and Philadelphia to Camden, and it was the last week in October or the first week in

November; either the last week in October or the first week in November, around that time.

Q. You knew that Harry Mohr was writing a letter to the "Billboard" asking for Charlie Powell?

A. That was a usual proceeding.

Mr. Keown: Just answer the question.

Q. Didn't Harry Mohr tell you that?

A. No, he said he tried to get Powell and he wrote to the Indianapolis home.

Q. Mohr told you that he had written a letter to the Indianapolis home and wanted him?

A. Yes.

Q. And Powell wrote this letter notifying him where he was?

A. The only thing I seen was that letter from Wilkes-Barre to Harry Mohr, that letter asking him if he would be interested in a punch-board campaign.

Q. And you don't know the date of that letter?

A. No, sir.

Q. Have you seen it since that day?

A. No.

Q. Was that on November 21st?

A. No, it was earlier, I think.

Q. How much earlier?

A. I couldn't exactly tell you the date on that, because I didn't pay no attention to it, because I didn't go there myself and I wasn't interested in it. The only thing I know, that the letter was on the regular stationery of the organization. That was the United Order of American Mechanics, I think.

Q. If I told you that the Billboard advertisement was October 28, 1921, could you fix the date on that?

A. No.

Q. You couldn't fix the date on that?

A. No.

Q. Then it must be subsequent to the time that Mr. Mohr had inserted this notice in the Billboard and subsequent to the time he wrote the people at Indianapolis; could you fix the date from that?

A. No, because I didn't get any of Mr. Mohr's letters that arrived, only when he drawed my attention to it, or one that was something in the promotion line.

Q. That was the only letter he showed you?

A. That was the only letter he showed me.

JOHN POTTER, recalled for defendants.

Direct examination.

By Mr. Keown:

Q. Mr. Potter, you are a police officer of the City of Camden?

A. I am.

Q. How long have you been a police officer of the City of Camden?

A. Just about eleven years.

Q. And do you know Harry C. Mohr?

A. I do.

Q. Did you know John Brunen?

A. I did not.

Q How did you get acquainted with Harry C. Mohr?

Mr. Peacock: That has been all gone over the other day on Mr. Potter's direct examination. The

same witness was called by the State concerning meeting Harry Mohr on the 26th of October.

The Court: Then you had better strike that out. He is recalled by the defense. Now let's not go over the same.

Mr. Keown: I hope not to, sir.

The Court: And when you call a witness that has testified I wish you would mention it.

Mr. Keown: If your Honor please, I find nothing in Mr. Potter's testimony as to how he became acquainted with Mr. Mohr. It won't take a minute.

The Court: Well, avoid questioning him on matters that he has been already examined upon.

Q. How did you get acquainted with Mr. Mohr?

A. Why, from an introduction at the Twelfth Ward Republican Club.

Q. How long was that before March 10th?

Mr. Kelsey: That has been testified to.

The Court: Go ahead. It will take up too much time.

A. I can't tell just how long before. I would say probably a month before.

Q. What was the occasion that you met Mr. Mohr?

A. We were arranging for a carnival to be held sometime, I believe, in the first week of May.

Q. Were you on the committee?

A. No, I was not on the committee.

Q. Were you interested in the arrangements?

A. Well, more or less, yes.

Q. Did you ever talk to Mr. Mohr about it?

A. At the clubhouse, yes, and at several times that he would stop, on the arrangements of the grounds.

Q. You were on the committee to get the grounds?

A. No, I was not on the committee but interested in it.

Q. Now on the day in question, March 10th, you have already testified that you saw Mr. Mohr pass your stand?

A. I did.

Q. Now did he later return that evening?

A. Yes.

Q. And did you have occasion at that time to observe the demeanor of Mr. Mohr?

A. Well, yes, I was talking to him and in his presence for I suppose about fifty minutes.

Q. And in your opinion as a police officer was he acting as a suspicious man, a man who had committed a murder, or who had planned a murder about to be committed?

Mr. Peacock: I object to that as a matter of opinion and conclusion which the witness is not qualified to state.

The Court: The objection is sustained. It is not evidence.

Mr. Keown: The opinion of an officer?

The Court: No, it would not make any difference whether he was an officer or a doctor. He may testify as to conduct and appearance, what he saw

of his observation. It is for the jury to say whether that conduct, that appearance, was such as would indicate to them that he was free from agitation. He may say he was calm or what he noticed as to his condition of mind or actions and testify as to what they were, but not as to any opinion he has got, as to what his impression was.

Mr. Keown: I will withdraw the question.

Q. What was the appearance of Mr. Mohr on that evening when he returned?

A. Why, nothing out of the ordinary.

Q. What was his conduct?

A. Well, his conduct was as a gentleman. There was nothing that I could see that was out of ordinary at all.

Q. What was Mr. Mohr endeavoring to do while in your presence?

A. Well, most of the time in my presence he was using the telephone.

Q. For what purpose?

A. Calling Mr. Parker or calling Williamstown. I believe Mr. Stanley was the one who called Mr. Parker. I am not sure about that.

Q. Do you remember how Mr. Mohr was dressed on that occasion?

A. No, I cannot.

No cross-examination.

Dr. William C. T. Poulson, sworn for the defendants.

Direct examination.

By Mr. Keown:

Q. Dr. Poulson, what is your profession?
A. I am a physician.
Q. A graduate of what college?
A. Medico-Chirurgical College, 1899.
Q. Have you been practicing medicine ever since?
A. Ever since.
Q. Were you in the government service during the war?
A. I was.
Q. In what capacity?
A. As a captain, attached to the air service.
Q. Where is your present place of business?
A. 5948 Spruce Street.
Q. Philadelphia?
A. Philadelphia, Pennsylvania.
Q. Do you know Harry C. Mohr?
A. Very well.
Q. And how did you get acquainted with Harry C. Mohr?
A. Well, you see I am a member of the American Legion and we received a notice from a Mr. Coleman sometime in 1921 saying that they had a carnival ——

Mr. Peacock: I object to what happened between him and Mr. Coleman.

A. I must explain this to tell you how I met Mr. Mohr.

By the Court:

Q. Well, can't you do that without going into details?

A. Not very well.

Q. Were you introduced to Mr. Mohr by anybody?

A. No, sir.

Q. Well, how did you happen to meet him?

A. When the circus was on, the night of May 15, 1921, Mr. Mohr was at the box office and I was chairman of the committee that had to do with the dealings with the circus people.

Q. Who, Mr. Mohr?

A. Mr. Mohr and Mr. Brunen.

Q. Now we have reached Mr. Mohr. Now let's see.

By Mr. Keown:

Q. How many times did you see Mr. Mohr between that time and March 10th?

A. Oh, I can't say that. I saw him every day that week, that is seven times.

Q. I mean after that fair was over in Philadelphia.

A. Why, one time some man that belonged to a club known as the "Let's Go" Club was standing on the corner of 13th and Filbert, waiting for a car, and Mr. Mohr and Mr. Brunen came out of the Hotel Vendig and one of the fellows says, "There is Mohr." And I says, "Hello, Harry! How are you?" And he came over and shook hands with us. But I didn't see him from that time until in February, I should judge, when he came up to see me regarding getting the grounds again for the carnival.

Q. Were you contemplating a carnival in the spring of 1922?

A. Yes, sir.

Q. That was the purpose of Mr. Mohr in coming at that time?

A. Yes, sir.

Q. How many times did you see him relative to procuring those grounds about that time?

A. Quite a number.

Q. Do you remember the night that John Brunen was murdered?

A. Very well.

Q. Did you see Harry Mohr on that night?

A. I did.

Q. Where?

A. In my office.

Q. What time was Mr. Mohr at your office?

A. I can't specifically state the exact time that he was at my office, but it must have been between eight o'clock and half-past or probably prior to eight o'clock. Why I am so exact about half-past is this: because in leaving the office I have a habit of looking at my watch and telling Mrs. Poulson that I am leaving and I will be back at a certain time, and I said this night, "It is half-past eight. I will return shortly."

Q. Had you had any conversation with Mr. Mohr prior to your leaving your office?

A. Oh, yes.

Q. How long had you and Mr. Mohr conversed in your office before you left?

A. I can't say. Time is a relative fact. Some may be short, some may be long, and you can't tell exactly which it is. But I judge it must be from twenty minutes to twenty-five, maybe. I am giving that somewhat of a guess, because my answer will be that I don't know.

Q. How long was Mr. Mohr in your office, to your knowledge, before you interviewed him?

A. Well, the bell rang and I admitted Mr. Mohr; then I said, "Excuse me, Harry. I have a patient in my office. You sit down till I finish the patient." Now of course you can't do a patient in less than ten minutes. And when I was through with the patient, that being the middle front room, I went and saw Mrs. Poulson in the back part of the house. I went in and I says, "Let's don't wait down around here any more; let's go to the Post and go down and see what the fellows down there have got to say." He says, "All right, let's ride down in a car." He says, "I have got my own car here." I says, "That is fine." And we got in and I remember I said it was half-past eight, when we got in the car.

Q. Where did you go with Mr. Mohr?

A. Down to the Legion Post Headquarters at that time.

Q. What was Mr. Mohr's appearance?

A. Very courteous and suave, polite, as he always had been when I knew him.

Q. Any difference in his appearance that night from any other time?

A. Nothing special, nothing that I noticed, except he appeared very much disappointed at not being able to get the ground for the circus.

Q. Where did you and Mohr go after you left your office?

A. To the Post.

Q. Where is that?

A. 52nd and Locust, on the southwest corner, it was then; it is not now.

Q. Who was there at the Post?

A. Why, I think there was two men, Goldberg and Fox, playing pool at that time.

Q. Did they see Mr. Mohr to your knowledge?

A. Oh, yes. As we went in I said, "You know this fellow, don't you? This is Mr. Mohr." And they said, "Oh, yes," and shook hands with him.

Q. Did he converse with you and others there?

A. Oh, yes, just the ordinary commonplaces of the day, I suppose, bad weather and pretty nice clubroom and something like that, you know.

Q. Have you any idea as to how long you were at the Post?

A. Haven't a bit; not very long, though.

Q. And did you have any conversation with Mr. Mohr when you left him?

A. Except to say, "Where are you going, Harry, from here?" He says, "I am going to see my sister." I says, "Where does she live?" I thought she might live in Camden. He says, "No, Sixteenth Street." So I says, "So long," and I walked down the street and got on a car.

Q. Did Mr. Mohr offer to take you home?

A. Oh, no, I wouldn't go home. I don't like automobiles anyhow.

Q. I say did he offer to?

A. No.

Q. When after that was it that you heard of Mr. Brunen's death?

A. The next morning in the paper.

Q. Did you hear anything from Mr. Mohr after that and if so upon what occasion?

A. In regard to what?

Q. In regard to anything.

A. Why, yes. He saw me later on about trying to get grounds. We persisted on getting grounds if possible, because we wanted a show, you know, and he came several times. I can't say how many times I saw him after that, regarding the getting of grounds if we could at 50th and Spruce Streets.

Q. This was after the tragedy?

A. Yes.

Q. Were you in touch with him up until practically the time of his arrest?

A. Yes, and the week he was arrested I had the pleasure of being with him on Monday evening at 10th and Luzerne Street, with my wife and another fellow and his wife, and had a very pleasant afternoon, and on the following Friday I understood he was arrested.

Q. Throughout all these conversations that you had and interviews that you had with Harry Mohr from the night of March 10th up to the time of his arrest will you explain his actions and conduct and appearance?

A. Oh, always very calm, very suave, polite and very nice and courteous always.

Q. Do you know other people that know Mr. Mohr?

A. Why, I guess that I can say I do. I know Mr. Coleman, he knows Mr. Mohr. I wouldn't be a bit surprised if Mr. Murphy knew Mr. Mohr.

The Court: What is your object?

Mr. Keown: I want to call this man as a character witness.

The Court: Then you don't want to ask those questions.

Mr. Keown: Not a proper question for me to ask?

The Court: The proper way to examine a witness as to character is to ask whether he knows the reputation of the defendant Mohr in the community where he resides, and if he answers that yes then

you can ask him if he knows that his general reputation is for peace and as a law abiding citizen, and if he says yes, then you can ask him whether it is good or bad. Now that is as far as you can go.

Mr. Keown: If your Honor please, at this time it might be well to have it fixed as to what the location in which the defendant lived would mean. Now here is a man who, as has been testified to, went around from one part of the country to another all the time with a circus. Now wouldn't all of them be places wherein and about where he lived, in the vicinity?

The Court: Well, his general reputation as a law abiding citizen would be formed in the community where he resided. I suppose if a man was traveling from day to day and was two days in one place and three days in another and so on, he might not be able to establish a reputation at all in a community if he was not living anywhere. I do not see how he could. Nobody would know him.

Mr. Keown: Well, he could certainly make business associations.

The Court: Business associates that did not have personal intercourse with a man is not proper testimony. As to what I might find a man to be or you might find a man to be would not establish his reputation.

Mr. Keown: I understand that, but he would certainly have acquaintances and business associates in every town that the show located in.

The Court: Well, people who have had transac-

tions with him is not a basis of establishing reputation in the community where a person lived. Now he lived in Riverside; I don't care how long he lived there, and has lived in Philadelphia; and you have people who knew him in Philadelphia who might testify.

Mr. Keown: Well, I will ask Dr. Poulson again.

Q. Do you know folks ——

The Court: No, I don't care whether he knows folks or not. That is a question for cross-examination. Your question must be put as to whether he knows the reputation of the defendant, general reputation of the defendant, for peace and as a law abiding citizen in the community where he lives.

Q. Do you know the general reputation of Mr. Mohr in the community in which he lives?

A. How would I know? I know that when he was with us on the grounds.

Mr. Peacock: I object. He has testified he didn't know.

The Witness: That is right.

The Court: You don't know; is that what you said?

The Witness: Yes, sir.

The Court: Well, then that ends it.

Cross-examination.

By Mr. Peacock:

Q. Doctor, you testified that you knew about Mr. Brunen's death in the morning papers the day after he was killed. Isn't it true that no morning papers had anything about that, it was the afternoon papers?

A. I made a mistake. It was the Evening Bulletin. I don't take the morning papers.

Q. Harry Mohr left you on the night of the murder at 9.10 to go to his sister's, didn't he?

A. I won't say. I don't know the exact time, as I said before.

Q. Didn't you tell Mr. Eshley, the detective, that he left you at 9.30?

A. No, I don't think so.

DAVID GOLDBERG, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Do you know Harry Mohr?
A. Why, I don't know him.
Q. Did you ever see him?
A. Yes, sir.
Q. Were you ever introduced to him?
A. Yes, sir.
Q. By whom were you introduced?
A. By Dr. Poulson.

Q. And do you remember when you first met Harry Mohr?

A. Why, on March 10th, Friday night, at the time I was introduced, was the first time I ever met him.

Q. How have you of fixing that as the day?

A. I remember it well on account of reading it in the paper on the Saturday following.

Q. The next day?

A. That is the next day, that evening.

Q. Where did you see Harry Mohr and Dr. Poulson on the evening of March 10th?

A. At the James J. Barry Post, No. 83, American Legion.

Q. Have you any way of fixing approximately the time that you saw them?

A. Well, I generally leave the house at 8.30 to go down to my Post. That has been my regular habit every Tuesday and Thursday, for the last year or so, and I lived about ten blocks from the Post, that is, it was there at that time, and it is about a ten minute walk.

Q. Will you kindly tell his Honor and the gentlemen of the jury the appearance, actions and condition of Mr. Mohr on that occasion?

A. Well, when I came up the stairs Dr. Poulson—

Mr. Peacock: I object. He has testified he never saw Mr. Mohr prior to that date. So how is he in a position ——

(Question repeated.)

By the Court:

Q. On what day was that?

A. March 10th.

Q. Did you see him on that day?

A. That evening, sir.

Q. Well, then, go on and testify.

A. When I came up the stairs Dr. Poulson and Mr. Mohr was standing together talking and Mr. Poulson says, "Dave, I want you to meet Mr. Mohr." I shook hands with the gentleman, he gave me a real hearty hand shake, and he smiled and I smiled and we stood there talking a few seconds.

Cross-examination.

By Mr. Peacock:

Q. What time was it you saw Mohr at the Post—you said you left him at the Post?

A. 8.30, and it is ten squares. I imagine it is a ten or fifteen minute walk.

Q. Then you saw him about a quarter of nine?

A. It must have been between 8.30 and 9.00.

Joseph L. Swanson, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Swanson, have you ever been convicted of crime?

A. Yes, sir.

Q. Where are you now confined?

The Court: I think it would be altogether proper to ask if he has been convicted of such and such an

offense. It makes some difference whether a person has been convicted of an offense involving moral turpitude or not. If he is convicted of an offense involving moral turpitude it would affect his credibility to some extent, where if he was convicted of an assault and battery or something of that sort, truthful men may commit assault and battery; and therefore it is always better to state the charge that he was convicted of. Now he knows what charge he was convicted of.

Mr. Keown: I will ask him that.

Q. On what charge were you convicted?
A. Robbery.
Q. Where are you now confined?
A. Rahway.
Q. Were you in the Burlington County prison here?
A. Yes, sir.
Q. And when were you in the Burlington County prison?
A. I came in there on July 5th.
Q. How long were you in there during that time?
A. About four months.
Q. And what happened to you?
A. While I was in there?
Q. Yes.
A. Well, I was turned out.
Q. And then were you later arrested again?
A. Yes.
Q. And when were you arrested the second time?
A. I think it was on the 16th of November.
Q. And how long were you in prison on that occasion here in the Burlington County prison?
A. I was in from Sunday till Saturday.
Q. Was Charlie Powell in the Burlington County

prison during this time that you were in the Burlington County prison?

A. Yes, sir.

Q. Did you ever see Charlie Powell while you were in the Burlington County prison?

A. Seen him every day for four months.

Q. What was he doing?

A. He was in there confined, as far as I know about, the paper said for murder.

Q. What was he doing? Have you ever seen Charlie Powell do anything or heard him do anything while he was in there?

A. Seen him play poker every night.

Q. Where?

A. In the cellar, in the engine room, out in the yard.

Q. What hour of the night?

A. Between seven till nine-thirty.

Q. With whom?

A. With all of us; Bobby Arnwein and myself and a bunch of fellows in the cellar—old John.

Q. All trusties?

A. No, they were locked in the cellar, they could go out in the yard and come in there in the evening and play poker.

Q. When was that?

A. It was about from September to October.

The Court: Why go into all this thing?

Q. Did you have any conversation with Charlie Powell?

A. Yes, talked to him.

Q. Will you just please tell his Honor and the gentlemen of the jury here just the conversation that you have had with Charlie Powell while you have been in jail?

A. Well, I used to talk to him every night, or he got to talking to me and asked me about this case. He asked me how Mrs. Brunen was, asked me if she was worrying. I said no, she didn't seem to be worrying. Then he got to talking to me, he asked me, "What is she in here for?" I says, "I don't know what she is in for." I says, "You ought to know what she is in here for." So another time he got to telling me about one night there I was standing at the window and he come over and patted me on the back; he was laughing. I says, "What is the matter, Charlie?" "Oh," he says, "I have got a little baby boy." I got to talking to him and I says, "How would you like to be home over Christmas with that little baby boy?" He says, "I don't like it, but Mr. Parker told me if I just stick to my story and don't break down I will be there."

Q. Any other conversation?

A. He told me several things like that.

Q. Well, tell us just all the conversation that you had with him along those lines.

A. He told me he had been out fishing, I think, in a car, and took a ride to Philadelphia around and back.

Q. Anything else?

A. That he would ask me every once in a while how Mrs. Brunen was; he told me she was a nice woman. First he would ask me if she was worrying. I said no.

The Court: You have told us all this.

A. He told me this again.

Q. He told you several times, eh?

A. Yes. And so I got to talking to him and I would say that I didn't see where she is worrying.

Q. Did you ever hear any peculiar noises from Mr. Powell?

A. No.

Q. Was he out in the yard there in the time that you saw him?

A. Yes, he was out in the yard one night I sit out under the cherry tree there, and then I moved over to the woodhouse and he was sitting there by the window and he came to me and held me by the neck like that, kind of funny. He says, "Is there anything that beats in your neck?" I says, "No, there is nothing that beats in my neck." He says, "Feel of mine." So me and Curtis felt him on the neck, and something was beating in his neck. He says, "Do you hear that?" I says, "No, I can feel it though." There was a bump in his neck, like. Curtis, the fellow that was caring for him, said he could feel it. He said he hears music playing.

Q. What else?

A. I said, "I don't hear no music." So he listened and he says, "It sounds like a band carnival or something."

Q. Has he ever said anything to you about a statement or confession that he made?

A. Yes, he told me. I asked him this time he asked me about Mrs. Brunen, what was she in there for, I went and asked him then, "Didn't you make a confession or something that she was implicated in the murder?" He said no, he didn't know what kind of a statement he made. He said when he made it he was afraid to look at it, afraid he lied, afraid the spirit or something would get him.

Q. Has Mr. Powell ever asked permission to feel your throat?

A. No, he reached over and felt without asking permission.

Cross-examination.

By Mr. Kelsey:

Q. Joe, you carried messages, didn't you, between Harry Mohr and his wife?

A. No, sir.

Q. Didn't you carry some messages between Harry Mohr and Mrs. Brunen?

A. No, sir.

Q. And give Mrs. Brunen some messages that Harry Mohr gave you?

A. No, sir; never gave them no message.

Q. You were talking with Charlie Powell several times, weren't you?

A. Talked to him every night, yes.

Q. And you were talking to him about Mrs. Brunen, weren't you?

A. I never mentioned Mrs. Brunen's name to him.

Q. Did you not say to him out in the yard, "Charlie, why don't you withdraw Mrs. Brunen's name and play crazy in order to get out?"

A. I never said no such thing to him.

Q. Didn't you tell him to play crazy, it was a good way for him to get out?

A. No, sir.

Q. Never told him that?

A. I was talking to him and I says, "Lots of times anybody that is crazy gets out of things."

Q. You told him lots of times that if people get crazy they would get out of things?

A. No, I didn't tell him to do that.

Q. What did you say to him?

A. I says there is lots of times people get crazy they get out; but I never told him to get crazy.

MILTON K. STANLEY, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Mr. Stanley, what is your position?
A. Acting county detective.
Q. What county?
A. Camden.
Q. Do you know Harry C. Mohr?
A. Yes, sir.
Q. Do you know John Brunen?
A. Yes, sir.
Q. How long had you known them both?
A. Well, I knew Mr. Brunen about twenty-seven years.
Q. How long had you known Mr. Mohr?
A. Since the latter part of October, 1921.
Q. Did you see Harry Mohr during February or March of this year?
A. Yes, sir.
Q. Where and upon what occasion?
A. At the Prosecutor's office in Camden, New Jersey.
Q. How many times did you see Mr. Mohr at the Prosecutor's office to your knowledge?
A. Several times.
Q. And what was the purpose of his visits to the Prosecutor's office of Camden County?
A. Well, the first visit was in connection with a carnival for the East End Republican League of Camden, New Jersey.
Q. Were you on that committee?
A. Chairman of it.
Q. What was the purpose of the later visits?

A. I was helping to a certain extent to try to get some bookings for the show in South Jersey.

Q. Did you see Mr. Mohr on the day of March 10th?

A. Yes, sir.

Q. Where?

A. At the Prosecutor's office.

Q. And at what hour of the day? Do you have any way of fixing it?

A. I should say it was close to one o'clock.

Q. Did you make any arrangements with Mr. Mohr on that day as to phoning him later in the day?

A. Yes.

Q. What were those arrangements, please?

A. If I had time that afternoon I was to phone to Salem, New Jersey, to a party in reference to booking, and I left word that if Mr. Mohr would call at my house around six o'clock I would let him know what the outcome was.

Q. Did you get a phone call from Mr. Mohr at or about six o'clock?

A. I can't say whether it was Mr. Mohr or not.

Q. Did you get a phone call at or about that time?

A. My phone rang about that time. When I answered it the operator told me that the party had hung up.

Q. When did you next see Mr. Mohr on the day of March 10th?

A. Close to ten o'clock at night.

Q. Had you heard of John Brunen's murder at that time?

A. Yes, sir.

Q. How had you heard it?

A. Captain Schregler, of the City Detective Bureau, called me on the phone at my home.

The Court: Well, now, that is enough. How is it material how he heard it? He says he heard it.

Q. You said about ten o'clock? He arrived at what time?

A. In the neighborhood of ten o'clock.

Q. Did you have a conversation with him at that time?

The Court: With whom?

Mr. Keown: With Mr. Mohr, the defendant.

A. Yes, sir.

Q. And what was the purpose of that conversation?

A. The purpose of the conversation was that when he called me on the phone first, before he came to my house and asked me if I had heard what had happened and I told him yes.

Q. You had a phone call before he came to your house?

A. Yes.

Q. What time did you have that phone call?

A. About five minutes before he came to my house.

Q. As a result of that he came to your home?

A. Yes.

Q. You had received a phone call from Captain Schregler?

A. Yes.

Q. What was the conversation you had with Mr. Mohr then?

A. Well, of course he told me in reference to what had happened and I told him that I expected to hear from Mr. Parker most any time, that that was what I was waiting there for. In the meantime

I received another call in reference to three suspicious characters that applied for lodgings at the city hall, and I talked to Captain Schregler about Mr. Mohr saying we would be down together in a few minutes, which we did. It was a very few minutes after he came back to the house.

Q. Did you have a phone call from Mr. Parker that night?

A. Yes.

Q. Did he tell Mr. Mohr to do anything?

A. Yes.

Q. What was it?

A. Call up the winter quarters to see if there was any one there.

Q. Did you and Mr. Mohr in your presence call up the employees at Williamstown?

A. We did.

Q. Was that before or after you went to Captain Schregler's office in the city hall, Camden?

A. That was before.

Q. What happened when you arrived at the detective headquarters in Camden?

A. Well, he interviewed those three fellows and no one in the party seemed to know them, so we then got on the phone and Mr. Parker instructed Mohr, I believe, to come right up to Riverside.

Q. Did you leave the city detective headquarters with Mr. Mohr?

A. Yes.

Q. Where did you and Mr. Mohr go?

A. He took me as far as my home and I got off the car and went in the house and he presumably went up to Riverside.

Q. Did you have occasion to observe the actions, conduct and condition of Mr. Mohr on that occasion?

A. Yes, he was in my company.

Q. And what were his actions and condition and appearance?

A. I wouldn't say that he was anything but excited. He was a little excited, and seemed to be broke up over it.

Q. Did Mr. Mohr ever give you any whiskey?

A. Any what?

Q. Any whiskey.

A. No, sir.

Q. Has Mr. Mohr ever offered you any money if you could apprehend the murderer of John Brunen?

A. Oh, yes.

Cross-examination.

By Mr. Kelsey:

Q. You said that he had offered you money to apprehend ——

A. No specified sum. That is, on more than one occasion he asked me if it would not be possible for me to work on the case, that I would not lose anything by it.

Q. Did he offer you $500 at any time?

A. I don't recall any specified sum.

Q. If you got the murderer?

A. I say I can't say that I can remember any specified sum.

CHARLES H. T. GEARY, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Mr. Geary, what is your position?

A. Ticket seller at the Philadelphia and Camden ferry.

Q. What city are you stationed?

A. Well, we change the first of every month; five months in Philadelphia and five in Camden.

Q. How long have you been a ticket seller at the Camden and Philadelphia Ferry Company?

A. In my present position about fifteen years.

Q. Have you consulted records to find out where you were working on March 11th?

A. That is on Saturday?

Q. Yes.

A. March 11, 1922, at Market Street, Camden, from 6.50 A. M. to 2.50 P. M.

Q. Does the company have any rules and regulations concerning the changing of money or the selling of tickets and making change?

A. You mean in the denomination of the bill?

Q. Yes.

A. No, none that I know of.

Q. Is there any practice or custom existing between the ticket sellers?

Mr. Peacock: I object to his custom and practice as immaterial.

The Court: Well, I don't know. I will admit it.

The Witness: Shall I answer it?

The Court: Yes.

A. It is the common understanding among the ticket sellers that the courts have ruled that $2 is the limit; that is the understanding among ticket sellers.

Q. In the event of a collector changing a note and receiving a counterfeit bill who would have to make that good to the company?

A. The ticket seller.

Q. In your experience throughout these fifteen years have you ever had occasion to change a $50 bill at that window?

A. To the best of my knowledge and belief never.

Q. If you had changed a $50 bill on the 11th day of March, 1922, would you have remembered it?

A. I think I undoubtedly would.

Cross-examination.

By Mr. Peacock:

Q. Do you know Mr. Wilkins, of Camden?

A. I do not.

Q. Who lives at Salem, and a ticket seller at the Camden ferry?

A. What is his name?

Q. Mr. Wilkins.

A. No ticket seller there by that name.

Q. Who is the other ticket agent there besides yourself?

A. You mean of ticket sellers?

Q. Yes.

A. Well, there are ten altogether.

Q. What are their names?

A. Their names are Stow, Lippincott, Stroman, Frazee, Wendell, Speakman.

Q. You sell ferry tickets, don't you?

A. Yes, sir.

Q. Do you know the men who sell the railroad tickets?

A. No, there are a great many new men, I don't know their names.

Q. Do you know a man at the ferry house who sells tickets by the name of Wilkins?

A. No, sir.

Q. Who lives at Wenonah?

A. No, sir.

Q. You say you don't take over a two dollar bill for ferry tickets?

A. No, I didn't say that.

Q. If a man offered you a ten dollar bill, would you take it?

A. If it wouldn't interfere with the traffic.

Q. Ever take any higher than a ten?

A. Yes, sir, taken twenty, when the occasion would warrant it, when it wouldn't delay traffic.

Q. Then two dollars was not your custom?

A. We wouldn't be required. It would be simply a matter of accommodation.

Q. You would take tens and twenties?

A. Yes, sir.

Re-direct examination.

By Mr. Keown:

Mr. Keown: May I at this time ask some questions on direct that I neglected to ask?

The Court: Yes.

Q. Do you know the fare across the river on March 11th for a Ford car with one passenger?

A. No, that is out of my line. That is the gateman's. I am an inside ticket seller.

Q. You don't know what the fare was?

A. I couldn't say positively, no.

EDWARD F. LOYLE, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Loyle, do you know Mr. Mohr, one of the defendants here?

A. Yes, sir.

Q. How long have you known him?

A. Going on two years.

Q. Do you remember seeing Mr. Mohr prior to the killing of John Brunen?

A. Yes, sir.

Q. How many nights?

A. Two nights.

Q. Prior to the killing of John Brunen was it, that you saw him?

A. Two nights.

Q. That would be the 8th?

A. That was the 8th of March.

Q. And that would be on a Wednesday night, would it not?

A. Wednesday evening.

Q. Where, and upon what occasion did you see him on that night?

A. I met him accidentally at 52nd and Locust Street, West Philadelphia.

Q. And how do you fix it as being that night?

A. Well, I thought it was that night by reading the Bulletin Saturday morning or Saturday evening.

Q. In other words, as soon as you read the account of the murder, you remembered seeing Harry Mohr?

A. On Wednesday evening.

Q. What time of the night was it that you remember seeing him?

A. Well, exactly, I don't know, but I judge it was somewheres about half-past nine or ten o'clock.

Cross-examination.

By Mr. Peacock:

Q. You don't remember seeing anybody else that night, do you?

A. No, sir.

Mr. Keown: Would your Honor at this time be willing to grant the recess instead of at a later hour? I think that perhaps by getting some of my questions prepared I can save some time for the Court and jury.

The Court: We will take a recess until half-past one.

(A recess was here taken till 1.30.)

(Trial of the cause resumed at 1.30 P. M.)

Mr. Keown: If your Honor please, may I at this time ask permission to have John Dubeck brought from the county prison into the court-room?

The Court: Yes.

Mr. Keown: Now, if your Honor please, the records of the phone calls, your Honor will recall——

The Court: Yes, you want to recall a man?

Mr. Keown: No, they were read to the jury, and it can now be agreed between counsel, for the juror's guidance, as to where those phone calls were made, instead of just the number of the phone calls.

The Court: Is there objection to that?

Mr. Peacock: We agree to it, sir.

Mr. Keown: It is agreed that the phone call dated March 10th from 27J to Camden 1045 was made by Mr. Parker to Captain Schregler.

The Court: That is Mr. Ellis Parker?

Mr. Keown: Yes, sir. It is agreed that the phone call from Riverside 27J to Camden 955, at 9.46 A. M., was made from the Brunen home by Harry Mohr to detective Stanley.

The phone call from Riverside 27J to Mount Holly, 144, at 8.41, it is agreed that that phone call was made by some one from the Brunen home to notify Mr. Parker of the tragedy.

It is agreed that the phone call from 27J Riverside to Moorestown, 346, made at 7.52 P. M., was made by some one in the Brunen home notifying the coroner.

It is agreed that the phone call from Riverside 27J to Poplar 5030 was the phone call that Miss Hazel Brunen made to Mattie Mohr at 8.51 P. M.

It is also agreed that the phone call made on March 11th from Riverside 27J to Mount Holly, 144, at 10.00 P. M., was made to Mr. Parker.

It is also agreed that the phone call from Riverside 27J to Camden 955, was made to the court house in Camden at 10.07 P. M., that phone call was made.

The phone call from Riverside 27J to Camden, 2576J, at 2.13 P. M., it is agreed between counsel that neither of us at this time has been able to prove where that phone call went to.

The Court: What date was that?

Mr. Keown: On March 11th. It is agreed that the phone call from Riverside 27J to Camden 1524M made at 8.47 A. M., on March 11th, was made to 321 North Second Street, to the home of Mrs. Harry Mohr.

It is agreed that the phone call from Riverside 27J to Camden 13, at 12.40 P. M., on March 11th, was made to the police headquarters, Camden.

It is agreed that the phone call from Riverside 27J to Williamstown, New Jersey, at 4.25 P. M., on March 11th, was made from the Brunen home to the Brunen winter quarters stationed at Williamstown.

It is agreed that the phone call from Riverside 27J to Trenton 220 at 10.30 P. M., on March 10th,

that neither counsel have any knowledge as to where that phone call was.

It is agreed between counsel that the phone call made from Riverside 27J to Wilkes-Barre 832 at 11.29 A. M., on March 11th, that counsel cannot place where that phone call went.

It is agreed that the phone call from Riverside 27J to Baltimore to Madison 0153W at 1.25 P. M., was a phone call made by Harry Mohr to Harry Bentum.

It is agreed between counsel that the phone call made from Riverside 27J to Reading 2860 at 12.38 A. M., was made by detective Parker to the detective headquarters for the purpose of ascertaining from Mr. Knaub the whereabouts of Bobby Connor.

It is agreed between counsel that the phone call from Reading to Riverside 27J was a reverse call by the authorities at Reading notifying Mr. Ellis Parker as to the whereabouts of Benny Franklin.

JULES KRESGE, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Where do you live, Mr. Kresge?
A. I live at 1622 Ridge Avenue.
Q. Do you know Harry Mohr?
A. Yes, sir.
Q. Did you see Harry Mohr on March 10, 1922?
A. Yes, sir.
Q. When did you first see him on that day and about what time?

A. Why between fifteen and twenty minutes after seven, and between 9.15 and 9.21 North Sixteenth Street.

Q. Did you have a conversation with him at about that time?

A. Yes, sir.

Q. What was the conversation?

A. Why, about his sister Mattie.

Q. How long did Harry Mohr stay with you on that occasion?

A. About ten minutes.

Q. And did you later see Harry Mohr on that night?

A. Yes, sir.

Q. If so where?

A. At the same place, between 915 and 921 North Sixteenth Street.

Q. Who was with you on that second occasion when you met Harry Mohr?

A. Miss Mattie Mohr.

Q. Where did you three go?

A. We went up to Miss Mohr's room.

Q. Did the phone ring while you were in Miss Mohr's apartment with Mr. Mohr?

A. Yes.

Q. Who answered the telephone?

A. Miss Mohr.

Q. Did she call any one to the phone?

A. Called Harry.

Q. What did Mr. Mohr say after answering the phone?

A. Why, Harry came in and said that John was shot.

Q. Where did you and Mr. Mohr then go?

A. We headed for Riverside.

Q. Where did you stop?

A. Why, the first stop we made was a traffic officer in Camden.

Q. And from there where did you go?

A. Detective Stanley's residence.

Q. And then from there?

A. To the police station.

Q. From there?

A. To another police station towards Camden.

Q. And then where?

A. And then back to Mr. Stanley's home.

Q. And then where?

A. Then to Riverside.

By the Court:

Q. When did you say was the first time you saw Mr. Mohr on the 10th of March?

A. It was between 915 and 921 North Sixteenth Street.

Q. That was the first time you saw him that evening?

A. Yes, sir.

Q. On the 10th of March?

A. Yes, sir.

Q. You didn't see him again that evening afterwards?

A. Yes, sir; I saw him around nine o'clock. I don't know whether it was a little before or whether it was after nine o'clock. I couldn't say.

Q. You just said between nine ——

A. I just said around nine or a little after nine.

Q. Did you see him before that?

A. I saw him between fifteen and twenty minutes after seven.

Q. Between fifteen and twenty minutes after seven on the evening of March 10th?

A. Yes.

Q. How do you fix that time?

A. Why, I left the restaurant about two or three minutes before seven, where I eat my dinner.

Q. Where is that?

A. That is about five blocks from where I live, Fairmount and Ridge Avenue.

Cross-examination.

By Mr. Peacock:

Q. Are you a married man, Mr. Kresge?

A. Yes.

Q. Where is your wife?

A. She is in Wisconsin just now.

Q. Any children?

A. Yes.

Q. How many?

A. Three.

Q. Where do you work?

A. Work at the Electric Storage Bureau, 19th and Allegheny Avenue, Philadelphia.

Q. How long have you worked there?

A. Worked there since about the 15th of March, 1920.

Q. What time did you go to work that day, on March 10th?

A. At seven o'clock; start at seven, I go to work about six.

Q. What did you do the rest of that day?

A. Worked.

Q. All day long?

A. Yes, sir.

Q. What time did you get done work?

A. Five o'clock.

Q. Where did you go to after that?

A. Came home.

Q. Where did you live?
A. 915 North 16th Street.
Q. The same place Mattie Mohr lives?
A. No, sir.
Q. How close to her house?
A. About three doors.
Q. Are you friendly with Mattie Mohr?
A. Well, I am a friend of the family's.
Q. Call on Mattie Mohr at her house?
A. No, sir.
Q. Never did?
A. No, sir.
Q. You were there this night, weren't you?
A. Yes, sir.
Q. How did you happen to be there that night?
A. I notified her brother and we three were together.
Q. Haven't you been out to Riverside to see Miss Mohr?
A. Yes, at Mr. Mohr's request.
Q. How many times?
A. I don't know; nearly all summer, every Saturday.
Q. You visited Harry Mohr at Mr. Brunen's house every Saturday?
A. No, visited the family.
Q. Oh, you visited the family?
A. Yes, sir.
Q. Who was there when you went there?
A. Mrs. Mohr, Mattie Mohr and sometimes Mrs. Brunen.
Q. You went out there every Saturday then and visited the Brunen family?
A. I was requested to come out by Mr. Brunen to do a little work for him on Saturdays.
Q. Wasn't he away with the show?
A. Yes, sir.

Q. Wasn't home then, was he?

A. He was home quite a few Saturdays.

Q. Lots of Saturdays he was not home when you were there?

A. No, sir.

Q. He was home every time you were there?

A. No, sir.

Q. Some Saturdays he was not home?

A. No, sir.

Q. What is your answer?

A. No, sir.

Q. Wasn't Mattie Mohr keeping house at the Brunen home those times that you were out there?

A. No, sir.

Q. She left very suddenly, didn't she?

A. I don't know.

Q. Do you know Mr. Brunen put her out of the house?

A. I don't know anything about that.

Q. After she left the Brunen home you never visited the Brunen home then, did you?

A. Yes, sir.

Q. How many times?

A. Went over there twice.

Q. Mattie Mohr was with you each time, wasn't she?

A. No, sir.

Q. Mr. Brunen was not home those times, was he?

A. Mrs. Mohr was home.

Q. Mrs. Mohr?

A. Mattie Mohr's mother.

Q. Then you went and visited her those times?

A. Yes, sir.

Q. It is a matter of fact you visited all the Brunen family?

A. Visited the Mohr family.

Q. All the Mohr family?

A. Yes, sir.

Q. You got home about five o'clock on March 10th, you say?

A. Yes, sir.

Q. And I suppose you stayed around home all the evening?

A. No, I left home about six o'clock to get my dinner.

Q. How many doors is it from Mattie Mohr's to where you live?

A. About three.

Q. Does your wife live there with you at that address?

A. No, sir.

Q. Where did she live when she was in Philadelphia?

A. We lived at 810 North 16th Street when she was in Philadelphia.

Q. Then when she moved to the west you moved to this address?

A. 1622 Ridge Avenue.

Q. How long did you live there?

A. I still live there.

Q. You say you were living around North 16th Street near Mattie Mohr's?

A. Yes.

Q. And what address was that?

A. 810.

Q. What was Mattie Mohr's address?

A. 921.

Q. What were you doing around her house the night of the murder?

A. Why, I informed her that her brother was over there and wanted to see her.

Q. What were you doing there the first time?

A. I walked up to the restaurant to tell her.

Q. That was after you saw Mr. Mohr, wasn't it?
A. Yes, sir.
Q. What were you doing there the time you say you saw Mr. Mohr the first time?
A. I live there. I came home. Right in front of Mattie Mohr's house, 915, three doors below.
Q. You had been to what restaurant?
A. Fairmount and Ridge Avenues.
Q. And how far is that from 900 North 16th?
A. About five blocks.
Q. How long would it take you to walk there?
A. I don't know.
Q. What time did you get to 900 North 16th Street on this night?
A. From where?
Q. When you met Harry Mohr.
A. It was fifteen or twenty minutes after seven.
Q. Did you look at your watch?
A. No, I thought it was about fifteen minutes of seven when I left the restaurant.
Q. Just guesswork, wasn't it?

The Court: He said he thought it was about fifteen minutes of seven when he left the restaurant.

Q. Didn't Harry Mohr call your attention to the time?
A. No, sir.
Q. Didn't he say to you, "I want you to fix this time; I have been out with Mary Miller and I don't want my wife to know it?"
A. No, sir.
Q. Didn't he talk to you about it that night?
A. No, sir.
Q. What other names do you go under?
A. Hurosker.
Q. What did you use two names for?

A. When I went away from home I used that name to join the army.

Q. Now you go under the name Kresge?

A. That is my right name.

By the Court:

Q. Why did you use that name when you joined the army?

A. When I left home I didn't want my folks to know where I went.

Q. What did you do, enlist?

A. Yes.

Q. Under that name?

A. Yes, sir.

Q. How old were you then?

A. I was seventeen.

By Mr. Peacock:

Q. How long ago has that been?

A. It was 1905.

Q. How long were you in the army?

A. Three years.

Q. When was the last time that you visited your family?

A. A week ago.

Q. How long before that?

A. A year ago.

Q. And the year before that?

A. I was home twice.

Q. How long did you talk to Harry Mohr when you saw him the first time?

A. About ten minutes, I guess.

Q. What did you talk to him about at that time?

A. Why, Harry Mohr came over to see his sister.

Q. You knew he was coming?

A. No, sir.

Q. Harry told you his sister was sick, didn't he?

A. After we had met, yes, sir.

Q. And you knew she was working in the restaurant?

A. Yes.

Q. And it took you ten minutes to tell him that?

A. No, sir.

Q. Well, what else did you talk about?

A. Why, he went over to see his sister and I told him she wasn't home, she was working.

Q. Did he leave right away?

A. No, he said he was going up to the American Legion and he would be back at nine o'clock and for me to tell Mattie that he would be back.

Q. What else did he tell you? You talked ten minutes. It didn't take ten minutes to say that, did it?

A. That is all that was said.

Q. Just those two questions and two answers?

A. Yes, sir.

Q. That is correct, is it?

A. Yes, sir.

Q. Well, you took ten minutes?

A. Well, I don't know just exactly whether it was ten minutes or five minutes.

Q. You told Detective Eshley it was ten minutes, didn't you?

A. I said I guessed it was ten.

Q. Wasn't that the question asked, how long, and didn't you say ten minutes?

A. I said about ten minutes.

The Court: Now, the estimate of time by a witness is generally very inaccurate. They don't have a note of time.

Q. Was that the first time you were ever in Dr. Warren's house, where Mattie lived?

A. Yes.

Q. How did you come to meet Mohr there that night?

A. I got my supper and was just about into the house when I noticed a car drive up and when the car stopped I looked around and Harry got out, and he was looking up as though he was looking for the number and I walked down off the steps and I recognized Harry, and when he turned around I says, "Harry, what are you looking for?" He says, "I come over to see Sister Mattie. I heard she was sick and I want to see her." "Well," I says, "You can't see her. She is not in. She is working."

Q. You knew she had been to Riverside that day, didn't you?

A. No, sir; I didn't.

Q. You found out afterwards, didn't you?

A. No, sir.

Q. And you were surprised, I suppose, to see Harry there that night, weren't you?

A. No, sir.

Q. Not a bit surprised?

A. No, sir.

Q. Didn't expect him there?

A. No, sir.

Q. Hadn't talked to him beforehand to be there that night, had you?

A. Miss Mohr told me she expected to see Harry most any night.

Q. And you thought that would be the night he would be there?

A. No, sir; I didn't.

Q. When did she tell you she expected to see him most any night?

A. When she took sick.

Q. When was that?

A. About Monday or Tuesday night, that same week.

Q. Before the murder?

A. Yes, sir.

Q. Where did you see her then?

A. Why, I went and ate my supper at the restaurant she worked in. That night I walked home with her.

Q. The same restaurant every night?

A. No, sir.

Q. How long was she sick?

A. Why, she was sick—I don't know how long she was sick.

Q. She wasn't sick when she was cooking your supper in the restaurant on Monday night before the murder, was she?

A. No, sir.

Q. How did she come to tell you she expected Harry there that night?

A. She was over to Riverside and she was not feeling good then, she told me, and she left word for Harry to come and see her.

Q. Did she tell you that?

A. No, sir.

Q. What else did she tell you about expecting Harry to come there?

A. She expected him all that week.

Q. Did you watch for him each night that week?

A. No, sir.

Q. You didn't expect to see him on Thursday night, did you?

A. No, sir.

Q. Or Wednesday night?

A. I kind of looked for him, yes.

Q. Did you wait out front to watch for him?

A. No, sir.

Q. Did you wait out on Thursday night?

A. No, sir.

Q. You were there just the time he arrived on Friday night, though, weren't you?

A. That is a habit of mine, standing on the stoop every night.

Q. You stand and watch every night?

A. No, sir; I don't watch; just that habit.

Q. Did you see anybody else that night?

A. Yes, sir.

Q. Lots of people, I suppose, that you can remember you saw on March 10th?

A. Yes.

Q. Wasn't it raining that night?

A. Kind of drizzling.

Q. You were standing out on the stoop in the rain and watching people, eh?

A. It wasn't raining where I was standing.

Q. It wasn't raining where you were standing?

A. No, sir.

Q. You were in a dry spot out there; is that right?

A. Yes, sir.

Q. Were you cool that night?

A. Why, it was kind of chilly, yes.

Q. Now, after that time, about half-past seven, I understand Harry left you; is that right?

A. Yes.

Q. Then where did you go?

A. I went up to my room.

Q. He told you when he left you he would be back about nine o'clock or something like that, didn't he?

A. Yes, sir.

Q. When did you next see him?

A. I saw him around nine o'clock. I don't know

whether it was nine or a little before or a little after nine.

Q. Mr. Eshley asked you when you saw him again and you said five minutes after nine, didn't you?

A. I beg pardon.

Q. Didn't you tell Mr. Eshley you saw him again five minutes after nine?

A. I might have said that.

Q. But you know he received a telephone call five minutes of nine, don't you?

A. I received that telephone.

Q. Harry received a telephone call from Riverside?

A. I couldn't say what time it was.

Q. If it was 8.51 then you are mistaken about that time, aren't you?

A. I don't know just exactly what time it was I told Mr. Eshley.

Q. You don't know what time it was? Are you just about as sure of that time as you are of the time you saw him the first time?

A. I am positive it was between fifteen and twenty minutes after.

By the Court:

Q. After that?

A. After seven.

By Mr. Peacock:

Q. How is it you are not positive of the time of the second meeting? He told you he was coming back, didn't he?

A. Yes.

Q. How is it you are not positive of the second meeting?

A. Why, I figure the time, the time when I left Columbia Avenue.

Q. What time did you leave there?

A. 8.30.

Q. How far did you walk?

A. Six blocks.

Q. How long did it take you to walk there?

A. About fifteen or twenty minutes.

Q. Then you arrived there at quarter to nine?

A. We didn't go direct to Miss Mohr's room.

Q. Where did you go then?

A. Came down 17th, walked around the hospital block to Poplar Street and then back up to Miss Mohr's room.

Q. How long did it take you to walk that distance?

A. I figured about twenty-five minutes.

Q. That would bring you home at five minutes of nine?

A. Five minutes of nine.

Q. Harry wasn't there yet, was he?

A. No, sir.

Q. Then you went up in the room with Miss Mohr, didn't you?

A. Yes.

Q. That is where you met him?

A. Met Harry downstairs outside.

Q. No, in reference to Miss Mohr's room.

The Court: You go too fast. You don't wait for the answers.

Q. Was Miss Mohr outside with you when you met Harry?

A. Yes, sir.

Q. Was that the same time you and she arrived there, five minutes of nine?

A. I couldn't say what time it was.

Q. If you left the room at 8.30 and it took you twenty-five minutes to arrive there, that would be five minutes to nine?

A. I said about. I wouldn't be absolutely sure of the time.

Q. You are not sure of the time; that is correct, isn't it?

A. Yes, sir.

Q. You remember everything that happened on March 10th?

A. Yes, sir.

Q. Where were you on April 10th?

A. I don't know.

Q. Where were you on May 10th?

A. I don't know.

Q. Where were you on June 10th, do you know?

A. No, sir.

Q. Where were you on July 10th, do you know that?

A. No, sir.

Q. Where were you on August 10th?

A. I don't know.

Q. As a matter of fact, you can't tell me any place you have been except March 10th, can you, from that time down to date?

A. No, sir.

By the Court:

Q. Well, was there anything to fix your attention to what had occurred on March 10th?

A. I beg your pardon.

Q. Was there anything that called your attention to March 10th?

A. Yes, sir.

Q. What was it?

A. Why, there was an accident up on Columbia Avenue, an automobile accident.

Q. Well, anything else? Did you hear of the murder on that night?

A. I did after eight o'clock; yes, sir.

Q. And you knew it was on March 10th?

A. Yes, sir.

By Mr. Keown:

Q. You know that the Brunen murder took place on March 10th, don't you?

A. Yes, sir.

By Mr. Peacock:

Q. Did you not tell Mr. Cain, county detective of Burlington County, and Mr. Eshley that you were not correct about any time?

A. I told them that I was not certain.

Q. You were not certain as to the time?

A. No, sir.

Q. You were interested enough in Mr. Mohr to go clear to Riverside that night, weren't you?

A. I just don't quite understand.

Q. You went to Riverside with Mohr that night, didn't you?

A. Yes, sir.

Q. How long did you stay there?

A. I stayed there all night.

JAMES COOK, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Cook, where do you live?
A. 1639 Columbia Avenue, Philadelphia.
Q. What is your business?
A. Restaurant.
Q. Do you know Miss Mattie Mohr?
A. Yes, sir.
Q. Was Miss Mattie Mohr in your employ on March 10th?
A. Yes, sir.
Q. This year?
A. Yes, sir.
Q. Are you sure of that?
A. Yes, sir.
Q. Do you know what Miss Mohr's hours were?
A. Yes, sir.
Q. On March 10th?
A. Yes, sir.
Q. What was her shift?
A. From about four o'clock until eight o'clock.
Q. And in what capacity was she serving?
A. As a waitress.

No cross-examination.

JOHN DOBISH, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Are you now confined to the Burlington County prison?

A. Yes, sir.

Q. Do you know Charlie Powell?

A. Yes, sir, know as far as I see him be in the prison, that's all I know about him.

Q. Have you ever had any conversation with Mr. Powell while he has been confined, and while you have been confined over here in the prison?

A. Well, yes, he be down, let down in the yard, I had speak with him couple of times.

Q. And what was the conversation you had with him? Turn around so the jury can hear you.

A. One night Charlie come down and said, "I playing cards pass the time with you," and some fellow there, I don't know, but say it took him by the state's business, well, what prisoners are allowed to do, state prisoners that played cards, Charlie asked him allow to play any cards in state prison? The fellow answered him no, and I turned around and asked Charlie, "You think you going to state prison?" He said, "No, I don't think anything like it, I don't think anything will be over it." That's all I had to do with him.

Q. When was that conversation, John?

A. Oh, I can't tell you that.

Q. About how long ago?

A. Around a month or so ago.

Cross-examination.

By the Prosecutor:

Q. How many times have you been convicted of crime, Johnny?

A. Well, crime, I don't——

The Court: He doesn't understand that.

The Witness: I don't know I been convicted. I plead guilty.

Q. How many times have you been locked up in jail and pleaded guilty and sent away?

The Court: What were you convicted for? What are you in jail for now?

The Witness: Well, I am in jail for woman bussiness.

The Court: Some woman had me arrested.

Q. Some little girls, wasn't it?

The Court: We don't need to go into that.

The Prosecutor: I don't intend to go into that. He has been convicted of crime before.

The Court: Have you got a record? Prove it.

The Prosecutor: I don't think it is necessary.

Mr. Keown: If your Honor please, my attention has been called to the fact that when I read over

the phone calls a short time ago, and that when we stipulated that the phone call from Riverside two-seven-J, to Baltimore, Madison 0153-W, I stated at 1.29 P. M. It should have been 1.29 A. M.

BEULAH M. WARREN, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mrs. Warren, where do you live?
A. 921 North 16, Philadelphia.
Q. Where were you living March 10, 1922?
A. At the same address.
Q. Do you know Miss Mattie Mohr?
A. Yes.
Q. Was Miss Mattie Mohr living at your home on the 10th day of March, 1922?
A. Yes.
Q. How long had she been living there at that address at that time?
A. From January, I forget the date, I have it in my handbag if you wish to know.

The Court: Well, just as near as you can tell.

The Witness: I think about the 21st.

The Court: Of January?

The Witness: Of January.

Q. When did Miss Mattie Mohr leave your home?

A. I think the week of between the 8th and the 15th.

The Court: What month?

The Witness: April, I am not quite sure of the date.

The Court: Are you sure of the month?

The Witness: Yes, I have it in my handbag. She paid me until the 15th of April, but she left some time during that week.

The Court: That is enough, go ahead.

Q. Did Mr. Kresge live at your home?
A. No, Mr. Kresge never lived at my home.

No cross-examination.

WALTER LEROY EARNEST, recalled for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Earnest, you have been called before?
A. Yes, sir.
Q. Do you remember a conversation had in your home, in your presence, when Mr. Bentum was there and Mrs. Powell was there and Harry Mohr?
A. Yes, sir.
Q. And was that conversation about three or four days after the murder of John Brunen?

A. Yes, sir.

Q. Or was that after Charlie Powell was arrested?

A. After Charlie Powell was arrested.

Q. Did you state to them at that time that Charlie Powell was home in your house between seven-thirty and seven forty-five?

A. Yes, sir.

Cross-examination.

By Mr. Peacock:

Q. You have learned since that he wasn't though, haven't you?

Mr. Keown: I object to that.

Q. Didn't you testify in court the other day that you didn't know the exact time?

A. No, I couldn't swear to it now, the exact time.

Re-direct examination.

By Mr. Keown:

Q. But you did say, in the presence of these men, four days after Charlie Powell was arrested, that Charlie Powell was there between seven-thirty and seven forty-five that night?

A. Yes, I stated that at the time.

HOWARD ELLIS, recalled for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Ellis, you have already testified in this case?

A. Yes, sir.

Q. How long did you know John Brunen prior to his death?

A. About eight months, nine months.

Q. Did you drive a car for Mr. Brunen?

A. Yes, sir.

Q. When?

A. All the time that he had one.

Q. Have you ever had any conversations with Mr. Brunen concerning the driving of the car?

A. Well, he can give you all kinds of orders, if that's what you mean.

The Court: Have you ever had any conversations with Mr. Brunen concerning the driving of his car? That's the way the question is put. That you can answer yes or no. Did you?

The Witness: Yes, sir.

Q. Will you just tell his Honor and the gentlemen of the jury what that conversation was?

The Prosecutor: I object.

The Court: What is the ground of your objection?

The Prosecutor: About having a conversation with Mr. Brunen. That was my understanding. How is that relevant? How could we deny it if there was such?

The Court: What is the object of this question?

Mr. Keown: Well, it wouldn't be fair for me to state the object of the testimony, because I would have to say what I want the witness to testify to.

The Court: Well, I don't know what your object is. The question is really improper. I don't see how I can admit it, conversations he had with Mr. Brunen. I think the objection must be sustained.

Q. As a result of those conversations that you had with Mr. Brunen——

The Court: If you had conversations with Mr. Brunen, as a result of those conversations, that is the way to put your question.

Q. How did you drive the car at nights?
A. He was never along with me at nights.
Q. Was that the result of the conversation that you had with him, that he never rode in the car at nights?
A. No, sir, he would never ride at nights.
Q. And that was the result of the conversation?
A. Oh, yes, sir—he told me that——

The Prosecutor: Now, I object to what he told you.

The Court: Well, I think you might answer that. Do you know why? Did he ever tell you why he wouldn't ride at night?

The Witness: Yes, sir.

The Court: Well, what did he say?

The Witness: Well, he was afraid of somebody. He never said right out who it was, but he was afraid to ride at night on account of being held up or something would happen on the road in between where we were going.

Q. Do you remember riding with John Brunen in the car at Pottstown in one particular occasion, when you approached a hotel?

A. Pottstown?

Q. Maybe it was Johnstown.

A. That would be more like it, I was never at Pottstown.

Q. Well, at Johnstown?

A. Yes, sir.

Q. And, as a result of the conversation you had with Mr. Brunen that night, as you were approaching the hotel, what did you do?

A. Well, the only thing I can—there was a couple of men standing outside the hotel, and I was going to pull right up to the door as usual, as I always do——

Q. Don't tell us what he said, but what you did.

A. I just drove around the corner, drove around the block and came back again.

Cross-examination.

By Mr. Peacock:

Q. Did he ever tell you to drive at different places, he was afraid to stay on the show at nights?

Mr. Keown: I object.

The Court: That is what you were trying to bring out.

Mr. Keown: Your Honor refused to allow me to bring in the conversations.

The Court: What is the question?

(Question repeated.)

The Court: Do you object to that?

Mr. Keown: I object, on the ground your Honor wouldn't allow me——

The Court: I sustain the objection.

CHARLES AUERBACH, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Auerbach, do you know Charlie Powell?
A. Yes, sir, I do.

Q. Is he in the court room?
A. Yes, sir, I see him right there.
Q. And do you know Harry Mohr?
A. Yes, I do.
Q. Do you see him in the court room?
A. Yes, sir, right in back of you.
Q. Have you had any business transactions with either of these two men during the months of November or December, 1921?
A. Well, I got copies of——

The Court: Well, did you or did you not?

The Witness: I can't remember until I look at these copies of orders.

The Court: Oh, you have a memorandum?

The Witness: Yes, sir, I have copies of orders, what date it was that was.

Q. I ask you whether you had any transactions with them during the months of November or December, 1921?
A. Yes, I had.
Q. Will you just tell his Honor and the gentlemen of the jury what that business transaction was?
A. On the 11th month, the twenty-first, 1921, why we shipped some goods to Harry C. Mohr at 20 West Jackson Street, Wilkes-Barre, Pa. The merchandise consisted of a lot of silverware. This silverware was used for premium purposes. Bill amounting to $20.
Q. Do you know who ordered that bill of goods?
A. Why, at that time Harry Mohr and Powell was in my place of business and they placed the order

with me, and we shipped that merchandise to Wilkes-barre, as requested.

Q. Have you any other records of any transactions between them?

A. Yes, sir, and then we had a bill of goods the 11th month, 22, 1921, Harry C. Mohr, Wilkes-Barre, Pa., which was a lot of punch boards, used for premium purposes. There was a thousand boards, 100 hole boards, amounting to $150. He gave me cash $70, and there was a balance of C. O. D. of $80.

Q. Who ordered that bill of goods?

A. That was purchased by Powell and Mohr.

Q. And who paid you the $80 or the money that was paid?

A. Why, I believe Mr. Mohr.

Q. Were those goods shipped?

A. Yes, sir, those goods were shipped.

Q. You say they were shipped C. O. D. balance?

A. There was an $80 C. O. D. Of course, I don't know which one lifted it.

Q. Were those goods lifted?

A. Yes, sir.

Q. You got your money?

A. I got my money.

Q. Any other transactions?

A. On the 12th month, 23rd, 1921, Charles M. Powell, Wilkes-Barre, Pa., there was a bill of goods amounting to—a lot of fruit bowls, we use for premium purposes, amounting a C. O. D. $35, was ordered by Powell.

Q. That was delivered to Powell?

A. That was delivered and paid for.

Q. Any other transactions at that time?

A. Well, that is the only transactions that I can remember in purchasing merchandise, but they have

been in the store several times previous to that time, but they didn't purchase any merchandise. They told me they were going to have some kind of doings in Philadelphia or Camden under some churches, and so forth, and they would purchase some more merchandise, perhaps.

Q. Witness is shown telegram dated November 20, 1921, and is asked whether he received that telegram, and if so, from whom?

A. Why, this was sent by Harry C. Mohr.

Q. Will you please read it?

A. Yes, sir. "Wilkes-Barre, Pennsylvania, November 20, 1921, Karr & Auerbach, Philadelphia. Cancel my order for fourteen dollars fifty cents boards—make them all sixteen dollars ten cents same as you gave me Saturday—give this order prompt attention and ship the balance Wednesday. Confirm this wire at my expense to 20 West Jackson Street, Wilkes-Barre, Pennsylvania. Harry C. Mohr."

Q. Witness is shown telegram dated November 21, 1921, addressed to Harry C. Mohr, at 20 West Jackson Street, Wilkes-Barre, Pa., signed by Karr & Auerbach, and is asked whether he sent that telegram in answer to the telegram that Mr. Mohr sent him.

A. Yes, sir, I sent this telegram.

Q. Will you please read it to the jury?

A. "Harry C. Mohr, 20 West Jackson Street, Wilkes-Barre, Pa., November 21, 1921, Boards and silverware will be shipped as per telegram orders. Karr & Auerbach."

Mr. Keown: I offer these two telegrams in evidence. Is there any objection to my offering the bills that Mr. Auerbach has with him?

The Prosecutor: No objection. It has been admitted.

(Bills marked respectively Exhibits D23, D24 and D25 and telegrams marked respectively Exhibits D26 and D27.)

No cross-examination.

CLARENCE GRANT, recalled, for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Grant, you have already testified?
A. Yes, sir.
Q. With whom were you employed during the month of December, 1921?
A. Harry A. McCoy.
Q. And where is his place of business?
A. Riverside.
Q. Did you have occasion, during your employment, to serve Mr. Mohr with gas?
A. Lots of times.
Q. What kind of a car did Mr. Mohr drive?
A. Ford roadster and a Ford coupe.
Q. Did you ever serve him with gas when he drove the Ford coupe?
A. Yes, sir, lots of times.
Q. And where is the tank in the Ford coupe?
A. Why, in the back.
Q. Have you ever lifted the lid of the back and put gas there in his tank during that time?
A. Lots of times.

Q. Did you ever notice a gun in the back of that car?

A. No, sir.

Q. Was there ever any gun in that car?

A. Not to my knowledge.

Q. You never saw any?

A. No, sir.

Q. Do you know the general reputation of Mr. Mohr, Mr. Harry Mohr and Mrs. Doris Brunen in the community where they reside?

A. Well, as far as I know it is very good. I knew Mr. Mohr quite well.

The Court: Well, he has answered the question.

Cross-examination.

By Mr. Peacock:

Q. Who was the gasoline charged to?

Mr. Keown: It is not proper cross-examination. I object to the question on the ground it is not cross-examination.

The Court: What difference does it make?

Mr. Peacock: It makes a lot of difference, I think. The jury should know Mr. Mohr got gas there. I want to know who paid for it.

The Court: That isn't the object of the introduction of that testimony. I don't think it is pertinent. The question is whether he got gas there, and on those occasions this witness saw the inside of the automobile, so what difference does it make who paid for it?

Mr. Peacock: I was going to ask him whether it wasn't charged to John Brunen.

The Court: Suppose it was.

Mr. Peacock: That is part of our case, part of the argument.

Mr. Keown: I will withdraw my objection to the question so we can get along.

The Court: All right, who was it charged to?

The Witness: Harry Mohr.

Q. At all times?
A. Yes, sir.
Q. Never charged to John Brunen?
A. Not what Harry bought.
Q. You always made an examination of the car each time you put the gas in?
A. I always saw the back of it, saw inside.
Q. Did you ever see anything in there?
A. Measuring stick. I have often taken the measuring stick and measured it when he was reading the newspaper.
Q. Did you ever look to see if there was a revolver in there?
A. I never had cause to. I never suspicioned.

G. Howard Curtis, sworn for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Curtis, where do you live?
A. Mount Holly.
Q. How long have you been living in Mount Holly?
A. About fifty years.
Q. Are you employed as a turnkey or watchman in the jail?
A. Not at present.
Q. Were you?
A. Yes.
Q. When did you sever your relations with the authorities?
A. Second of this month.
Q. Was Charlie Powell confined to the county prison while you were working there?
A. Yes.
Q. Did you ever have occasion, or did you ever see any queer actions or hear any queer statements from Charlie Powell while he was incarcerated?
A. No queer statements, I saw him hold his hands up like this to his head and complain of his head.
Q. Anything else?
A. Yes, he spoke of hearing things out in the yard.
Q. What did he say?
A. Well, one night a band was playing here, I guess it was a political parade, and he and I spoke about it, and I said, "Yes, Charlie, that is a band," and another night he heard something, and I said, "No, it is nothing." Seemed to be some trouble

with his ears, at least, that is the trouble it appeared to me to be.

Q. Any other conversations?

A. Well, there was just casual conversations like there would be with——

Q. I mean where peculiar noises were said or peculiar things were done?

A. I don't remember any peculiar noises. No, only that he complained of his head, and I say, put his hands like that (indicating) and complained of his head hurting him.

Cross-examination.

By Mr. Peacock:

Q. He had a gathered ear, didn't he, Mr. Curtis?

A. That I don't know.

Q. Taken to Dr. Prickett and taken for treatment of his ear?

A. I don't know.

Q. Doctor Whitehead?

A. I don't know. I was told ——

The Court: Never mind what you were told.

Mr. Keown: Now, if your Honor please, at this time I must state that I am somewhat surprised at the progress that has been made with my case today. I have called a lot of witnesses. I have still some witnesses that I desire calling, and I find, I checked up and I find that the witnesses are not at present in the court room. I desire to call these witnesses. I feel that they will testify to facts which will greatly benefit the defendants.

I am willing to state to your Honor and to counsel for the State, at side bar, if your Honor desires it, just what these witnesses will testify to, and I would ask that your Honor permit me the right to call these witnesses tomorrow morning, and at which time they can give their testimony.

The Court: How many are there?

Mr. Keown: I would like the right to call Adam Rhodes ——

The Court: How many are there?

Mr. Keown: I should say there are five. It may be that some of them will show up yet this afternoon. We have notified them to be here.

The Court: Let me know the nature of your proof and the State may then put on their rebuttal, and I will let you put in your testimony afterwards. I don't want to lose any time. The jury have been serving here day after day, and I have got to see to it that no greater hardship is imposed upon them than absolutely necessary by a proper progress of the trial. If you tell me what you intend to prove by them ——

(After a conference at side bar.)

The Court: Are you ready to go on with rebuttal?

The Prosecutor: No, I asked Mr. Keown this morning, and I asked him again at noon, your Honor, how long he would be, so as to anticipate some particular time, and he said we would be sure

to be all day today and possibly until tomorrow noon and maybe longer, and I told my witnesses to go away.

The Court: I was going to have your rebuttal go in now. If I should declare this case closed now, you will both have to proceed and sum up. It was wrong for you to speculate on how long a case would take. It was wrong for either one of you to speculate on either side. You should always be ready.

The Prosecutor: It won't take very long for our rebuttal.

The Court: I know, but you ought not to discharge any witnesses until the case is through. You ought to be ready to go on with your rebuttal. Is the rebuttal absolutely necessary?

The Prosecutor: Yes, sir, three witnesses are absolutely necessary and material.

The Court: Now, you see what this does, loses three hours, two hours anyhow, two hours and a quarter. It keeps the jury confined and loses me some time, which is important to me. I have other duties to perform besides sitting here and allowing counsel to speculate upon how long a case is going to take and discharge their witnesses, or not get ready.

The Prosecutor: May it please the Court, if your Honor will allow me say five or ten minutes recess I will see if I can't get those, because I told them at noon, and I think possibly I can.

The Court: I was this way inclined. I was inclined that if your rebuttal goes to certain matters which I think it is likely it will go to, that I would take that rebuttal testimony this afternoon and give Mr. Keown a chance to put in some testimony, which I don't think would really require any rebuttal, as if he were putting it in today, so that we may save time, but I won't put the State in a position of not being able to produce all the testimony that it deems necessary in order to complete its case, and not closing the case without giving you that opportunity if your witnesses are absent. If you can get them this afternoon we will wait. What do you think about it? Could you get them this afternoon?

The Prosecutor: I don't believe I can. I will do all I can.

The Court: I am only asking the question to get your idea. You don't think you can?

The Prosecutor: I don't think I can. I know there are four witnesses from Camden, and I know that they are not here, because Mr. Keown knows I spoke to him at noon and also this morning, and only this noon I told them they needn't stay.

Mr. Keown: I don't think it fair for Mr. Kelsey to make statements. I don't want personalities between us. Your Honor knows I told your Honor at noon the position I was in. I did not state to Mr. Kelsey, as he has suggested.

The Prosecutor: Then I misunderstood him. I understood him to say he wouldn't finish.

The Court: I dislike very much to put off this case until tomorrow morning, and the jury are entitled to have the trial go on, and tried through without their being put to extra hardship.

The Prosecutor: If your Honor will adjourn for ten minutes I will see what I can do.

The Court: Suppose I will give a recess until three o'clock? Is that long enough?

The Prosecutor: Yes, I think so. I can find out by that time.

The Court: I will say this. If there is anything comes up after you put in your testimony, on the part of the defendants tomorrow which needs rebuttal, I am going to give the State that opportunity, and you will have to communicate with the State now what you intend to prove by those witnesses who are absent, so that the State may be prepared to rebut any testimony that you may offer.

I suppose that will be satisfactory to the State. Mr. Keown will give you the substance of the proof he intends to offer by those witnesses he is to have here tomorrow, and you shall have the opportunity to prepare, if you find it necessary, to rebut any such statements, and I suppose we will be able to close the case tomorrow morning in about two hours' testimony.

Mr. Keown: The testimony of all my witnesses will not take, I should not imagine, over a half hour.

The Court: Then there won't be much time lost.

Mr. Keown: It may be by this twenty minute recess you are giving us, some of those witnesses may arrive by that time.

The Court: I will order a recess for twenty minutes, and see what you can do in that time.

(A recess was here taken for twenty minutes.)

WARREN V. HAIT, JR., sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Do you know Mr. Harry Mohr, one of the defendants in this case?

A. Yes, sir.

Q. Do you remember seeing Harry on or about March 8th?

A. Yes, sir.

Q. Have you any way of fixing that time accurately?

A. It was on Wednesday evening. Due to an appointment made previously to meet him at the headquarters of the Legion, the American Legion, J. J. Barry Post, 52nd and Locust Streets, to make arrangements for a carnival being held in West Philadelphia under the auspices of this Post.

Q. Did you meet Mr. Mohr on that evening?

A. I did.

Q. Where did you meet him?

A. At the Club, or rather, the Legion rooms, 52nd and Locust, southwest corner.

Q. Do you know what time you met him?

A. He arrived at about half-past eight.
Q. How long was he in your presence?
A. About two and a half hours. I would say it was between half-past ten and eleven o'clock when he left; I imagine about quarter of eleven.

No cross-examination.

HUGH DELANEY, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Mr. Delaney, where do you live?
A. 1984 Federal Street, Camden.
Q. Do you know Harry Mohr, one of the defendants in this case?
A. Yes, sir.
Q. Do you know John Brunen?
A. Yes, sir.
Q. Do you know Mrs. Doris Brunen?
A. No, I didn't see them personally. They were in a car when they came to my place.
Q. Who else was in the car?
A. Mr. Brunen and his wife, Mr. Mohr and his wife.
Q. Now, when did you see this family prior to March 10th?
A. On Friday night previous before the murder.
Q. Did you have occasion to observe their actions towards one another?
A. I did in a way. Mr. Brunen came in and bought a tire off of me and a tube. He told me he wanted me to hurry up, that he had an engage-

ment and they were late, they were out for a good time in Philadelphia, and got a tire and tube, and Mr. Mohr also gave me a helping hand so as to hurry the job up, so as to get off to attend their engagement.

By the Court:

Q. You saw Mrs. Brunen in the car, did you?
A. They were both in the car, Judge. They were very friendly with one another.

By Mr. Kelsey:

Q. That is about a week before, you said?
A. It happened on Friday night, and Friday week the murder was committed.

Arthur Stecher, recalled for defendants.

Direct examination.

By Mr. Keown:

Q. Mr. Stecher, you were on the stand the other day and said you would come here and bring records of the money orders that Mr. Mohr has sent through your office.
A. Yes, sir.
Q. Have you those with you?
A. I have.
Q. Will you produce them?
A. There is no record so complete as the remitter's original application for a money order. Other records pertain to figures only.

Q. What do the records that you have here show, please?

A. One money order issued, No. 102756, for $48.90. It is issued in favor of Continental Guarantee Corporation, 248 Madison Street, New York. The other is the number following, 102757, for $5, issued in favor of J. Cullen, Secretary, Kazen Temple, Roanoke, Virginia.

Q. Are they the only records that you have?

A. All orders that I had relating to when I was on the stand the other day.

Q. Have you any other records?

A. No.

Q. You didn't bring the other records?

A. I didn't have any other record of that kind.

Q. I asked you to bring all the records that you have showing money orders issued from your office, did I not?

A. If you did I didn't understand you. Then again, you should state from what period to what period, so I would know what you meant.

Q. Maybe I should.

A. Those are pertaining to the evidence I gave the other day.

By Mr. Kelsey:

Q. What are the dates of those?

A. They are issued on March 16th, each order.

Mr. Keown: Now that is all the evidence that I have to call this afternoon.

The Court: Did you succeed in getting your witnesses?

Mr. Kelsey: I have three, your Honor.

The Court: Now it is understood that while this is somewhat irregular, the defendant rests now, I understand; that is, he intends to go on tomorrow. I give the defendant a right to introduce witnesses tomorrow, which he says are now absent, and the State has the privilege to call in such witnesses as Mr. Keown, having stated exception to the testimony which he intends to produce tomorrow, to rebut any such testimony as he introduces tomorrow.

Mr. Kelsey: That is satisfactory to the State, your Honor.

The Court: And Mr. Keown agrees to that and the State agrees to that?

Mr. Keown: I do sir, and appreciate it.

STATE'S TESTIMONY IN REBUTTAL.

JAMES F. LARKINS, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Captain, where do you live?
A. 138 Kensington Avenue, Jersey City.
Q. What is your position in Jersey City?
A. Captain of police.
Q. And how long have you been captain of police?

A. 15 years captain of police.
Q. Did you know John Brunen?
A. I met him.
Q. Did you meet Harry Mohr?
A. I did.
Q. Will you tell me when you met those two?
A. In the latter part of October. I think it was about the 28th or 29th.
Q. Of last year?
A. Of 1921.
Q. Now Captain, will you tell us, tell the Judge and the jury, just how you met them, what they said to you, what was said to you by either John Brunen or Harry Mohr and what was said by John Brunen in the presence of Harry Mohr and where?
A. Mr. Brunen came to the station house, I believe it was Friday or Saturday night, either the 28th or 29th of October, and reported to me that his wife and daughter had gone away with two men. One man's name was Ward and I believe he called the other man the lion tamer.

The Court: Now this is about his wife; it was not stated in the presence of Mrs. Brunen?

Mr. Kelsey: Well, I asked him to state what was said in the presence of Harry Mohr.

The Court: Well, what difference does that make? I cannot see how that testimony is competent, and it is not rebuttal either.

Mr. Keown: If your Honor please, then I move that it be stricken out.

Mr. Kelsey: Well, it is rebuttal, your Honor. This is rebuttal. I was going to get him to stop.

The Court: This was not rebuttal. Now you call the attention of the Captain to questions that were put to either Mrs. Brunen or Mohr as to what they said on a certain occasion. Are you referring now to the Hoboken incident?

Mr. Kelsey: Yes.

The Court: Well, then if he was present in Hoboken the questions that you put to Mrs. Brunen to which she gave an answer and the answers which she gave to the questions must be repeated and given to this witness.

Mr. Kelsey: May it please your Honor, anticipating, as I stated before, that the defense would not close or would be all of today, I have not the questions, the stenographer has not prepared that list of questions.

The Court: You are not prepared to examine the witness?

Mr. Kelsey: Under those circumstances, under your Honor's ruling, I would not be able to examine the witness at this time.

The Court: Well, there is something in that. If you intend to put in rebuttal of Mrs. Brunen's testimony or Mohr's testimony as to what they said then you have got to put a question direct to the witness as to whether they said this or that or the other thing, and of course you have got to get that from the testimony. You expected he would not finish until tomorrow?

Mr. Kelsey: I talked with Mr. Keown this morn-

ing and also at noon and I understood him to say that it would be tomorrow noon or tomorrow night.

(The witness was excused.)

Mr. Kelsey: The other two witnesses I have would be the same questions exactly.

The Court: Have you no other witnesses on any other topic except contradiction?

Mr. Kelsey: No, they are the only witnesses.

The Court: No other witnesses to be offered?

Mr. Kelsey: No, no other witness that we can get this afternoon. It may not be possible to use the other witnesses tomorrow.

The Court: Well, I don't see anything else to do but to order a recess until tomorrow morning. I dislike to do it very much, gentlemen of the jury, but these things will happen once in a while. They ought not to happen. But that is something that cannot be prevented. And the case is too important to deny either side the right to produce all the evidence that the nature of the case is susceptible of, and I am not inclined to shut out either party from producing all the witnesses that can throw any light on the issue that we are trying. I expect that this case will be closed tomorrow, and I think that we had better recess until quarter past nine tomorrow. That will give us at least fifteen minutes more, and take a half an hour for lunch instead of the hour, so that we will make up some of the time. The case will be closed tomorrow.

Adjourned till December 20, 1922, at 9.15 A. M.

Mount Holly, N. J., December 20, 1922.

(Trial of the cause resumed at 9.15 A. M.)

ANDREW O. PARK, sworn for defendant.

Direct examination.

By Mr. Keown.

Q. Mr. Park, what is your business?
A. Service manager for C. R. Ely, Ford agent in Camden.
Q. What car?
A. Ford.
Q. Did you at my request make a test on runnings a Ford car from the Cambridge station to 5948 Spruce Street, Philadelphia?
A. Yes, sir.
Q. And when did you make that test?
A. Last evening.
Q. Will you please tell his Honor and the gentlemen of the jury where you left, the time you left, and describe the trip? Who accompanied you on the trip?

Mr. Peacock: I think this is objectionable, unless it was made under the same conditions as testified to on the night of March 10th.

The Court: I suppose this testimony is directed to showing within what period of time a person would leave Riverside and it would take to reach the place on 59th Street; is that right?

Mr. Keown: Yes.

The Court: I suppose that is what your ——

Mr. Keown: Exactly, that is it, sir.

The Court: You have the right to rebut it if you think otherwise. I do not see what that is you mean, taking the same road; are you going to take the same road that was taken?

Mr. Keown: Yes.

The Court: Why don't you call his attention— He made the test?

Mr. Keown: Yes.

The Court: Let's see what road he took.

A. We left Cambridge station exactly 7.25, went down to Riverton, turned over Riverton to the Burlington Pike.

Q. Where at Riverton did you turn at Riverton and what direction did you take?

A. Right this side of the station, I believe I turned to the left toward Burlington Pike, and went in Burlington Pike to Federal Street, in Federal Street to 12th Street, in Cooper, in Cooper to Delaware Avenue, Delaware Avenue to Market, Market to the ferry.

Q. What time did you arrive at the ferry?

A. Ten minutes to eight.

Q. And how fast were you driving the car?

A. Well, my knowledge ——

Q. I don't mean by speed.

A. My knowledge of Ford cars, I don't think I want to drive any any faster. I imagine I averaged around thirty-five miles an hour.

Q. Were there any obstructions in your way over that course to the ferry?

A. Nothing to amount to. We passed everything on the road.

Q. Were you stopped at any point?

A. No, sir.

Q. Now what were the road conditions?

A. Good.

Q. How soon after you arrived at the ferry was it before you were able to get on the boat? Were there any cars ahead of you, parked there?

A. No cars parked ahead.

Q. You were the first car on the boat?

A. The first car on the boat.

Q. How long did it take you to get on the boat and get off the boat?

A. Am I permitted to use my notes?

Q. You took notes?

A. I took notes.

The Court: Refresh your memory but don't read the notes.

Q. You may use your notes if you took them last night.

A. Five minutes from the time we got to the ferry to the time the boat left.

Q. How long did it take you to cross the river?

A. Just six minutes.

Q. What time did you arrive in Philadelphia at the ferry?

A. 8.01.

Q. Where did you go from the ferry and along what road, streets?

A. Directly out Market Street to 32nd, over 32nd to Spruce, to Walnut, and all the way out Walnut to 60th Street.

Q. Is that the quickest and nearest way to go from the ferry to 69th and Spruce?

A. It is, yes, sir.

Q. What were the traffic conditions?

A. Well, normal on Spruce Street and Market also.

Q. Were you compelled to make any stops at all on account of traffic conditions?

A. Not over half a minute at any time, and that was only two of them, one at 15th and Market, right there at Broad Street Station, and the other was out around the Adams Express Company, due to a truck being backed in there, and we didn't lose over a half a minute.

Q. Who accompanied you on this trip?

A. A man by the name of Grant from Riverside.

Q. What time did you arrive at 59th and Spruce Streets?

A. Just twenty minutes past eight exactly.

Q. And then what was your running time from Cambridge station to that address?

A. Just 55 minutes.

Q. Did you make another test from the ferry, Philadelphia side to 55 Cooper Street, 45 Cooper Street?

A. Yes, sir.

Q. How did you make that test?

A. I let Mr. Grant get off on the boat as a passenger when the boat landed. He walked out. I followed him up in the car. I, of course, arrived sooner but I kept track of my time.

Q. What was Mr. Grant's time—pardon me—what time did you leave Philadelphia?

A. 8.44.

Q. That was when the boat left?

A. When the boat left.

Q. What time did Mr. Grant arrive at the Cooper Street address?

A. 8.55.

Q. How long did it take him to make that trip?

A. Eleven minutes crossing the ferry and walking.

Q. Did you see Mr. Grant walking?

A. Yes, sir.

Q. Was he walking rapidly or slowly?

A. A moderate pace, I should say.

Q. Were you acquainted with Mr. Mohr's car?

A. Yes, sir.

Q. At or about March 10th?

A. Yes, sir.

Q. And how did you know his car at that time?

A. I knew it had not been running far as far as a new car.

Q. How did that agree—how did Mr. Mohr's car at that time compare with speed with the car you drove last night?

A. I don't think it compared with it.

Q. In what way?

A. Well, I don't think any new car can be driven and hold the pace over the road which I drove that last night without freezing up and stalling.

Cross-examination.

By Mr. Peacock:

Q. What was the license number of Mohr's car?

A. That I couldn't tell you.

Q. How old is Mohr's car?

A. I just don't exactly know but I believe it was purchased somewheres around in November. He bought a runabout some time previous to that and used the runabout, and traded it in for a coupe.

Q. Did you sell it to him?
A. Yes, sir.
Q. Did you fix it up for him the day after the murder was committed?
A. No, sir.
Q. What garage are you in?
A. C. R. Ely.
Q. Did Mr. Mohr bring the car to you the day after the murder?
A. Not to my knowledge, I couldn't say.
Q. You won't deny that?

The Court: He says not to his knowledge.

The Witness: I couldn't say.

Q. Who pointed out the route to you last night?
A. Mr. Keown gave me the route to take.
Q. Is that the first time you have ever been over that?
A. I have been over it several times privately driving.
Q. What?
A. Privately driving.
Q. What time did you leave Riverside?
A. We left Cambridge station 7.25.
Q. What time did you get to Powell's house?
A. We crossed the river and came back again.
Q. You didn't drive it direct to Powell's house?
A. No, no.
Q. Did you drive it direct to the post office in Camden?
A. No, sir.
Q. Did you take the time that you arrived at the ferry?
A. Yes, sir.
Q. What time did you arrive at the ferry?

A. 7.50; ten minutes of eight.

Q. What?

A. Ten minutes of eight.

Q. You left Mr. Grant out at Mr. Powell's house, 45 Cooper Street?

A. No, sir, he got off on the ferry boat and walked back to Mr. Powell's.

Q. He walked from the ferry back to Mr. Powell's ?

A. Yes, sir.

Q. Could you tell me what distance that was from Cambridge to the ferry?

A. Well, I couldn't say exactly, but I have covered it.

Mr. Keown: Don't tell him what I told you.

Q. Did you have a speedometer on your car?

A. No, sir.

Q. Then you couldn't tell?

A. No, sir, I had one my own car.

Re-direct examination.

By Mr. Keown:

Mr. Keown: With your permission, Mr. Peacock, I want to ask one question I neglected.

Mr. Peacock: All right.

Q. After you arrived on the Burlington Pike did you take the shortest route to the ferry?

A. Yes, sir.

CLARENCE GRANT, recalled for defendants.

Direct examination.

By Mr. Keown:

Q. Mr. Grant, you have already been sworn on behalf of the State in this case?
A. Yes.
Q. At my request did you last night make a test running an automobile?
A. I rode with the man ran the test.
Q. I beg pardon.
A. Yes, I went along.
Q. You went along?
A. Yes.
Q. Where did you leave on your test?
A. Where did we leave? Cambridge station.
Q. What time did you leave Cambridge station?

(Witness refers to notes.)

Q. Did you make those notes?
A. Yes, sir.
Q. As you went along?
A. Yes, sir. 7.25.
Q. What road did you take to Camden?
A. We drove down the asphalt road following the trolley to Riverton, turned to our left and went from there to the pike, Burlington Pike, then down the pike to Westfield Avenue and into the Camden ferry by Cooper Street.
Q. What time did you arrive at Camden ferry?
A. 7.50.
Q. What were the conditions of the road when you did this last night?

A. What do you mean by conditions?

Q. Well, I mean referring to traffic and weather conditions and everything.

A. Well, the weather conditions were all right. We did not have a great deal of traffic; we passed everything going in the same direction.

Q. Were you driving the car rapidly or otherwise?

A. About the fastest I ever rode in a Ford coupe.

Q. When you arrived at the ferry were there any cars ahead of you?

A. No.

Q. And how long did it take you to get on the ferry boat and what time did you arrive at Philadelphia?

A. We stopped at 7.50 to pay the fare and started for the boat 7.52, arrived on the boat 7.52½, the boat started 7.55 and we arrived in Philadelphia 8.01.

Q. After you arrived in Philadelphia what course did you take and where did you go?

A. We went out Market to 32nd, turned left up Woodland Avenue to Walnut, out Walnut to 60th Street, on 60th to 60th and Spruce.

Q. Is that the nearest route from the ferry to 60th and Spruce?

A. To the best of my knowledge.

Q. How rapidly did you drive in Philadelphia?

A. I don't know how fast, Mr. Keown. I don't never want to drive that fast again. We had three very close calls and we were talking to one another while we were riding what we would do if we were arrested. We expected to get arrested.

Q. Never mind that.

Mr. Peacock: I move that be stricken out.

Q. What time did you say you arrived at the Spruce Street address and what was it?

A. 8.20.

Q. Now did you then drive the car back to the ferry?

A. Beg pardon.

Q. Where did you go after you arrived at Spruce Street?

A. Back to the ferry.

Q. Now did you make another test after you got back to the ferry?

A. Yes, sir.

Q. What time did you leave the Philadelphia side of the ferry?

A. 8.44.

Q. And were you then a passenger on this car?

A. When we left going over, coming back?

Q. Yes.

A. Yes, sir.

Q. Did you get out of the car?

A. Yes, sir.

Q. Where did you go out of the car?

A. Just as the boat was docking.

Q. Did you get off the boat as soon as possible?

A. Yes, the first one off.

Q. What did you do?

A. I walked from there up Delaware Avenue on the left-hand side and then on the left-hand side of Delaware Avenue to Cooper, then on the left-hand side up to 45 Cooper Street.

Q. And how long did it take you to walk from the ferry, the Camden side, to the Cooper Street address?

A. Leaving the ferry up to the Cooper Street address?

Q. Yes.

A. Four minutes.

Q. How long did it take you to come across the river from Philadelphia to Camden?

A. Six minutes.

Q. How rapidly did you walk from the ferry to the Cooper Street address?

A. I beg pardon, it was seven minutes crossing the river.

Q. Seven minutes crossing the river?

A. Yes.

Q. The question now is how rapidly did you walk or how did you walk from the ferry to the Cooper Street address.

A. Well, I walked a moderate rate of speed. It was cold and I walked briskly, I would say.

No cross-examination.

HARRY MCCOY, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Mr. McCoy, where do you live?

A. Riverside.

Q. What is your business?

A. Operate two tire stores.

Q. Do you know the general reputation of Mr. Harry Mohr and Mrs. Doris Brunen in the community wherein they reside?

A. Do I know?

The Court: Yes, do you know their reputation—For what?

Mr. Keown: For peace and quietness.

A. Very good.

No cross-examination.

JOSEPH CLAIR, sworn for defendants.

Direct examination.

By Mr. Keown:

Q. Mr. Clair, do you know Mr. Harry Mohr?
A. I do.
Q. How long have you known him?
A. About one year.
Q. Did you know Mr. John Brunen?
A. I did.
Q. Did you see Mr. Mohr and Mr. John Brunen in company with one another around the 10th day of March?
A. No, sir.
Q. How long before the 10th day of March was it that you last saw them together?
A. A week or ten days.
Q. And where did you see them?
A. Moose Hall.
Q. Where?
A. At the Moose Hall.
Q. And where is that, please?
A. Riverside.
Q. Will you just descirbe to the jury the conduct of one toward the other and what they were doing on that occasion?

A. Very pleasant, always congenial, every time they played; never was any wrangling.

Q. What did they do together?

A. Played pinochle.

Q. How many times had you seen them there at about that time?

A. Well, I seen them twice a week, sometimes three times a week.

Q. What time did they generally arrive at the hall and what time did they go home?

A. Eight o'clock, go home about 10.00 or 10.30.

No cross-examination.

DEFENDANTS REST.

STATE'S TESTIMONY IN REBUTTAL.

CAPTAIN JAMES LARKINS, recalled for the State.

Direct examination.

By Mr. Kelsey:

Q. Captain Larkins, you were the last witness on the stand yesterday, weren't you?

A. Yes, sir.

Q. You have already testified that you were captain of police in Jersey City?

A. Yes, sir.

Q. And you were present at the time that John Brunen came to Jersey City when he had located Mrs. Brunen, Hazel and Parkstrom?

Mr. Keown: I think that question is leading and

it certainly contains too many statements for the witness to answer all of them with the same answer, perhaps.

Mr. Kelsey: I will ask if he was present. This is rebuttal, your Honor.

The Court: I will confine you strictly to rebuttal. It must be rebuttal. It must be to the matter brought out by the defense and must be matter which is not to establish something that you are bound to prove on the part of the State. That would not be rebuttal.

Mr. Kelsey: May it please your Honor, I did not think I did, because Mrs. Brunen had testified there were certain police officers present, and I asked her if she knew Captain Larkins and Sergeant Lynch.

The Court: I am wondering whether you can produce testimony contradicting a witness who has testified to a collateral matter, where you asked the question. On a collateral matter the law is well settled that you are bound by the answer of the witness and you cannot offer any testimony to contradict it. It has been settled not only in this state but New York State and other states. It seems to be the well established law.

Mr. Kelsey: Your Honor, my purpose was to lay a foundation for a contradiction and I did lay that foundation.

The Court: Well, I am now wondering, it being as to a collateral matter, whether you can offer testimony in contradiction of it.

Mr. Kelsey: Well, may it please the Court, under those circumstances, how could I lay ——

The Court: The burden was on the State, if they saw fit, to establish a motive on the part of this defendant in the alleged commission of this crime, and all testimony tending to establish that motive it was necessary to produce affirmatively on the part of the State.

Mr. Kelsey: Yes, and I think I did that. I did that by the testimony of Hazel Brunen, who testified at that time her mother said she was going to get a divorce, in both those places.

The Court: Well, that is a collateral matter. Now it is not necessary that there should be a motive, not necessary to establish a motive in this state.

Mr. Kelsey: In other words, you say it is not incumbent upon the State to prove a motive?

The Court: No, I don't say that. I say that we hold it is not necessary to establish a motive in order to convict a person of murder; that sometimes there is a hidden motive which cannot be fathomed. But of course the proof of motive enforces the charge made against the person. That is not the point that I am now suggesting to you. What I am troubled about is whether you can offer testimony in contradiction of what you elicited on cross-examination in relation to a collateral matter. And it was held in Stokes v. the People, in a celebrated case tried in New York many, many years ago, that you cannot do that, and they reversed a conviction of murder for that reason.

And we have followed that case in this state in State v. Moore and some other cases—I don't recollect now the name of it—in the Court of Errors and Appeals, that it would be error to permit on rebuttal or in any other way a contradiction of testimony elicited on a cross-examination in relation to a collateral matter. Now aren't these matters collateral to the issue that we are trying? If they are you would be bound by the answers made by the witness. That is my view of it. Now I may be mistaken in regard to the situation that is presented here, and if you want to ask the question I will let you ask the question and then I will rule on it.

Q. Then, Captain, just refrain from answering until his Honor has ruled on it. Did not Mrs. Brunen say to you at the station house in Jersey City on the night of October 31, 1921, when you and Sergeant Lynch had arrested Mrs. Brunen and Parkstrom and Hazel Brunen, that she hated her husband?

Mr. Keown: If your Honor please, I object to that question.

The Court: That is not collateral.

Mr. Keown: I also object to it for the further ground there has been no evidence in the case that anybody was arrested in Jersey City.

The Court: Oh, well, that is another thing. Change the form. I see what Mr. Keown's objection is; it goes to the form of the question.

Mr. Keown: Yes.

The Court: But the other is not collateral.

Mr. Kelsey: Then I will say when they were brought to the station house.

Mr. Keown: I object to that question now on the ground that Mrs. Brunen was not asked any questions as to any conversation she had on any specific date. The question now bears the date of October 31st.

The Court: Well, she can be recalled, I presume and the questions put, if you are going to be technical about it. Do you care to have her recalled?

Mr. Keown: No, sir. I object to the question on the further ground that that question was not put to Mrs. Brunen on cross-examination and therefore is not proper rebuttal at this time.

The Court: Well, that is a good ground of objection.

Mr. Kelsey: That question was asked, your Honor, on page 1064: "Did not Mrs. Brunen say to you that she hated her husband?"

Mr. Keown: I do not find it, Mr. Kelsey.

The Court: The top of page 1065. You are mistaken, aren't you?

Mr. Keown: It is all right now.

The Court: You withdraw your objection?

Mr. Keown: I withdraw my objection.

Q. Now you may answer it.
A. No, sir.

By the Court:

Q. What do you say?
A. No, sir.

By Mr. Kelsey:

Q. Do you understand my question?

The Court: Well, he says no, sir.

Q. Didn't Mrs. Brunen say to you that she hated her husband?
A. No, sir.
Q. Didn't she say that he was a brute?

The Court: Well, now —— Do you object to this?

Mr. Keown: I think I object to it; yes, sir.

The Court: Well, do you?

Mr. Keown: I do object; yes, sir.

The Court: On what ground?

Mr. Keown: On the same ground, that it was not brought out by—any of these facts of the Hoboken affair were not brought out by Mrs. Brunen in her defense, she was not examined on them and whatever was brought out was brought out by Mr. Kelsey on cross-examination over my objection, if

your Honor will recall, and he would be bound now by any answers that she gave.

The Court: I will sustain the objection.

Q. Did Mrs. Brunen say to anyone else in your presence that she hated her husband?

Mr. Keown: I object to that on the same ground.

Mr. Peacock: That is the first question.

The Court: That question appears not to have been asked, Mr. Kelsey. That does not appear to have been asked.

Mr. Peacock: That is the first question.

Mr. Kelsey: It is the first question.

The Court: Whereabouts?

Mr. Kelsey: Page 1064, and the top of 1065.

The Court: Well, I will admit that.

A. She did.

The Court: There is a question of the sort, Mr. Keown, a general question.

Mr. Keown: Yes, but if your Honor please, that question was later stricken from the record by your Honor, right afterwards. "I am not going to allow you to ask that. That is overruled. That is stricken out."

The Court: Did I strike it out?

Mr. Keown: Yes, that refers to the very question that Mr. Kelsey put.

The Court: No, that does not appear so upon the record. The question follows that. Well, let's not bother about this thing. It is taking up too much time.

Q. Didn't she say to you or in your presence at that time that he was a brute?

The Court: I have told you that I won't allow that.

Mr. Kelsey: I beg your pardon. I didn't recall that.

Q. Didn't she say to you or in your presence at that time that she lived a dog's life?

The Court: Well, she testified to that generally, Mrs. Brunen. I understand in her testimony she said that she had led a life of drudgery for many years. Why go over that again?

Q. Didn't she say to you or in your presence that she loved Doc Ward?

Mr. Keown: I object to that on the ground that

The Court: Objection sustained.

Q. Didn't she say to you or in your presence that she was going to get a divorce from her husband?

The Court: Is that objected to?

Mr. Keown: I object to that question for the reasons stated, and I do not find anything in the examination of Mrs. Brunen whereby that question was asked.

The Court: Well, the objection is sustained.

No cross-examination.

Sergeant William J. Lynch, sworn for the State.

Direct examination.

By Mr. Kelsey:

Q. Where do you live, Sergeant Lynch?
A. 80 Jewett Avenue, Jersey City.
Q. What is your position?
A. Sergeant of police.
Q. How long have you been sergeant of police?
A. Nine years.
Q. Did Mrs. Brunen say to you at the rooming house in Hoboken when you and other officers with John Brunen went to the room somewhere in the latter part of October of last year, to "Get Doc Ward's clothes away and hide them before my husband comes back"?

Mr. Keown: May I find out where that is, Mr. Kelsey?

Mr. Kelsey: 1062.

The Court: I remember that question without looking at the record.

Mr. Keown: I object to that question on ground that it was not covered by Mrs. Brunen in her examination and the Prosecutor would be bound by her answer, it being a collateral matter.

The Court: I sustain the objection in regard to the collateral matter. It has nothing to do with this case that I can see.

Q. Did she ask you to take the valise away so that he would not see it?

Mr. Keown: Objected to on the same ground.

The Court: The objection is sustained.

Q. Did you find some man's clothes in the room occoupied by Doris Brunen at the home in Hoboken on Bloomfield Avenue?

Mr. Keown: I object to that question on the same ground, that it is certainly new matter that the Prosecutor is injecting into this case at this time and not rebuttal.

The Court: The objection is sustained on two grounds.

Mr. Kelsey: May it please your Honor, it is not new matter. I think your Honor will know that I asked her if he did not find those clothes and put them between the mattress and the springs.

The Court: Why didn't you prove that affirma-

tively? You had the evidence, hadn't you, at the same time, if you had such evidence?

Mr. Kelsey: Yes, we had the evidence.

The Court: Well, if you had such evidence wasn't it incumbent upon you to prove it affirmatively?

Mr. Kelsey: Well, I may have been mistaken. It was a matter of cross-examination of her.

The Court: It is collateral matter. I don't know that it would have been of much probative value if you had. I don't see the force of the evidence at all. If you inject all these collateral issues in the case you only open a controversy about matters which prolong the trial of the case and it does not aid the jury to arrive at a just result on the very issue that is being tried before us.

No cross-examination.

ALBERT E. FLETCHER, recalled for the State.

Direct examination.

By the Prosecutor:

Q. Mr. Fletcher, on the night of March 10th you testified in your direct examination that a car passed you going toward Camden at a terrific speed. Did you get the license number of that car?

Mr. Keown: I object to that on the ground it is affirmative proof and should be proved in the main case and not now.

The Court: I am astonished. If you had the license number of this car you should have developed this at the beginning of the case.

The Prosecutor: We didn't have it at that time, your Honor, and Harry Mohr testified his car wasn't there. Now, we will prove it was there on March 10th.

The Court: I know, but you must prove all the evidence affirmatively. If you make an application now for me to open the case on the part of the State I will give you leave then to produce witnesses.

The Prosecutor: I will.

The Court: Mr. Keown, there ought not to be a miscarriage of justice.

Mr. Keown: I am very much afraid, if your Honor please, if the case is opened at this time it may be a miscarriage of justice. The Prosecutor knew that was a very important fact in the case. The witness was here and if the witness had that within his knowledge, he could have given it to us then.

The Prosecutor: May it please the Court, I can prove by this witness ——

The Court: Don't tell me what you can prove. Why didn't you examine him at the time?

The Prosecutor: I did not have the information myself, your Honor.

The Court: It isn't the question of whether you had the information. You had this witness and you must have had the information that Mr. Mohr had driven the car or Mr. Mohr owned the car and had a certain license number. This is something that ought not to be permitted.

The Prosecutor: Your Honor, the defendant had the information.

Mr. Keown: If your Honor please, that is certainly not a fair statement.

The Prosecutor: All right, I will prove it by the witness.

The Court: Mr. Parker, please don't. You have counsel in the case, and they must conduct their case on the basis of legal principles. Do you insist upon putting in this evidence?

The Prosecutor: Yes, I do.

The Court: Well, I will receive it.

Mr. Keown: Will your Honor allow me an exception?

The Court: Yes.

(Exception noted for defendants.)

SAMUEL KALISCH,
Judge. (Seal)

The Court: But in receiving it, I now say to the defendants I will give them every opportunity to produce any evidence that they may be able to in regard to this very matter. The case will be opened to that extent.

Mr. Keown: If your Honor please, we will not be in a position to do that.

The Court: I don't know whether you will or not. You must hear the testimony first. Of course, you put in this evidence at your peril now.

Q. Did you get the license number of the car that passed you?

A. I did.

Q. How did you get the license number at that time?

A. When the car came off the car tracks and switched in front of us it almost hit our front fender, and my light showed directly on it. I took the number and put the number down.

Q. At that time?

A. At that time.

Q. And have you that number? What did you put your number on?

A. I had this portfolio (indicating) sitting on the seat beside me, and I pulled it out, pulled out the first paper and put the number down and pushed it back again. It was my intention to give the number—I was working at the State House at the time—to Mr. Dill, to make a complaint of this machine running at terrific speed, and I put the portfolio away until last night we were looking for Christmas things and we found the portfolio again.

Q. Who did you communicate with?

A. I tried to get in communication with Mr. Par-

ker, but I couldn't and this morning I called him up. I told him I had found the number.

The Court: Never mind what you told.

Q. Don't mention what you told. What is the number of the license tag?

Mr. Keown: If your Honor please, I object to the witness using this memorandum, because it has not been in his possession and he does not know whether it is the same number. Anybody might have changed that number and might have altered it in all this period it has been lost.

By the Court:

Q. Is it in your handwriting?

The Witness: It is, sir, and has been in our house all the time.

The Court: Is it in your handwriting?

The Witness: Yes, sir.

The Court: And you recognize it?

The Witness: I do, sir.

The Court: They are the numbers you put down?

The Witness: They are, sir.

The Court: I will admit it. Let him use it, use the paper as a memorandum.

The Witness: Do I read the number, your Honor?

The Court: You can state the number.

The Witness: The number as I took it that evening was 69564, New Jersey.

Mr. Peacock: 69564, is that right?

The Witness: Yes, sir.

Cross-examination.

By Mr. Keown:

Q. Were your lights bright?
A. They are, sir, new car, one week old.
Q. And the rear light on the other car?
A. There was no rear light on the other car. There was a light there, but it was not lit.
Q. How could you then see the numbers on the other car?
A. When it switched in front of us, my lights directly on to it.
Q. Who was driving the car?
A. I was.
Q. Where was this package?
A. Right between me and my wife.
Q. Where was the pencil?
A. In my pocket.
Q. Who held that package and took a paper from it while you took the pencil out of it and wrote down the number?
A. I did.
Q. You did all of that while driving the car?
A. I did, with one hand.

Q. And you did that immediately?
A. I did.
Q. And you didn't stop?
A. I stopped slowly, yes, very slow.
Q. And you never reported that to Mr. Dill?
A. I did not.
Q. And that was the reason you reported it to—
A. I put it down. They called me in at the State House and told me it was no use to use it for the chimney at the State House couldn't be shut down until the weather had moderated, until they could take the steam off.

The Court: Let me see it.

(Witness hands paper to the Court.)

Q. Now, at the time ——

The Prosecutor: Just a second.

The Court: Are you through?

The Prosecutor: Just a question, may it please the Court.

Mr. Keown: I am not through my cross-examination, Mr. Kelsey.

The Court: Go ahead.

Q. You did not see any other Ford car there at that time, did you?
A. I saw several Fords at Palmyra, but not down the road.
Q. And you did not see a trolley car along there at the time?

A. It is possible a trolley car passed us.

Q. Didn't you testify the other day that you didn't see the trolley car?

A. I did.

Q. Then you didn't see it, did you?

A. I didn't see it.

Q. Now, were you not interviewed by Mr. Herman and Mr. Breacker?

A. I was.

Q. From my office?

A. Not at your office, at my home.

Q. They were the people who represented themselves as being State officials or something to get in your house, were they not?

A. Yes, sir.

Q. You were offended at them?

A. Slightly, yes.

Q. Did they ask you at that time anything about whether you got the license number or not?

A. They did, and I told them I had it.

Q. Do you mean to say you told these two men when they were there that you had made a memorandum of the license number?

A. I did, and I told them then I had it and then I mislaid it, that I couldn't give it.

The Court: I want to ask a few questions. Look at the third figure. What was that first? What had you written there first? What figure (indicating on paper)?

The Witness: That figure, your Honor ——

The Court: No, what had you written there first?

The Witness: I had an eight down at first.

The Court: Then you changed it to a five?

The Witness: Then my wife said it was the wrong number.

The Court: Said it was the wrong number?

The Witness: Yes, sir.

The Court: How long after did you change it?

The Witness: When we got into Camden at 534 ——

The Court: That's all.

The Court: Let the jury look at this. (Indicating paper containing number.) Pass that to the jury.

The Prosecutor: Is your Honor through with the witness?

Re-direct examination.

By the Prosecutor:

Q. Have you ever been told the number of Harry Mohr's car?

A. I have not.

Mr. Keown: I object.

The Court: One moment. You put a leading question. You may ask him whether he knew the number of Harry Mohr's car.

Q. Do you know the number of Harry Mohr's car?

A. No, sir, I do not.

CLIFFORD D. CAIN, recalled for the State.

Direct examination.

By the Prosecutor:

Q. I show you what purports to be a license tag from an automobile, and I ask you where you secured that license tag and when.

(Examining counsel hands license tag to the witness.)

A. This tag I took from the rear of the Ford coupe.

Mr. Keown: Just a moment, if your Honor please, I object to that now on the ground that that was proof which should have been submitted in the main case, and is not rebuttal.

The Prosecutor: This is the main case, your Honor. I made application to open.

The Court: I told him he might do it because it was an oversight, but I am going to give you an opportunity to rebut whatever the State now offers in the nature of proof which should have gone in affirmatively in their case. Go ahead.

The Witness: This tag I took off the rear of the

Ford coupe which has been at police headquarters since I brought it up to Mount Holly on April 30th and which was turned over to me at Presendanz's garage on April 30th as the car owned by Harry Mohr.

Q. Will you please read the numbers on that license car?

A. 69564 New Jersey, 1922.

The Prosecutor: I offer the tag.

Mr. Peacock: That is all in evidence with the car.

The Prosecutor: That is, that's right.

The Court: Anything else?

Mr. Keown: I have no questions.

No cross-examination.

The Prosecutor: Now, in the list of exhibits, may it please the Court, that I gave, that I asked to be offered, I left out the Billboard. I want to offer the Billboard. Copy of the Billboard of October 29th at this time.

(Book marked Exhibit S31.)

The Prosecutor: That closes the State's case.

THE STATE RESTS.

Mr. Keown: We have no rebuttal.

The Court: You have no rebuttal?

Mr. Keown: No rebuttal.

The Court: There is another question I would like to ask this man who wrote this number down.

———

ALBERT E. FLETCHER, recalled.

By the Court:

Q. Mr. Fletcher, was your car going at the time you wrote the number?
A. It was running, going slowly.
Q. Well, it was running?
A. Yes, sir.
Q. And did you put your paper up on anything?
A. Did I put the paper upon anything? I pulled the first paper I got hold of and turned it.
Q. Did you put it upon anything?
A. Just right like that on my knee (indicating).
Q. And the car was going?
A. Very slow.

The Court: It was going? That's all.

The Witness: Your Honor, if I may say a few words about my ——

The Court: No.

Mr. Keown: Will your Honor at this time hear a formal motion of mine?

The Court: Yes.

Mr. Keown: If your Honor please, I desire at this time to renew the motion that I made at the close of the State's case, on behalf of the defendant, Doris Brunen, for a direction of a verdict in her behalf, and for her discharge from custody. There has not been proven any conduct or acts that indicate any participation by Doris Brunen in any plan in anticipation of the commission of the crime, nor any acts that indicate any aiding or abetting at or after its commission; nor has the State proven any acts of the defendant, Doris Brunen, that might bring her within the purview of our statute as having aided, abetted, counselled or procured the death of John Brunen, and that there is, therefore, no foundation in fact from evidence in the entire record that warrants the submission of the guilt of this defendant, Doris Brunen, to the jury.

The Court: What does the Prosecutor rely on as connecting Mrs. Brunen with this case?

The Prosecutor: The State relies, may it please the Court ——

The Court: What evidence?

The Prosecutor: On this evidence and the circumstances that have been testified to.

The Court: Tell me the part. What testimony is there in the case on the part of the State?

The Prosecutor: On November 29, 1921, Mrs. Brunen was at the home of Charles Powell, in ad-

dition to her testimony, with Charles Powell, as testified by him, sent a telegram or had Charles Powell, from her own testimony, wire to Harry Mohr to come home at once and signed "Dottie." That is in her own testimony.

The Court: What evidence is there of any combination between Mrs. Brunen, Harry Mohr and Powell to kill John Brunen, a combination—I mean what evidence points to any understanding or agreement between those persons?

The Prosecutor: It is very significant, may it please the Court ——

The Court: No, it isn't significant. Tell me what evidence, point it out.

The Prosecutor: On the morning of March 10th when John Brunen changed his mind, as testified by Mrs. Brunen, instead of going to New York, "I am going to Williamstown today, I am going to New York tomorrow." Now, she testified, Harry Mohr testified, Hazel Brunen testified, in fact the three of them in that house that Mrs. Brunen got up first, that John Brunen got up next, that she told her he didn't get up until half-past nine. He went to Williamstown. Charlie Powell in his testimony stated that John Brunen, in fact the very words that Mrs. Brunen had stated, that he was going to Williamstown that morning, that he was going to New York the next morning, that he would be there that night, that Mrs. Brunen was going to the moving picture place, that she stayed home, she said, "I will stay home and fix him in the chair."

The Court: Who testified to that?

The Prosecutor: Charlie Powell testified to that. Now, he testifies he knows the time, he testifies he was there at that time, that they thought he was going to New York on Thursday, but Harry Mohr told him he wasn't going until Saturday, I mean Friday, but Harry Mohr told him he wasn't going until Saturday.

The Court: I mean prior to March 10th is there any evidence of any combination that you can point out between Mrs. Brunen, Mohr and Powell? I ask you whether you have any such. Is there any such evidence?

The Prosecutor: Mrs. Brunen told Powell at the time she was down there ——

The Court: Excepting that of Charles Powell, outside of Charles Powell's testimony.

The Prosecutor: Your Honor, everything has been testified and relied upon the testimony of Charles Powell, the facts and circumstances proved as to the correctness ——

The Court: Well, there may be, Mr. Keown, enough in the case to have it submitted to the jury. I don't express any opinion on the facts of this case, don't want the jury to understand I am expressing any opinion on the guilt or innocence of Mrs. Brunen by denying this motion. I think I can take care of this case when it is submitted to the jury, so I will deny the motion to direct.

Mr. Keown: Your Honor will not be offended if I ask for an exception?

The Court: No, not at all. That is your right.

(Exception noted for defendants.)

Mr. Keown: Now, if your Honor please, I further desire at this time to make a motion for a direction of a verdict on behalf of the defendant, Harry Mohr, and for his discharge from custody on the grounds that the State has failed to prove any facts sufficient in law to warrant the submission of the case to the jury.

The Court: I think there are facts in this case for the jury, preeminently so, and the facts must be submitted to the jury, therefore I will deny the motion.

(Exception noted for the defendants.)

SAMUEL KALISCH,
Judge. (Seal)

BOTH SIDES REST.

CHARGE OF THE COURT.

Gentlemen of the jury: This case has taken eight days to try. The testimony taken is voluminous. I do not mean to have you understand that I think the case has taken any longer than its importance deserves; but I am thinking how difficult it must be for you, who are laymen and not trained in the matters of testimony, to remember all the salient facts that have been established in this case. Much of the testimony may not bear at all upon the guilt or innocence of either of these defendants. You have shown commendable patience and interest in the case, and I think I am warranted in believing that you have been able to distinguish between testimony which was helpful to you, so that you might, when you come to consider this case under the law as I shall lay it down to you, be able to arrive at a just and fair conclusion.

The indictment in this case is in the statutory form. Prior to that statute it was necessary that the indictment should contain the charge that was made against the accused, the exact charge. Under the statute all that is necessary for the State to allege is that the defendants did wilfully, feloniously and of malice aforethought kill and murder the deceased. That contained no information as to what the State relied on to prove the guilt of these defendants. So a bill of particulars was furnished and in that bill of particulars it was stated that the State would rely upon these facts: that there was a combination, a conspiracy, between Doris Brunen, Harry Mohr and Charles Powell to kill John Brunen; and that Harry Mohr and Doris Brunen aided,

abetted, counseled and procured the death of John Brunen.

Now, the theory of the State is that the death of John Brunen was the result of a conspiracy, and it is added that even though the conspiracy was between Powell and Mohr, Doris Brunen aided and assisted in the killing of John Brunen.

There is no dispute that John Brunen was foully assassinated on the evening of March 10th at about 7.23. The two questions that you will have to solve are: Did Charles Powell kill the deceased; and if he did kill the deceased did Harry Mohr and Doris Brunen aid or abet the killing of the deceased?

In law Powell is an accomplice; and the rule in regard to the testimony of an accomplice is well settled in this state. While a jury may convict on the uncorroborated testimony of an accomplice if they believe him, nevertheless it is my duty to admonish you that it would be a very dangerous thing to do. And unless you find corroboration of essential facts which connect these defendants with the commission of the crime, it would be your duty to acquit them.

The State's theory is that Charles Powell has been corroborated. Charles Powell confessed the murder. He says, "I did the act. I took this gun, I crept up to this window and at ten feet away I raised it and shot and ran away." He said, "I was induced to do this by Harry Mohr, and some five months or sixth months before the homicide took place Harry Mohr and I had conversations together relating to the killing of John Brunen, and I was to undertake the job; and the understanding was that it was either he or I who should shoot John Brunen, and I was to get one thousand dollars;" it made no difference, as far as the payment of the one thousand dollars was concerned, whether

Powell killed John Brunen or Harry Mohr; the thousand dollars was to be paid all the same. And he said that bargain was carried out. And the State says that that is corroborated by telegrams, meetings of these two men on twenty or twenty-five occasions, and that on most of these occasions the killing of John Brunen was discussed. And they say that Charles Powell's testimony is corroborated because he has given precise information of where the gun was found, where the stock was found, where the bridge is where the gun was thrown overboard into the creek and other matters.

Gentlemen, that is not corroboration. The mere fact that all these facts which were established by the State, as to the finding of the gun, the purchase of the gun by Powell, if that is the gun, the fact that he broke the gun when he ran and got into a coupe that was standing at the Cambridge station, the mere fact of his detail of those facts and the proof that he did all these things, and those facts fit in with what he says, do not constitute corroboration of his statement. That is, they may be true so far as he is concerned, but they are not corroboration of facts stated which connect either Harry Mohr or Mrs. Brunen with the crime. It is on his statement alone in that regard that Mrs. Brunen and Mohr are connected with the crime.

Now, the law on that subject is clear and the danger of an accomplice's testimony in that regard has been well stated. I will read from a little note that I have here.

"The corroboration should be of facts connecting the accused with the commission of the crime, as was forcefully and with sound sense stated by Dr. Wharton in a valuable work on criminal law. Any other corroboration would be delusive, since if corroboration in matters not connecting the accused

with the offense were enough, a party who, on a case against him, would have no hope of escape, could by his mere oath transfer to another the conviction hanging over him."

You understand that. It is plain. A man may do all these things that Powell says he did, and his acts may be established by the finding of the weapon and other things showing that he did it. He may say, "Why, yes; somebody else—A, B or C—were the persons who induced me to do it." That is the question you are to decide. Did somebody else, did Harry Mohr, did Doris Brunen, have an understanding with Powell that John Brunen should be killed?

Now there are two kinds of evidence: There is direct evidence and circumstantial evidence. Now, in this case there was no eye witness to the shooting with the exception of Powell, the perpetrator of the deed. He was there, says he was there. And you will have to find in the first instance that he committed the murder before you begin to consider the testimony as to whether he was aided or abetted by these defendants. So that if somebody had been there and saw Powell shoot, why, of course, that would be positive evidence. That is what we mean by direct evidence. Still a person might have said, "I was there," when that person was not there. Because positive evidence has weaknesses about it. The person who testifies may fabricate the story; it may be untrue. And therefore it is in some cases much weaker than circumstantial evidence. And the State in this case relies a great deal upon circumstantial evidence which it says corroborates Powell in his statement that he was aided and abetted by Mrs. Brunen and Mohr.

I will read you from a little note that I have made: "Circumstantial evidence is legal evidence

and sometimes equal to direct evidence and oftentimes superior thereto, for the reason that direct evidence is peculiarly subject to fabrication and the influence of improper motive. When many witnesses concur it is largely cumulative in its nature. On the other hand, the necessary correlation of facts under the conditions of time, space and causation render successful fabrication of circumstantial evidence and exceedingly difficult process. But, nevertheless, in the case of circumstantial evidence the facts testified to may be entirely accurate and the consequent inference that tends to establish the proposition in issue be utterly fallacious."

So that you have got to be careful when you come to consider those circumstances which are said to have been established on the part of the State, as to whether or not they may not also be consistent with innocence. For where the circumstances are consistent with innocent conduct and are also consistent with guilt, your duty will be to give those circumstances an innocent inference. You must infer innocence and not guilt where the circumstances are consistent with both guilt and innocence.

Now, probably it will be helpful to you in the discharge of your duty to take up the case of Doris Brunen first. To me the testimony against her seems to be very meagre, and it comes from Powell, the self-confessed murderer, Hazel Brunen, a stepdaughter—is there any other? I do not think there is. It is Hazel Brunen and Powell. They are the two witnesses who implicate Mrs. Brunen with the murder of her husband. As I said before, Powell must be corroborated, at least should be corroborated. Hazel Brunen confessed that she and her stepmother were engaged in a lawsuit over property, Hazel claiming that she is entitled to it under the law and her stepmother claiming that she is

entitled to it under the law. Now you ought to take into consideration the feeling, the interest that the witness has in the case, and whether Hazel Brunen is or is not incensed against her stepmother because of this civil suit that is pending, and whether it is not out of anger or for the purpose of revenge or some other motive of that kind that she made those statements against her mother. Besides, you have her testimony which goes to the effect, at least, that Hazel was an undutiful daughter, only seventeen years of age; she was afraid of her father, who it seems when he was drunk was a very dangerous man; and she ran away from her home with, I think, a man named Parkstrom, a lion tamer, and her stepmother went with her, under circumstances which certainly do not meet our approval. Nevertheless, Mrs. Brunen is not here on the charge of having been guilty of some immoral conduct. And she, Hazel, had made expressions against her father, showed no grief, wept no tear when he was killed, visited her mother in jail and berated her lawyer for not bringing the case on sooner, and other testimony to that effect; until she says she was converted by having a talk with Powell that her mother had something to do with the murder.

Now, gentlemen of the jury, what force are you going to give to such testimony? It seems to me that that testimony ought to have very little weight, that is, Hazel Brunen's testimony, as to establishing any connection of Mrs. Brunen with the murder.

The other testimony, that came from Charles Powell, as I recollect it, is what Mohr told Powell. Well, of course, if there was an understanding between the three, whatever Mohr said, the conspiracy was in being and up to the actual happening of the homicide would be evidence against Mrs. Brunen. But it comes from Powell, it does not

come from some third disinterested person, but it comes through an accomplice. And, as I said before, you have got to believe first that Doris Brunen told her brother what Powell says her brother told him. It comes through two sources; and it seems to me that it would be rather dangerous to convict a person upon testimony of that kind. But of course it is for you, because the testimony is for you—the facts, I should say, are for you and for your determination.

It is said that Powell is corroborated by some extraneous circumstances which are almost without any dispute. Mrs. Brunen was home, in her house, at the time the murder was committed; she was in the bathroom. After the shooting she went downstairs and the State claims—but I think they were mistaken in it, because we refer to the testimony—that it took thirteen minutes before she gave any alarm; but that is not so. The murder took place at 7.23, as fixed by Powell and by the fact that the train which went through Riverside went through at that time. At the time the train was passing the shot was fired. In fact, it was 7.24. At 7.30 she was at Scheetz's house—six minutes. She went down, heard the shot, saw the blood and went up to Scheetz's. The house was dark; she rapped on the door, or she first called Fred Scheetz, who, you remember, came to the door, and then she went in and said what happened, and in a few minutes she was in a sort of a faint and he gave her some wine, and they got back to the house at 7.30. This all took place within eight minutes, what I am now relating, as I remember the testimony. She telephoned to Dr. Maul, and he says that it was 7.30 that he received the telephone message. He left five minutes later. He had a patient, could not leave

at once, and he looked at the clock when he left his office and it was just 7.35.

Now, gentlemen of the jury, do you think that any other other woman or any other person under the circumstances which then existed might not have done the very same thing that Mrs. Brunen did? You can't speculate that she ought to have gone outdoors and cried out for help and because she didn't do this it indicates that she had something to do with the commission of the offense, and that she acted as she did for the very purpose of giving the murderer a chance to escape. For the State says that the idea, the reason, that Mrs. Brunen did not give an earlier alarm was to give the man who killed Brunen a chance to escape. That is the theory which the State broached and which I understood was argued as one of the reasons why they thought Mrs. Brunen is connected with the commission of this offense.

Now, I think I have alluded to all the facts that are prominent in the case that relate to Mrs. Brunen. And it will be for you to say whether under those circumstances the State has made out a case of murder against Mrs. Brunen, has established her guilt beyond a reasonable doubt. The proof the State is bound to bring is such as I have stated, beyond a reasonable doubt, proof of guilt. I shall afterwards explain to you to what extent a reasonable doubt is to be applied in a case of this kind; that is, what it means.

Now, if the State has not established the guilt of Mrs. Brunen beyond a reasonable doubt then your duty would be to acquit her. For under this indictment and under the facts of this case there can be no other verdict than that of murder, if you find that the State has proven the guilt of these defendants beyond a reasonable doubt, or an acquittal.

There is no middle ground. It is either murder in the first degree or there must be an acquittal. And I will now read from our statute.

"Murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in perpetrating or attempting to perpetrate any arson, etc., shall be murder in the first degree."

Now there can be no doubt, if Powell's testimony is true, so far as he himself is concerned, that the murder of John Brunen was planned, it was premeditated, it was deliberate. For the gun had been bought, he had stolen up, Powell had, to the window, and willfully and deliberately shot Brunen with a specific intent to kill him; and that under our law is murder in the first degree. And if you find that Powell is guilty, committed murder in the first degree—I should have said if you find that Powell did those things that I have just stated it constituted murder in the first degree. And so, if these defendants aided or abetted him or counseled him or procured him to do the act they would be guilty of murder in the first degree; and therefore your verdict in the case here will have to be, if you should find the defendants guilty, murder in the first degree, or if you find that the State has failed to make out a case against them beyond a reasonable doubt you will acquit them.

Now, the law presumes that these defendants are innocent. The burden of establishing their guilt is upon the State, and that burden never shifts. The presumption of innocence abides with the defendants throughout the case. Remember that, because these legal principles that I am laying down to you must govern the facts as they have been elicited in this case.

There is another circumstance. It is said that the curtain was just arranged by Mrs. Brunen in such a manner that Brunen could be seen by somebody outside, so as to give the person who was to do the deed, Powell, an opportunity to shoot him. Well, Hazel Brunen says everybody looked after the fixing of the curtains; her grandmother, Mrs. Brunen, Hazel herself often arranged the curtains, and it was a matter of common occurrence that the curtain was in the position that it was on that particular night. Now, that is the testimony. If that is so, and you believe that testimony, how can you say that that circumstance tends to corroborate Powell's testimony, who says that Mrs. Brunen or somebody—Mr. Mohr had told him that Mrs. Brunen would arrange the curtain that night in a certain way? But that was no other way than it had always been or occasionally been.

Now, I need not say to intelligent men as you are that a woman and a man stand on equal footing before the law. We make no distinction about sex in the trial of a cause or in the adjudging of their rights. But I do mean to say, and I want to impress it upon you clearly, that suspicious circumstances or a number of suspicious circumstances do not constitute proof. You have no right to conjecture as to whether a person is guilty or innocent; it must be established. And the defendant is not bound to establish her innocence. As I have said before, that burden is on the State, to establish her guilt. The burden of establishing her guilt is upon the State.

You are to decide this case as if each one of these defendants was being tried separately. The mere fact that they are tried together should not influence you in any way. You may find a verdict of not guilty as to Mrs. Brunen and you may find a

verdict under the evidence, if it warrants you and you are led to that conclusion, of guilty as to Mohr. You are to try this case as if each one of these defendants was being tried before you separately, and you are only to consider the testimony in this case as it points to the defendant. Testimony against Mohr does not operate against Mrs. Brunen, unless you find—and I have not heard of any proof—that she and Powell and Mohr had been in the combination before the killing of Brunen, that Brunen should be killed.

Now, an expression made, "Oh, I wish my husband were dead," or something of that sort, to that effect, even though it were made, would not mean anything. It may mean something in some cases and in some others it may not mean anything. Probably some women in a certain situation and conditions in life are apt to make such expressions, and yet they love their husbands. And in this case I was much struck by the fact that a week before the homicide was committed Mrs. Brunen and her husband attended at a certain club and used to play pinochle there and did that three times a week, at the Moose, I think it was. Now it is true they had their wrangles and their difficulties and matters of that sort; but that is not an unusual thing; it happens sometimes in the best families. And you are to judge whether on the testimony of Powell you can say that you are convinced beyond a reasonable doubt that Mrs. Brunen had some connection with the murder of John Brunen.

Now, what is a reasonable doubt? That has been defined by our highest court. Our court adopted a definition which was given of a reasonable doubt in a celebrated case in Massachusetts and it is this: "It is a term often used, probably pretty well understood but not easily defined. It is not a mere

possible doubt, because everything relating to human affairs and depending on moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge." Now, the testimony must be of that character, that you feel an abiding conviction of the truth of the charge against the accused to a moral certainty.

Now, I have no more to say about Mrs. Brunen. But as to Mohr there is some testimony in this case which places his case in a different position before this jury; and it will be for you to say whether or not on the night of this murder Mohr was with Charlie Powell, Mohr waiting for him at the Cambridge station in a Ford coupe while Powell went on his mission to assassinate Brunen. If that is true then Mohr is guilty of murder in the first degree. If that matter has been established by the evidence in the cause beyond a reasonable doubt, it is your duty to convict Mohr of murder in the first degree.

The defense is an alibi. An alibi is a good defense, it is a perfect defense, if established. The burden is not on the defendant to establish his alibi, but the effect of an alibi is to raise a question of doubt, at least reasonable doubt, as to whether the defendant could have been present aiding and abetting the commission of the homicide. I hope I make myself plain to you. I want you to understand the situation; that the situation of Mr. Mohr is entirely different from that of Mrs. Brunen, for there is some testimony in this case—I do not know what effect it will have on your minds, but you are to deal with it—circumstances which tend to show

that there was a Ford car belonging to Mohr at the Cambridge station between 7.23 and 7.30 and that Powell got into that car. There is no evidence that I remember of anybody identifying Mohr in that car. that Mohr was there, but it is a circumstance in this case which it is claimed tends to corroborate Powell's testimony, at least, of some connection that Mohr had with him in regard to the killing of Brunen.

Now, Mohr says that on that night he could not have been there; he was in Philadelphia, and he met a man by the name of Kresge at the time, 7.30, I think, or sometime around that, and they went to a restaurant together. I am not really clear about all the facts in the case. The facts are for you, not for me to judge; but as near as I can recollect he was there somewhere at 7.30. But of course if Mohr was on that evening in Philadelphia at 7.30 he could not have been at Riverside at the time the homicide was committed. But I must say to you that it is a very easy thing to fabricate an alibi. I know of no defense that is more easily fabricated than the defense of an alibi; and witnesses may be mistaken as to time and as to place. They may confuse Tuesday with Thursday or Thursday for Wednesday; and when a long time has elapsed and you call a witness' attention to whether such a thing did not happen on such a day he is apt to say, "I don't know. I think it was Monday, or it might have been Tuesday, it might have been Wednesday." So it depends very much upon whether or not the circumstances of the murder were known to the witness who testifies as to the time when Mohr was in Philadelphia. And you may ask yourselves the question, "Is Kresge mistaken or is Kresge telling the truth? Is he a credible witness?" You saw him on the wit-

ness stand. It is for you to say how much credit you are to give his testimony. I cannot help you in that. That is a matter preeminently for the jury. And if you believe Kresge's strong testimony to the effect that on the night of the murder Mohr was in Philadelphia at 7.30, therefore he could not have been in Riverside at the time Powell says and Powell confesses he murdered Brunen, if you arrive at that result, if you come to that conclusion, why, then your verdict must be that of an acquittal.

There are other circumstances; I have not alluded to them. The case has been so ably summed up by the counsel on both sides and the testimony —all the important testimony in the case—and that which related to the alleged guilt or innocence of these defendants was so fully discussed on both sides that counsel really have lessened my task very much. And it will be for you to determine the facts upon the legal principles which I have stated to you.

I think the defendant gave me some requests to charge. Didn't I charge them all, practically, Mr. Keown?

Mr. Keown: I have checked up 1, 4 and 5 of the number.

The Court: Well, I will read them and then I will know whether or not I have charged them. I am requested to charge by the defendants' counsel:

1. These defendants come into court with a presumption of innocence. The burden of proof rests upon the State. The defendants are presumed to be innocent of the charge alleged in the indictment and as amplified by the bill of particulars, until they are proven guilty.

Well, I think I have substantially charged that,

probably more favorably to the defendants than is asked.

2. The finding of an indictment by the grand jury of the County of Burlington places no burden upon the defendants in itself. In the grand jury procedure the defendants do not have an audience.

Well, of course not. The mere finding of an indictment raises no presumption of guilt. The defendants do not have their day in court until they come here and are tried here. They are not heard before the grand jury. The mere fact that they have been indicted ought not to weigh with you at all.

3. To convict the defendants the State must prove facts sufficient for that purpose by evidence which satisfies you of the guilt of the defendants beyond a reasonable doubt as to every material element of the defense.

Every essential element to constitute the offense must be proven and established beyond a reasonable doubt, and so I charge you.

4. The evidence must establish the truth of these facts to a reasonable and moral certainty, a certainty that convinces and directs the understanding and satisfies the reason and your judgment.

I think I have substantially charged that.

Mr. Keown: No. 5 has been covered.

The Court: How about 6?

Mr. Keown: No. 6 has been covered. I would like you to charge 7, please.

The Court: 7. The testimony of an accomplice

should be regarded with suspicion and be most carefully scrutinized, and care should be had in its acceptance, unless you find corroboration in the testimony of other and unsuspected witnesses, upon such material circumstances as tend directly to establish the guilt of the accused.

I think I read you the law on that subject. I will charge that. That is in line with what I said to you.

8. You are not to consider the testimony of the witness Charles Powell as to alleged declarations made to him by the defendant Harry C. Mohr, alleged to affect the defendant Doris Brunen, until you first determine whether there is any evidence in this case from which it is established, beyond a reasonable doubt, the existence of a conspiracy between the defendant Doris Brunen and the defendant Harry C. Mohr, to affect the death of John Brunen by means of the witness Charles Powell.

Mr. Keown: That has been fully covered.

The Court: I have fully charged that.

9. The testimony tending to break the force of the State's prima facie case offered by the defense, through the testimony of the defendant Harry C. Mohr and the witnesses produced in corroboration thereof, is commonly known as an alibi. It is not the offer of an affirmative issue advanced by the defendant, it is merely showing a state of facts inconsistent with the essential elements of the indictment. You may, in the consideration of this defendant, Harry C. Mohr, believe such testimony, believe that he was absent from the place of the commission of the crime at the time alleged, or in other words believe that the defendant has proved his

alibi, and if so, he is then entitled to his acquittal and naturally with it the acquittal of the defendant Doris Brunen.

I think, gentlemen, I have charged you fully on that subject. I see nothing in there that I have omitted to say to you. I told you that if that alibi has been established by testimony which is credible, that you believe, then, of course the defendant Mohr could not have been in Riverside on that night, and the question is, do you believe Kresge and do you believe Harry Mohr? On the other hand, you have got the testimony of a witness who says he passed this car on the highway, took the number, said he made a mistake, put down 8, I think, instead of 5, one of the numbers, and that it is the license number of Harry Mohr's car. And you may ask yourselves the question, how did Powell happen to enter Mohr's car? How did it happen that he was in Mohr's car, and whether if it was Mohr's car it is corroboration of Powell's testimony that Mohr had some connection with the commission of the crime? That is the way to look at that; that is what you must consider. I do not say that it is proof of it. It is for you to say whether it is corroboration of a fact which tends to establish Mohr's connection with the crime.

Mr. Keown: I think you have covered the balance, your Honor.

The Court: All the rest are covered?

Mr. Keown: Yes, sir.

The Court: All right, I will mark it.

I should have said there is proof in this case—I omitted to state it; my attention has been called

to it by my Brother Wells—the testimony is, outside of Mohr's, that he and Mr. Brunen were playing cards about a week or ten days before the homicide. There is testimony to that effect, which shows that they were on good terms. That would be an indication that they were. I don't know whether it was a plan or not. But that is for you to say. You have got to take the relations that existed between Mohr and Brunen. I see nothing wrong in Mohr taking hold of the business as soon as Brunen was shot, and I do not see anything wrong in Mrs. Brunen handing the money to Mohr. Because there was a circus in winter quarters, there were animals to be fed and keepers to be paid, and of course money had to come from somewhere. They could not let those animals starve. So the mere fact that Mohr took hold of the show and Mrs. Brunen furnished the money would not indicate anything wrong.

But there is a circumstance that I have omitted. It appears that Mohr paid money to Powell, I think somewhere in the neighborhood of four hundred dollars. And Powell says it was on account of the thousand dollars which he was to receive for committing the deed. It is a very important circumstance. It is admitted that that money was paid. Mohr says that some of it was to be used for certain purposes, for instance, to buy silverware which they used at these carnivals, and things of that sort —nothing whatever to do with any payment to Powell for having committed the crime.

And there is another singular circumstance. Powell says that he had a fifty dollar bill which was given him by Mohr and that on Thursday, as he wanted to come over on the ferry, he did not have any change and he went to the ferry office and had a fifty dollar bill changed. That has not been established by any evidence outside of Powell's.

Now, it is singular if he had a fifty dollar bill changed—which is a large sum of money—that the person who changed it was not produced by the State if they could find him—I suppose they made efforts to find him—to corroborate Powell's testimony. It would be a very strong circumstance corroborating Powell's statement. On the other hand, there is testimony in the case by a witness who has been fifteen years in the employ of the ferry company, and who says that on that day he was there and there was no such bill changed, and then told you what the rule was. The rule was not to change more than two dollars; but it has been known they have changed five dollars and ten dollars and as high as twenty dollars, but there was no fifty dollar bill changed.

Now, that discredits Powell's testimony to some extent if it is true. And you may ask yourselves the question, if Powell made a statement of that sort and it is untrue, how much credence can be given to other parts of his testimony which tend to connect Mohr with the crime? I do not know. That is for you. You saw Powell on the witness stand and you saw the witness from the ferry company and you saw the defendant, you heard what he had to say and why he gave this money to Powell. He said he was moved by the fact that Powell's wife was in distress, Powell was in distress, and he did it out of humanity, for humanity's sake. There is some proof here that the defendant did some acts which show that he was liberal in some ways. He gave away his overcoat to one of his men, he gave away his shoes, he gave away shirts and things of that sort. He may be a man of that kind, I don't know. But the giving of four hundred dollars, which is a large sum of money, and that it was paid so quickly after the murder of John Brunen, is a mat-

ter that must have some bearing upon your conclusion in this case, and his going there early to Powell's house on the next day. Mrs. Powell, Marie Powell, I think, testified that she saw money handed to her husband on that morning. Mohr denies it.

Those are all matters which are for you to determine, as to whether or not they corroborate Powell's testimony. Powell says that all those moneys were handed him because he did the act for which he was hired.

Now if, after the consideration of all this testimony, you should find these defendants guilty, bearing in mind what I said to you about Doris Brunen, as to her position being entirely different from that of the other defendant, and after you have disposed of Mrs. Brunen's case and you come to the consideration of the case against Harry Mohr, and you should come to the conclusion from the testimony that he is guilty of murder, it is your duty to say what degree of murder, whether it is murder of the first or murder of the second degree; that is specified by the statute. Although I say to you there is no element of murder in the second degree in the case. The statute says you shall specify by your verdict as to whether it is murder of the first degree or murder of the second degree. And should you find him guilty of murder in the first degree you have the right under the statute to recommend him for life imprisonment. "Every person convicted of murder in the first degree, his aiders, abettors, counselors and procurers, shall suffer death unless the jury shall, by their verdict, and as a part thereof, upon and after consideration of all the evidence, recommend imprisonment at hard labor for life, in which case this and no greater punishment shall be imposed."

So that you have the right, perfect right, if you find either defendant or both defendants guilty of murder in the first degree, to recommend life imprisonment. But if you do not, why, then it would be my duty to sentence them to be electrocuted. The law has wisely put that into the hands of the jury. It is within your province and not mine.

Mr. Keown: If your Honor please, there is just one matter that I would like you to refer to, and that is the testimony of Dr. Poulson in reference to the alibi, and in connection with the test.

The Court: On Thursday?

Mr. Keown: On the night of the tragedy.

The Court: You mean in regard to the time that could be made? Oh, I know, you have reference to the third day preceding Friday?

Mr. Keown: No.

The Court: I don't know what you refer to.

Mr. Keown: Dr. Poulson testified as to Harry Mohr being in his company on the night of the tragedy.

The Court: Yes, that was another witness. I forgot that, but that was at half-past eight, wasn't it?

Mr. Keown: No, the witness' testimony is not that it was half-past eight.

The Court: What time?

Mr. Keown: The witness' testimony is that it might have been a few minutes before eight, but that he was in Mr. Mohr's company between eight and half-past eight.

The Court: Yes, between eight and half-past eight. You will remember the testimony. I forgot about Dr. Poulson. You heard what he said. And that will be in addition to what Kresge testified; it would be additional testimony. Kresge met him at half-past seven and Dr. Poulson says he saw him at eight. But of course if that testimony is credible, if you believe it, then, as I said before, Mohr could not have been in Riverside and could not have aided or abetted Powell as Powell has testified.

Now, gentlemen, take this case and do the best you can with it.

Mr. Keown: I pray an exception to your Honor's charge where your Honor refers to the four hundred dollars being given by the defendant Mohr to Powell.

The Court: What is wrong about it?

Mr. Keown: The situation was that there is plenty of evidence to show that that was transactions that occurred with Auerbach, that he said that covered all of that money.

The Court: I will just add that. My attention has been called in regard to this four hundred dollars, there is some testimony in the case—Mohr says that four hundred dollars, besides being given to Powell for purposes of support, that some of it was used in business transactions; and Mr. Auerbach testified that he received that money. You have got to

consider that. You remember Mr. Auerbach, who brought his book; and the bills you will find. They are in evidence and you will find from the bills that some of that four hundred dollars is accounted for, so that was purely a business transaction. The question for you to decide is whether all of that money was for business purposes or if any of that money was a payment to Powell on account of the thousand dollars which Powell says Mohr agreed to pay him if he killed John Brunen. That is the situation.

By the Court: "A general exception to the entire charge will be noted and allowed *nunc pro tunc*. The exception is allowed and signed and sealed accordingly."

February 26, 1923.

SAMUEL KALISCH,
Judge.

CERTIFICATION.

NEW JERSEY COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY,
Defendant-in-Error,
v.
HARRY C. MOHR,
Plaintiff-in-Error.

I hereby certify that the foregoing is the entire record of the proceedings had upon the trial of the indictment of the State v. Harry C. Mohr for murder.

SAMUEL KALISCH,
Judge.

ORDER REFUSING WRIT OF ERROR FROM THE NEW JERSEY SUPREME COURT.

IN CHANCERY OF NEW JERSEY.

STATE OF NEW JERSEY, *Defendant-in-Error,* v. HARRY C. MOHR, *Plaintiff-in-Error.*	On Indictment and Conviction in the Burlington County Court of Oyer and Terminer of the Crime of Murder in the First Degree. Order Refusing Writ of Error from the New Jersey Supreme Court.

The plaintiff-in-error in the above stated cause, Harry C. Mohr, having been convicted of murder in the first degree, before the Burlington County Court of Oyer and Terminer, the jury as part of their verdict recommending the sentence of imprisonment at hard labor for life, and the said plaintiff-in-error, by his counsel, Walter S. Keown, Esq., having applied to me in writing for a writ of error to be issued out of the New Jersey Supreme Court, and I, the Chancellor of the State of New Jersey, having heard the argument of counsel for the plaintiff-in-error and having duly considered the same:

It Is, thereupon, this 24th day of January, one thousand nine hundred and twenty-three, ordered and adjudged that the said application for a writ of error to be issued out of the New Jersey Supreme Court in the above stated cause, be and the same is hereby denied.

EDWIN ROBERT WALKER,
Chancellor of the State of New Jersey.

ASSIGNMENTS OF ERROR.

NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY, *Defendant-in-Error,* v. HARRY C. MOHR, *Plaintiff-in-Error.*	On Indictment and Conviction for Murder. Assignments of Error.

Afterwards, to wit, etc., in the New Jersey Court of Errors and Appeals comes the said Harry C. Mohr, the plaintiff-in-error, by his attorney, Walter S. Keown, and says that the judgment herein should be reversed because in the record and proceedings herein and in the matters contained and noted in the several bills of exception herein and also in the finding of the verdict and the giving of judgment herein, there is manifest error to the great injury of the plaintiff-in-error, whereby he was prejudiced

in maintaining his defense upon the merits in the case, as well as in other respects, to wit:

1. The defendant, Harry C. Mohr, upon being called to the bar, interposed in writing a challenge to the array upon the ground that the panel from which the jury was to be drawn had been improperly empaneled. Section 82 of the Criminal Procedure Act (2 Comp. Stat. 1847) provides that in all cases where the defendant is entitled to twenty peremptory challenges, there shall be drawn forty-eight jurors or such larger number as the Court shall by special order direct; and

That Section 83 of the Criminal Procedure Act (2 Comp. Stat. 1847) further provides that when the special panel served on the defendant in which the defendant is entitled to twenty peremptory challenges shall be exhausted before a jury is obtained, talesmen shall be taken from the general panel of jurors returned for that term of Court if any remain or if more shall be required, the sheriff shall summon from among the bystanders or others such additional number of persons qualified to serve as jurors as may be ordered by the Court; and

That in the defendant's case the sheriff, on November 29th, 1922, pursuant to an order of the Court, drew a special panel of sixty jurors, a copy of which panel was served upon the defendant. On December 5th, 1922, the sheriff drew another panel of one hundred and twenty jurors pursuant to a second order of the Court, a copy of which panel was served upon the defendant on December 5th, 1922.

The second order of the Honorable Court providing for the one hundred and twenty jurors was improperly entered as the statute expressly provides for the entry of one order and then provides the

manner of obtaining additional jurors in the event of the number drawn by the sheriff becoming exhausted; said selection of the jury was and is contrary to the rights of the defendant under the Constitution of the United States and the State of New Jersey and of the statutes of the said State of New Jersey in such case made and provided, whereby the constitutional rights of the defendant were invaded and the challenge to the array should have been sustained.

2. The defendant, by his counsel, objected to Charles M. Powell being called as a witness for the State on the grounds that the said Charles M. Powell was incompetent by reason of the fact that he was insane. That the said Charles M. Powell had been insane during the time in which he was confined in the Burlington County jail and that he, at the time he testified, did not possess such an understanding that he could retain in memory and accurately narrate the events, if any, of which he was a witness and that he did not and could not comprehend the sanctity or obligation of an oath. The defendant requested the said Court of Oyer and Terminer to permit him to submit testimony to the said Court in order to show that the said Charles M. Powell was incompetent but the said Court erroneously and illegally refused to allow your petitioner to submit such testimony and permitted the said Charles M. Powell to testify.

3. The Court of Oyer and Terminer aforesaid erroneously and illegally permitted the State, after the close of the State's main case and after the defense had rested and after the State had concluded its rebuttal, to reopen its case and permitted the witness Albert Fletcher, who had previously testified

as a State witness, to again testify as to certain facts which should have been introduced affirmatively by the State in its main case to the great injury of the defendant in that your defendant was surprised and could not meet or contradict such testimony because of the time of its introduction.

4. The Court of Oyer and Terminer as aforesaid erroneously and illegally admitted in evidence a paper containing the following: "John Potter, 26th & Westfield Avenue," admitted in the defendant's handwriting. Said paper also contained about one-third of a legal page of typewritten matter not in any way connected with the name of John Potter or of the handwriting of the defendant Mohr. Although the words "John Potter, 26th & Westfield Avenue," in the defendant's handwriting may have been evidential, surely the typewritten matter on the top of said paper, not having been in any way proven to have been typewritten by the defendant, was not evidential and its submission in evidence to the jury worked a manifest injustice to the defendant.

5. The Court of Oyer and Terminer aforesaid erroneously and illegally overruled the motion of the defendant's counsel for a directed verdict at the close of the case, said motion being made on the ground that there was not sufficient evidence to warrant the submission of the case to the jury.

SPECIFICATION OF CAUSES FOR REVERSAL.

NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY, *Defendant-in-Error,* v. HARRY C. MOHR, *Plaintiff-in-Error.*	On Indictment and Conviction for Murder. Specification of Causes for Reversal.

The plaintiff-in-error specifies the following causes in the record relied upon for a reversal of this judgment:

1. Because the Court below overruled the challenge to the array.

2. Because the Court below refused to allow the defendant to submit testimony as to the mental condition of the accomplice and co-defendant Charles M. Powell, before permitting him to testify, and allowed the said Charles M. Powell to testify.

3. Because the Court below, after the close of the State's case and after the defense had rested and after the State had concluded its rebuttal, permitted the State to reopen its case and allowed the witness Albert Fletcher to testify.

4. Because the Court below admitted in evidence a paper containing the words "John Potter, 26th & Westfield Avenue," which was in the handwriting of the defendant and which paper also contained some typewritten matter not proven to have been prepard or written or in any way connected with the defendant Mohr.

5. Because the Court below refused to direct a verdict in favor of the defendant at the close of the case.

6. Because the Court below permitted James Mercer Davis, Esquire, of counsel with Charles M. Powell, one of the co-defendants, who was not on trial, to interpose objections to the cross-examination of the witness Powell by defendant's counsel; to answer objections of the defendant Mohr's counsel, and to make statements to the Court in the presence of the jury and to assist the Prosecutor in an audible tone of voice, within the hearing of the jury, with the examination of the witness Powell.

7. Because the Court below erred in its charge to the jury in referring to facts wherein in one particular (page 26 of the Court's charge) the Court said "but the giving of $400.00 which is a large sum of money and that it was paid so quickly after the murder of John Brunen is a matter that must have some bearing upon your conclusion in this case." The testimony of Powell was that the defendant had given him between $500.00 and $600.00 from November, 1921, to April 6th, 1922, of which only four $50.00 bills, a payment of $25.00 and a payment of $15.00 had been made after the murder.

8. Because the Court below in its charge to the jury (page 23 of the Court's charge) referred to the testimony of the witness Albert Fletcher. The witness Fletcher was the witness used by the State after the State had reopened its case and testified upon being recalled that he had made a memorandum of a license number appearing on a car in the vicinity of the murder at about the time of the alleged murder. Counsel for the defendant objected to the witness using the memorandum on the ground that it, having been out of his possession for so long a time, may have been altered. The Court overruled the objection and proceeded to examine the witness and by the Court's examination of the witness the fact was developed that the memorandum had been altered by the witness Fletcher at his wife's suggestion, which alteration, therefore, made the testimony of the witness Fletcher hearsay testimony. Such testimony should have been stricken from the record and certainly should not have been allowed to have been considered by the jury. Particularly this testimony should not have been mentioned by the Court in its charge and left in the hands of the jury to consider it as corroborating the accomplice and co-defendant Powell.

9. Because the verdict of the jury was contrary to the weight of the evidence.

The only evidence that the State produced to warrant a conviction was the uncorroborated testimony of the co-defendant Powell, a self-confessed murderer, whose testimony was further impeached and discredited by witnesses produced on the part of the defense showing irrational actions by Powell while incarcerated and expectations of his that he would be liberated by testifying to statements made

by him to the authorities; while the defendant, in his defense, offered a general denial, proved an alibi which was corroborated by at least two disinterested witnesses and the defendant also produced a test of an automobile run covering a route shorter than that testified to by Powell showing it to be impossible for the defendant to have been on the scene of the murder at the time the State alleged its commission; the defense further offered testimony discrediting the witness Powell and proved in many instances that the testimony of Powell as to these alleged facts was untrue.

JOINDER IN ERROR.

NEW JERSEY COURT OF ERRORS AND APPEALS.

	In Error.
THE STATE OF NEW JERSEY, *Defendant-in-Error,*	On Indictment and Conviction for Murder in the Burlington County Court of Oyer and Terminer.
v.	
HARRY C. MOHR, *Plaintiff-in-Error.*	
	Joinder in Error.

And thereupon, afterward, to wit, on the 20th day of February, in the year of our Lord one thousand nine hundred and twenty-three, the said State of New Jersey, by Jonathan H. Kelsey, Prosecutor of the Pleas of the County of Burlington, comes into Court and says that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid, and he prays that the Court here may proceed to examine as well the record and proceedings as the matters aforesaid assigned for error and that the judgment aforesaid, in manner aforesaid given, may in all things be affirmed, &c.

JONATHAN H. KELSEY,
Prosecutor of the Pleas of the County of Burlington in the State of New Jersey.

NEW JERSEY COURT OF ERRORS AND APPEALS.

THE STATE,
Defendant-in-Error,

v.

HARRY MOHR,
Plaintiff-in-Error.

ON WRIT OF ERROR.

BRIEF OF PLAINTIFF-IN-ERROR.

The defendant, who is now plaintiff-in-error, was indicted by the grand jury of Burlington County, on the charge of the murder of John T. Brunen, on the 10th day of March, 1922, at Riverside, in said county, and the State sought to show by its evidence that in the latter part of 1921 the defendant sought out Charles M. Powell and induced him to commit the murder.

Powell was at that time engaged in some enterprise in Wilkes-Barre, and he saw an advertisement in the paper, known as "The Bill Board," setting forth that there was a letter at that office for Charles Powell. It proved to be a letter from Harry

New Jersey State Library

Mohr, and in this way Harry Mohr got in touch with Charles Powell. They had formerly been friends and acquaintances for many years. Mohr gradually began to enfold to Powell that it was necessary to kill Brunen. Mohr continued to follow up Powell, advancing him small sums of money, continually pouring into his ear to kill Brunen and finally induced Powell to quit his undertaking in Wilkes-Barre and come to Camden. While in Camden Mohr paid the room rent and furnished Powell with money, he also made frequent visits to his house and took him in his automobile to a certain place along the road which Brunen was accustomed to travel, where Powell and Mohr lay in wait for the purpose of murdering Brunen. This not being effective, Mohr took Powell to Brunen's house in Riverside and showed to him how easy it would be to kill Brunen. Two shot guns were bought for the purpose of effecting the murder, which Powell testified to on direct examination. These shot guns were kept a part of the time in the back of Mohr's Ford coupe and a part of the time in Brunen's barn. A third gun was also bought, which was not kown to the State until brought out on cross-examination of Powell by the counsel of the plaintiff-in-error. One of these guns, a single barrel gun, was thrown on the ice at Delanco and this gun was found by Charles Bernd on January 1, 1922. The second shot gun had a double barrel, which was thereafter kept both in the back of the coupe and also in John Brunen's barn. About twenty-five visits were made by Powell and Mohr to Brunen's house for the purpose of murdering him, but the murder failed for one reason or another, until March 10, 1922. On that evening Mohr met Powell near the post-office in Camden and from that place proceeded in Mohr's Ford coupe to Cambridge station near Riverside.

There Powell left the car and proceeded to the barn on Brunen's property and got a gun to wait until the train was passing the premises, and then he ran to the window where it had been arranged Brunen would be sitting and Powell fired the shot gun at Brunen's head. Brunen was killed. Mohr remained in the car, traveling to and fro near Cambridge station waiting for Powell to return from the murder. Powell was seen running across the fields and was seen to enter the door of the coupe which was held open for him by the driver, and the car was quickly driven away. It had its tail light out. The car was seen by another person driving along the highway and the number recognized and taken. The car was driven in the direction of Camden and when they crossed Pensauken Creek at Palmyra a part of the gun was thrown overboard. Another part of it had been lost while running across the field from the scene of the murder. Two shells also had been thrown away by Powell. Mohr drives the car with Powell to the Camden ferries, where Mohr gets out of the car and Powell drives the car onto the boat and across the ferry. After reaching Philadelphia side Mohr takes charge of his car and Powell returns to Camden. Mohr then proceeds to keep an appointment with Dr. Poulson and later he went to a meeting of the war veterans.

Powell was subsequently arrested, charged with the murder which he confesses and implicates Mohr. Mohr's defense is an alibi. Also Powell implicated Mrs. Brunen and she was jointly tried with the plaintiff-in-error, Harry Mohr. Mrs. Brunen was acquitted. Harry Mohr was convicted and recommended to life imprisonment.

Nine assignments and specification of causes are argued by the plaintiff-in-error, which will be argued in their order.

I.

The first assignment of the plaintiff-in-error relates to the Court's refusal to sustain the challenge to the array. The challenge to the array is found on p. 11, and on p. 13 is found the challenge for dismissal, and on pp. 15 and 16 a certificate of William H. Reeves, clerk of the court, to the following effect:

> "The foregoing is a full and complete copy of the record and proceedings in all things touching and concerning the trial of this cause."

There is in the record of this case, no such orders as are referred to in the argument of counsel for the plaintiff-in-error, concerning the drawing of the jury. We are left entirely to the statement of counsel, as to what the facts are, with respect to it. There is no record prepared and served upon counsel in this case, containing copies of the orders complained of, from which counsel may argue either their legality, or illegality. It was the duty of the counsel for the plaintiff-in-error, to perfect his record and to include therein, everything necessary for the proper presentation of this case to the Court. It seems impossible for this Court to pass upon the legality, or illegality of this question, until the orders are made a part of this record and properly presented to this Court. There is no proof whatsoever, of the making of these orders, except the statement of counsel.

In addition thereto, it is respectfully submitted, that upon the argument of the counsel for the plaintiff-in-error, no error was committed by the trial Court, in providing the jury.

II.

This point has to do with the alleged incompetence of Charles M. Powell, by reason of insanity, and the plaintiff-in-error contends, that error was committed, in that he was not permitted to produce witnesses before the Court, who might testify to the insanity of the witness Powell. He admits that the determination of the question of insanity is for the Court alone, but complains, because he was not permitted to put on the witness stand, a number of witnesses to testify to Powell's insanity. A number of cases from other jurisdictions, are cited. We think, that these authorities, should have little, or no weight in support of the position of the plaintiff-in-error.

In the first place, the chief case relied on by the plaintiff-in-error, *State v. Simes,* 12 Idaho, 310, 9th Ann. Cas. page 1216, is authority for the proposition:

> "When a witness is produced, it is a right and privilege accorded to the adverse party to object to the examination of such witness upon the ground of incompetency to testify. The question of incompetency is clearly one of law, and must be determined by the Court (citing cases). There is no fixed or established rule for determining such question. It seems, however, to be the usual practice, and, we think, the proper and orderly way to proceed, for the Court to examine the witness for the purpose of ascertaining his condition of mind and ability to truthfully and correctly narrate the facts concerning which he is called to testify; and, in the determination of this fact, it may

often be found proper and necessary to call other witnesses to testify. After the Court has determined that the witness offered is competent to testify, the question of his credibility immediately becomes a matter for the consideration and determination of the jury."

District of Columbia v. Charles H. Armes, 107 U. S. 519, Mr. Justice Field said:

"After there had been some testimony as to the condition of the mind of the witness (upon this, and other testimony of similar import) of the feebleness exhibited by the deceased on the stand, the counsel for the city requested the Court to withdraw his testimony from the jury, on the ground that his mental faculties were so far impaired as to render him incompetent to testify as a witness. This the Court refused to do, and instructed the jury that his testimony must be taken with some allowance, considering his condition of mind and his capacity to remember all the circumstances which might throw some light on his present condition. This refusal and ruling of the Court, constituted the first error assigned.

"The ruling of the Court and its instruction to the jury, were entirely correct. It is undoubtedly true, that a lunatic, or other insane person, may, from the condition of his mind, not be a competent witness as competency on that ground, like incompetency for any other cause, must be passed upon by the Court, and to aid its judging evidence of his condition is admissible. But lunacy or insanity assumes so many forms, and is so often partial in its extent, being frequently confined to broad sub-

jects, while there is full intelligence on others, that the power of the Court is to be exercised with the greatest caution. The general rule, therefore, is, that a lunatic or a person affected with insanity is admissible as a witness if he have sufficient understanding to apprehend the obligation of an oath, and be capable of giving a correct account of the matters which he has seen or heard in reference to the question at issue; and whether he had that understanding is a question to be determined by the Court, upon examination of the party himself, and any competent witness, who can speak to the nature and extent of his insanity."

In *Den v. VanCleve,* 5 N. J. L. 695 (the opinion beginning on page 761, Chief Justice Kirkpatrick said, page 765):

"These cases, so far as they are personal or go to the capacity of the witness, are principally these three: the want of discretion, as in the case of infants; the want of intellectual power, as in the case of idiots, lunatics and madmen; and the want of religious principle and belief, as in the case of those who do not believe in the Divine Being, perfections and providence of God, nor in a future state of rewards and punishments, where he that beareth false witness, and so taketh the name of his God in vain, shall not be held guiltless.

"Upon the allegations of any one of these cases, when the witness comes to the book the truth of the fact must first be tried, and then the judgment of the law be pronounced upon it. As to the mode of this trial I have not been able to find anything very satisfactory upon it

by way of direct decision. So far as I can collect, however, and so far as I can reduce the thing to principle, the trial, which must always be by the judges, as, in the first two cases, by inspection only, upon the general principle that infancy and idiocy are triable by inspection and in the last, always by witnesses. In the first two, the judges inspect by putting interrogatories in order to discover not only the fact, but also the degree of indiscretion and intellectual deficiency, or admit or reject the witness according as this is found, for infancy and lunacy are not absolute bars; but in the last case, that is; the case of infidelity, if the fact be found, the bar is absolute."

This case has been cited a number of times on points there involved, but counsel have not been able to find that the language or principle of this case has in any wise been modified by any subsequent decisions in this state, and so we contend that it is the law. Also, counsel thinks that this is the established practice in the State of New Jersey. If it be the law, as Chief Justice Kirkpatrick said, that the Court determines the competency of the witness by an inspection, that is, by observing the witness and by interrogating him, and not by putting witnesses on the stand to testify about it, then the action of the learned trial Court in the present case is strictly in accordance with the law. At any rate, the whole matter is within the sound discretion of the trial Court.

The decision of the trial Court on the question as to the competency of an insane person offered as a witness will not be disturbed by an appellate court unless there is a clear abuse of discretion, or the

Court admits or ejects the witness on an erroneous view of a legal principle.

Campbell v. the State, 23 Alabama, 44;
Dickson v. Waldron, 135 Indiana, 507;
State v. Crouch, 130 Iowa, 479; 107 N. W. 697;
State v. Meyers, 46 Nebraska, 152; 64 N. W. 697;
Burns v. State, 145 Wisconsin, 373; 128 N. W. 987; 140 Am. St. Rep. 1081.

In the last mentioned case, the Court said:

> "We do not overlook the complaint that an Adamsky was permitted to testify notwithstanding his mentally impaired condition, principally at the time of the occurrences in question. A person is not necessarily incompetent to testify because of such impairment. Whether he is so infirm by reason of insanity, or otherwise as not to be entitled to testify at all, is generally in the field of competency. Therefore the decision of the trial Court in favor of receiving the evidence for what it is worth cannot be disturbed unless manifestly wrong. Ordinarily, such infirmities goes to the weight of the witness' evidence, not to competency to testify, unless the impairment is substantially total, or such as to render the person wholly unconscious of the obligations of an oath; Best on Evidence, 10 Ed. sections 148, 145; Cannady v. Lynch, 27 Minn. 435; 8th N. W. 164."

It is admitted by the plaintiff-in-error, that no error was committed by the trial Justice, except in the refusal to hear witnesses offered by the plaintiff-in-error on the question of insanity and we think

that Chief Justice Kirkpatrick has settled that question in New Jersey; at any rate, there is no compulsion on the part of the Court to hear these witnesses. If he be satisfied on an inspection of the witness that he is not qualified, it would certainly be a futile thing to require the Court to receive additional testimony. And if the Court, upon an inspection of the witness, is satisfied that he is competent and there is no abuse of discretion, it would certainly be a futile thing to require the Court to listen to witnesses on this collateral matter. No cases suggested by the plaintiff-in-error are mandatory in requiring the Court to listen to these witnesses, but merely go to the extent of saying, that he may hear them.

Did the Court abuse his discretion?

On page 62, state of the case, the Court begins to examine Mr. Powell and a little more than two pages are consumed by the Court in his examination. The witness testifies where he lived; as to his age; that he attended public school and passed through the grammar school; that his family belonged to the Presbyterian faith; that he came to New Jersey in 1921; that he had lived in Indiana prior thereto; that he had been in the show business from fourteen to fifteen years; that he had been employed in different shows in different capacities; that he had entered into contracts with them; that he held concessions; that he had been in the show business for fourteen or fifteen years; that he understood the nature of an oath, having a belief in the Supreme Being and in a future existence; cognizant of the unlawfulness of perjury. In addition to that, the Court then permitted Mr. Keown to examine this witness. Mr. Keown offers to prove that he was insane at some other time, other than that at which

he was testifying (page 65), lines 25 to 37 and page 66, lines 1 to 6, inclusive:

> "Mr. Keown: Then your Honor at this time refuses to allow me to introduce witness to test his sanity?
>
> The Court: To test his sanity, merely to show that he was insane at some other time? I want to know what you want me to do.
>
> Mr. Keown: Yes, during the period that he has been incarcerated.
>
> The Court: That has nothing to do with this case. If the testimony becomes competent to show a condition of mind when these transactions that you refer to took place and they have a relevancy to the case, I will rule on it then. But at present I feel, from my examination of this witness, that he is competent to testify."

Now, the competency of a witness to testify, relates to the time of his testifying.

Encyclopedia of Evidence, page 199, *Sarbach v. Jones,* 20 Kansas, 497. In this case, the testimony of an offered witness was objected to on the ground that the facts of which he was to testify, occurred while he was under guardianship as an insane person; the Court held that since he was sane at the time his testimony was offered, he was a competent witness and that his prior insanity could only go to his credit as a witness, not to his competency and this is the general law. So that the offer of counsel to prove that at some prior time the witness was incompetent by reason of insanity, does not affect his competency at the time he was offered as a witness and it was proper for the Court to refuse such testimony at the time. At most that it could do, was merely to affect the credit of the witness. The

plaintiff-in-error suffered no injury in this particular, because in his defense he was permitted to go fully into that question and a large number of witnesses were called to testify to the mental condition of Powell during the time of his incarceration. This was admitted, of course, to affect his credibility so that it cannot be said, as a matter of law, that the refusal of the trial Court to hear the witnesses offered to prove that he was insane at some prior time, constituted error.

The brief of the plaintiff-in-error, fully recites the testimony of these witnesses and will show in the record where that testimony can be found.

It must be borne in mind that this record is silent as to any adjudication of insanity of the witness Powell. It is believed that a reading of testimony given in this case, by the witness Powell, will clearly demonstrate to the Court, that he was not only sane, but that his memory and understanding of the facts concerning which he testified, were exceedingly clear and accurate.

Under an order made by the learned trial Justice, counsel for the plaintiff-in-error, during the incarceration of the witness, was permitted and did examine the witness Powell extensively concerning this case, p. 320, line 24. The questions and answers of that examination, were made a part of the record in this case, so that the jury had the benefit, not only of the examination of the witness by the Court, his cross-examination by counsel on the question of competency, but then the further examination of the witness Powell as to the substantive testimony, and his cross-examination by the plaintiff-in-error's counsel and then the examination which Mr. Keown made of the witness, under an order of the Court. Also, the jury had before them, the tes-

timony of the witness offered by Mr. Keown, with respect to the mental condition of Powell. All of this, insofar as it affects the credibility of the witness, was laid before the jury, with proper instructions and their decision on what credit they should give to this witness, is final.

So, it is respectfully submitted, that, not only was the action of the learned trial Justice legally correct in all aspects, but that he was patient and indulgent with the defendant.

III.

> "In this assignment and cause for reversal, counsel complains that the Court, after the close of the State's case and after the defense had rested and after the State had concluded its rebuttal, permitted the State to reopen its case and allow the witness Albert Fletcher to testify."

In doing this, the Court assured counsel for the defendant, that he would have an opportunity to contradict any testimony so offered. At the close of Fletcher's testimony, there was no application for a continuance, or for any opportunity to secure rebuttal testimony.

In addition, the action of the trial Court in this particular, is not assignable as error.

Attention of the Court is called, to a recent case, *Hannon v. D. L. & W. R. R. Co.,* 119 Atlantic, page 86, advance sheet, January 25, 1923. In that case, Justice Bergen for this Court says:

> "Appellants last point argued was, that it was not lawful for the Court to reopen the

case, as it did, after it was closed and allow another witness to be called and testify.

"That was within the discretion of the Court, and not reviewable on error."

The plaintiff-in-error cannot plead surprise in this matter, in view of the record, when the witness was first on the stand, he testified that he had been interviewed by Mr. Breacker and Mr. Herman, representatives of Mr. Keown's office (page 605, line 5), and Mr. Fletcher testifies, page 1093, line 20, *et seq.*:

"Q. Did they ask you, at that time, anything about whether you got the license number or not?

A. They did, and I told them I had it.

Q. Do you mean to say you told these two men when they were there, that you had made a memorandum of the license number?

A. I did, and I told them I had it and then I mislaid it, that I couldn't give it."

There is no testimony in the record, contradicting this statement. So that so far as the proof is concerned, it is an established fact and Mr. Keown is therefore precluded from contending that he was surprised by the subsequent testimony of Fletcher, given at the time the case was reopened. So that, not only was there no legal error in reopening the case, but the plaintiff-in-error has suffered in no respect, because he was not surprised. The record conclusively shows, that he had the information a long time prior to the trial.

Chancellor Walker, in the case of *Rinaldi v. Rinaldi,* 118 Atlantic, 685, sitting in the Court of Chancery, said:

> "The Court, of its own motion and in the interest of justice, will some times permit the taking of further testimony to legally establish what has been insufficiently proven."

To the same effect is *Kirschbaum v. Kirschbaum,* 111 Atlantic 697, and cases there cited.

Likewise, the refusal of the Court to reopen a case after it is partly argued before the jury, for the purpose of admitting evidence which was within the knowledge of the moving party when the case was closed, is not an abuse of discretion.

Blum v. Parson's Mfg. Co., 112 Atlantic, 848 (Court of Errors).

IV.

Assignment of Error and Cause for Reversal, No. 4.

Assignment by the plaintiff-in-error, complains of the admission in evidence, of a paper which the plaintiff-in-error characterizes, "It is nothing more than part of a statement I have made."

He admitted that some words in writing thereon, were in his handwriting and the whole of it was, a part of a statement he had made. This statement, is admittedly a statement of the actions of the plaintiff-in-error on the night of the murder. This admission was made on cross-examination, after Mohr had testified to his action on the night of the murder and had given in his testimony on the stand, a totally different statement of his movements, from that contained in the paper which he admitted he made. It was therefore, perfectly competent, for

the purpose of affecting his credibility as a witness, as well as the credibility of other witnesses called by him, for the purpose of establishing his movements on the night of the murder.

Further, it is important for its silence. It does not connect up with the persons and places that he testified to on the stand and so, the whole effect of this paper, was to affect his credibility. It mattered not where the paper had been between the time of its preparation and the time of the trial, nor does the fact that a part of it was in typewriting affect its admissibility, because the defendant himself said, that the whole of the paper was a part of a statement he had made. In other words, he assumed full responsibility for the statement.

The paper is in the nature of an admission against interest, or the nature of a confession and is therefore admissible.

V.

> "Complains of the refusal of the Court to grant a motion for a directed verdict at the close of the case."

Of course, this could relate only to the case against Harry C. Mohr and the correctness of the law stated by counsel for the plaintiff-in-error, may be admitted. We assume, that if there is not a *prima facie* case made out, that it is the duty of the Court, to take it from the jury, but it cannot be said, that there was not a *prima facie* case made out. The testimony of Charles Powell, was alone sufficient to convict this defendant.

It has already been shown, we think, that the credit to be given to his testimony, was purely with-

in the province of the jury, under such cautionary instruction as the Court should give. But in addition to the testimony of Charles Powell, there is abundant corroboration. Not so much, perhaps, in eye witnesses, as in facts and circumstances.

The learned trial Court, having admitted the testimony of Charles Powell, as the testimony of a competent witness, would have no right to say to the jury, that they should not believe his testimony and direct a verdict, or compel the Court to say, that the testimony of Charles Powell, furnished no legal testimony for them to consider. That would involve the credit to be given to his testimony, which has been held in numerous cases, to be exclusively within the province of the jury. It is therefore clear, that the Court should not disregard the testimony of Charles Powell and all the facts and circumstances which corroborated his testimony, as well as the testimony of other witnesses and say to them, that they should disregard this testimony and find a verdict of "not guilty." It was the clearest sort of a jury case.

The witness Powell is corroborated in the following particulars:

William Berkowitz, as to the purchase of the gun and the stock and dies and to the return of the stock and dies. S. of C. 346 and 347.

James Bradley, as to the purchase of the gun; as to the pledge of the diamonds in the name of Harry Mohr. S. of C. 349.

William L. Leary, as to the pledge of the revolver in the name of Harry Mohr. S. of C. 350.

Hazel Brunen, to the effect that everyone, except Doris Brunen and the deceased, had left the house on the night of the murder. S. of C. 361.

Mattie Mohr at Riverside on the day of the murder. S. of C. 362.

That John Brunen intended to go to New York on the day of the murder, but changed his mind and intended to go the following day. S. of C. page 373.

August Muench, to the effect that he found the gun stock. S. of C. 462.

Leroy Hutchinson, who found the gun barrel. S. of C. 465 and 466.

Morris Beck, who found the gun stock. S. of C. page 473.

William Voshell, who found the two gun shells. S. of C. page 481.

Dr. Jonas Edwards, who saw the Ford coupe, without lights. S. of C. 487.

Earl Windhovel, who saw the Ford coupe twice and circumstances. S. of C. 492 and 493.

Howard Ellis, concerning the overcoat. S. of C. page 499.

Charles Bernd, who found the barrel of the gun. S. of C. 503.

Raymond Johnson, who testifies as to the time the train passed. S. of C. page 507.

James F. Cannon, who saw a tall and short man in front of the Brunen on the night before the murder. S. of C. page 519.

John Potter, who was at 26th & Federal Streets, Camden. Powell said Mohr told him he met Potter. This would be the only way in which Powell could have learned of it. S. of C. 524.

Marie Powell, who saw telegrams for money. S. of C. 531.

Sent telegrams for Powell to come. S. of C. 532.

That Mohr paid the rent. S. of C. 534.
That he gave him $50 after the murder. S. of C. 536.
That he paid him $100 on Monday after the murder. S. of C. page 537.
The frequency of which Mohr came to the house. S. of C. 538 and 539.
That Powell frequently rode with Mohr. S. of C. 561 and 562.
That she saw Mohr give Powell a bill. S. of C. 560.

Walter Leroy Earnest, had a conversation with Powell and fixes the time. S. of C. pages 574 and 582.

Mary Bauer, saw Powell run and get into the coupe while the driver of the car held the door open. Car was turned around quickly and drove away toward Camden. She also fixes the time. S. of C. page 582.

Ruth May Haines, who saw Powell and Mohr together in Riverside in Mohr's coupe, the night before the murder. Knows Mohr. S. of C. 595.

Alfred Fletcher, who saw Ford coupe going at great speed on the night of the murder, without lights. S. of C. page 601.
Mr. Keown on cross-examination, page 604, asked witness about interview with some one from his office.

Charles Wood, Mohr introduced Charles Powell to him under the name of Brown at Riverside. S. of C. page 614.

Barbara Walters, saw a man on Brunen's porch two nights before the murder. S. of C. 619.

Clarence J. Grant, saw Mohr and Powell in Ford coupe in Riverside several times together.

Mohr introduced Powell to him. S. of C. page 624.

Laurence Doyle, saw Mohr and Powell in the restaurant, together in Wilkes-Barre talking. He heard Mohr says, "I can't do it myself." Testifies that Brunen and Mohr had a fight. S. of C. 624.

Irene Earnest, Mohr came to see Powell. S. of C. 656.

Elizabeth Jaeschke, says Mohr showed her where gun was found in creek, on March 23rd, which finding of gun was kept secret until April 11th.

VI.

"Complains that James Mercer Davis, Esquire, counsel with Charles M. Powell, participated to a limited extent in the trial of the cause."

The brief of the plaintiff-in-error, sets forth that Mr. Davis was appointed as counsel for Powell, by the Court. Powell was called to the stand by the State. It is submitted that he had the right of counsel and the right to be advised of counsel as respects what was proper and improper examination. But Mr. Keown does not complain that anything was said or done that was illegal, or that was prejudicial, except, that on the part of the State, there were more counsel than there was on the part of the defendant and the fact that Mr. Davis appeared as perhaps, assisting counsel for the State during the examination of Powell, was prejudicial to the interest of Mohr.

How this could be assigned as legal error, does not appear and we have only the word of Mr. Keown, to the effect that it adversely affected the interest of his client.

No legal error is assigned. No statement made by Mr. Davis has been assigned as error, or harmful; no action done as being improper.

It is therefore, respectfully submitted, that this assignment of error, may be disposed of without further argument.

VII.

> "Relates to the charge of the Court and complains, that the Court referred to the sum of $400 as being paid by Mohr to Powell, whereas it is the contention of the plaintiff-in-error, that it was a much less sum."

If reference is made to the charge of the Court, on page 1119, apparently the first reference by the Court to the money (page 1119, line 19), the Court said:

> "It appears that Mohr paid money to Powell, I think somewhere in the neighborhood of $400."

Clearly, all that the Court said subsequently, concerning the sum of money was colored by the statement of the Court, that it was somewhere in the neighborhood of $400.00. Furthermore, the determination of the facts, was left by the learned trial Justice, to the jury, page 1114, line 15, and the language used by the learned trial Justice, certainly indicated that he didn't intend to state that it was

$400, but that it was somewhere, approximately that amount.

Attention is also called to the fact that counsel, at the trial, apparently agreed with the trial Justice, that it was $400. On page 1123, line 18:

> "Mr. Keown: I pray an exception to your Honor's charge, where your Honor refers to the $400 being given by the defendant Mohr to Powell.
>
> The Court: What is wrong about it?
>
> Mr. Keown: The situation was that there is plenty of evidence to show that that was transactions that occurred with Auerbach, that he said that covered all of that money.
>
> The Court: I will just add that. My attention has been called in regard to this four hundred dollars, there is some testimony in the case—Mohr says that four hundred dollars, besides being given to Powell for purposes of support, that some of it was used in business transactions; and Mr. Auerbach testified that he received that money. You have got to consider that, etc."

Now, it is plain, that counsel for the plaintiff-in-error, agreed with the Court as to the amount, but disagreed as to the disposition of the money. He did not call the Court's attention to the fact that $400 had not in fact been paid, but apparently acquiesced that $400 had been paid, but claim that the purpose of this payment was different from that which the State claim.

In *State v. Kaskevich,* 118 Atlantic, 701, Chief Justice Gummere, speaking for the Supreme Court said:

> "The next contention is that the Court erroneously stated to the jury that the doctors

called to testify in the case 'limited their testimony to the defendants' reputation for care and skill.' This statement was inaccurate, for the limitation was imposed by the Court, and not voluntarily by the witnesses themselves. But this misstatement cannot benefit the plaintiff-in-error on a review of his conviction, and for three reasons: In the first place, the Court in its instructions to the jury specifically told them that, in referring to the evidence, he must not be understood as attempting to decide any fact, and that, where the Court erred in its statement of evidence, they should disregard the recollection of the Court and rely upon their own recollection. So long as the right of the jury to decide disputed questions of fact for themselves is pointed out in the charge, the Judge's comments on evidence, even when they embrace actual misstatements of fact, afford no ground for the reversal of a criminal conviction (citing cases).

"In the second place, no specific objection was taken to the misstatement at the close of the instructions to the jury, the plaintiff-in-error contenting himself with taking a general exception to the whole charge, and making his objection specifically for the first time in this Court. The rule applicable to such a situation is thus stated by the Court of Errors and Appeals in State v. Lovell, 88 N. J. Law, 355, 96 Atl. 39:

"A misstatement of fact in the instructions by the trial Court, not in any way binding on the jury, cannot for the first time be objected to in the Supreme Court. * * * In fairness to the Court, and in justice to the accused, any alleged misstatement of fact by the trial Court

in the charge should be called to the attention of the Court at the trial."

For failure to follow the course indicated by the rule laid down in the case cited, the plaintiff-in-error cannot successfully attack the conviction upon the ground last indicated. In the third place, the misstatement could not have been harmful to the defendant; for whether the limitation upon the testimony of character witnesses was imposed by the Court or by the witnesses themselves was a matter which, as it seems to us, could not have had any effect whatever upon the minds of the jurors in reaching a determination upon the question of the guilt or innocence of the defendant.

In the present case, as pointed out, no complaint was made by counsel of a misstatement of fact as to the amount, but only as to the application of the money and immediately thereupon, the learned trial Justice incorporated the objection of counsel for the plaintiff-in-error as a part of his charge to the jury.

It seems, to us, impossible justly, to claim at the present time that he was injured in this particular.

VIII.

It is difficult to understand just what counsel is complaining about in this point.

The memorandum made by the witness Fletcher, was not offered in evidence. The Court permitted him to use it to refresh his recollection.

We think we have already shown that it is strictly within the discretion of the Court to permit the

reopening of a case and the examination of witnesses and that it is not assignable as error. If therefore, it was proper for the Court to permit Fletcher to testify, how could he exclude from the jury, the testimony given. If it was testimony properly receivable, how could the jury be excluded from its consideration?

It was a very important piece of testimony, as showing that the car of the defendant Mohr, was in the vicinity of the murder, at about the time of the murder. It was important, as showing that as corroborating the witness Powell, that he ran across the field and got in Mohr's car at the time and place of the murder. Why should the jury not consider this testimony?

We think it requires no argument to show that this was proper testimony for the jury to consider and being proper for the jury to consider, it was proper for the Court to refer to it in the manner that it did at the trial.

IX.

The ninth cause for reversal alleges that the verdict of the jury was contrary to the weight of the evidence.

Eight days were consumed in the trial of the cause and 747 pages of testimony were taken in the direct testimony of the State, and 25 pages of testimony in rebuttal.

Charles Powell was what might be called the star witness for the State. He testified as the State's witness to the complete transaction and told the whole story from the beginning to the end of the murder. There were no eye witnesses to the murder except Powell, but there was an abundance of

corroborating circumstances. These circumstances were purposely to set out in "deadly parallel" in order that it may be seen at glance what corroboration is afforded each material statement of fact by Powell. The testimony of Powell will be found on the left-hand side and set forth generally in a chronological manner, and on the right-hand side will be set down the testimony corroborative thereof.

Testimony of Powell	Corroboration
S. C. pg. 71, line 18; Powell left Brunen show at Timonia. Pg. 72, line 12; Date left show Sept. 5 to 10. Pg. 72, line 14; Recd. letters from sister. Pg. 72, line 23; Telegram in letter from Harry C. Mohr. Pg. 72, line 25; Saw letter advertised in Bill Board, Oct. 29, 1921, addressed to Chas. M. Powell.	S. of C. pg. 72, line 30; Copy of Billboard produced, Oct. 29, 1921, a weekly theatrical digest and review of shows world, on pg. 112, among list of letters, appears name Chas. M. Powell. Marked Exhibit D.
S. C. pg. 73, line 11; Powell gives contents of letter as follows: "Where can I get in touch with you, it is very important." Gave me P. O. Box in Riverside, N. J.	S. C. pg. 72, line 28; Telegram from Mohr reads: "Chas. M. Powell. 20 Jackson Str; Wilkes Barre. Have recd. letters and

Testimony of Powell	Corroboration
Powell wrote to Mohr at address given on Nov. 1. Recd. telegram from Mohr, Nov. 2nd.	wire, glad to hear from you, letter will follow. Harry C. Mohr." Marked Exhibit E.
S. C. pg. 76, line 23; Powell answers letter by telegram to Harry Mohr.	S. C. pg. 76, line 23; Harry C. Mohr, 508 N. J. Ave., Riverside, N. J. Recd your letter Monday, did you get it. Wire answer, twenty West Jackson St. Charles M. Powell. Marked Ex. F and G.
S. C. pg. 77, line 10; Mohr writes to Powell to come to Riverside to see him, Mohr. Pg. 79, line 1; Date Nov. 12.	Pg. 77, line 7; Powell sends Mohr telegram, wire and letter recd. My address is 20 West Jackson St. Impossible to get to Riverside until —
S. C. pg. 80, line 1; Mohr goes to Wilkes-Barre, Pa., to see Chas. Powell.	S. C. pg. 80, line 7; Telegram: Chas. M. Powell, 20 West Jackson St., Wilkesbarre, Pa. Meet me Penn Station leaving Pottstown 5:19. Harry C. Mohr.
S. C. p. 80, line 13; Powell meets Mohr at train went together to a restaurant had something to eat. Mohr told him about the	S. C. p. 683; Mary Miller testifies about she and Mohr going to Pottstown and staying there about this time. P. 625; Lawrence Doyle

Testimony of Powell	Corroboration
trouble his sister Doris and Hazel Brunen were having; about Hazel running away with Parkstrom; about Doris going with Hazel to protect her; about Parkstrom's arrest; Parkstrom's marriage to Hazel.	on same train saw Mohr on train, saw Powell meet him at Wilkes-Barre, went to restaurant; saw Powell and Mohr talking together.
S. C. p. 82, line 19; Mohr was afraid of trouble, reminded Powell he was his pal, best friend. Said, "Isn't there some way we can get rid of John" (Brunen). First time he ever mentioned it.	S. C. p. 626; Heard Mohr say to Powell, "I can't do it myself." Heard Powell say to Mohr, "Don't make so much noise, somebody will hear us."
S. C. p. 83, line 1; Mohr went down to my (Powell's) house stayed there about 2 hours, went back to Pottstown.	
S. C. p. 83, line 34; Powell states a day or two afterwards Mohr telegraphed him, his wife was coming to Wilkes-Barre, and that he would follow.	S. C. p. 84, line 13; Telegram: Chas. M. Powell, 20 West Jackson St. Wilkes-Barre, Pa. Bessie will arrive Penn. station 10 o'clock, at night, meet her. I am

Testimony of Powell	Corroboration
	leaving Sunday for Wilkes-Barre. Harry C. Mohr. P. 85, line 10; Telegram dated Nov. 20, 21. Mohr sent Powell telling him when he would arrive, and for Powell to meet him at station. Marked Exhibit M.
S. C. p. 85, line 24; Powell meets Mohr at train. Mohr stays in Wilkes-Barre 5 days, discusses ways and best means to try to get rid of John Brunen.	Mohr admits being in Wilkes-Barre about this time, for several days.
S. C. p. 88, line 13; Mohr stayed 5 days, then recd. a wire from his sister, Doris Brunen, to come home at once.	Telegram produced, Nov. 25. Harry C. Mohr, P. O. Box 482 Wilkes-Barre, Pa. "Come home at once." Dotty. Marked Exhibit S3.
S. C. p. 89, line 11; That evening, Nov. 25, Mohr called up his sister on telephone, told Powell there was trouble at home, said he was going	S. C. p. 88, line 21; Telegram produced from Mohr to Powell dated Nov. 30, 21, from Riverside. "Come at once, will pay expenses, wire

Testimony of Powell	Corroboration
back to Riverside that night, and he did go.	me when you leave." Riverside, Bur. Co. Harry C. Mohr. Marked Exhibit S4. P. 89, line 32; Money order, Western Union produced, dated Nov. 30. Pay to the order of Chas. Powell $20. 20 West Jackson St. Wilkes-Barre.
S. C. p. 90, line 14; Powell says he wired Mohr telling him he would arrive in Phila. next morning.	S. C. p. 90, line 19; Telegram produced, dated Nov. 30, 1921. To Harry C. Mohr. Burl. Co., Riverside, N. J. Meet me at station, Phila. Thursday morning, leave here 2.50 answer at once. Chas. M. Powell.
S. C. p. 91, line 1; Powell says he left at time. Train was late. P. 91, line 9; Says Mohr telegraphed him, he would meet him.	S. C. p. 91, line 10; Telegram from Mohr to Powell produced, line 19. Chas. M. Powell, 20 West Jackson St. Wilkes-Barre, Pa. Will meet you Thursday morning at station. Harry.
S. C. p. 91, line 22; Powell relates how his train	S. C. p. 91, line 29; Telegram produced dated

Testimony of Powell	Corroboration
was late didn't meet him, so sent a message to Riverside, to Mohr.	12/1/21, addressed to Harry C. Mohr, signed Chas. "Meet me as soon as possible, Phila. & Reading station."
S. C. p. 92, line 1; Powell says Mohr met him at station went over to station. Same proposition—wanted to get rid of John Brunen; wanted to shoot him with a pistol.	Mohr had pistol, Smith & Weston. Mary Miller tells Mohr told her he carried one in Ford coupe. Powell tells about pawning one at direction of Mohr. Pawnbroker testifies he received one on date specified by Powell.
S. C. p. 92, line 19, etc.; Powell testifies he stayed at hotel in Phila. the night he arrived, Dec. 1, 1921, at a Theatrical Hotel on Race St., that Mohr took him there.	S. C. p. 92, line 28, etc.; Hotel register produced showing Chas. M. Powell of Wilkes-Barre, Pa., registered in room L24, on Dec. 1, 1921. Marked Exhibit N.
S. C. p. 93, line 3; Powell relates how Mohr took him to Riverside, showed him how easy it would be to shoot Brunen with pistol in the garage. Describes how Bessie, Mohr's wife, was still in Wilkes-Barre, that he,	

Testimony of Powell	Corroboration
Mohr, would not go there any more. Nothing more discussed, so he, Powell went back to Wilkes-Barre. Mohr wanted me to come back and stay four or five days.	
S. C. p. 95, line 8; I told him on account of my wife, I couldn't come, hadn't the money. I wrote him this after I got to Wilkes-Barre. Same day received a telegram from Mohr.	S. C. p. 95, line 26; Telegram produced, dated Dec. 13, 1921, addressed to Chas. M. Powell, 20 West Jackson St. Wilkes-Barre, Pa., signed Harry. Sending fifty, wire when you will arrive, will arrange for a room. Wire Post Office, Riverside, N. J. P. 96, line 3; Produced Western Union money transfer for $50 to Powell from Mohr.
S. C. p. 97, line 1; Powell left Wilkes-Barre next morning with his baby and wife for Phila. with suit case intending to stay 2 or 3 days. Mohr met him at station with Ford coupe and took them to Camden where he had engaged rooms.	S. C. p. 654; Earnest testifies Mohr came and engaged rooms forepart of Dec. '21. Mohr paid rent of rooms. Marie Powell testifies how Mohr met them at station in Phila., with car, took them to Earnest's in Camden, Mohr paid room rent.

Testimony of Powell	Corroboration
S. C. p. 97, line 28; Took Powell out in auto that afternoon, wanted to shoot Brunen with shot gun. Dec. 23, 1921, went to Phila. with Mohr. Mohr gave him $15 to buy shot gun. P. 98, line 2; Bought gun at Berkowitz, 9th St. P. 97, line 32; paid $13.50 for gun. P. 98, line 6; Bought gun, came out, put it in Mohr's coupe, he gave me $15 took me around to Bradley's pawnshop, bought another single barrel gun for $8.50.	S. C. p. 345; Berkowitz, a pawnbroker, says he sold a gun for $13.50, on Dec. 23, 1921. P. 349; Bradley, a pawnbroker, says he sold a single barrel gun for $8.50 on Dec. 23, 1921. P. 818; Mohr testifies he had been at Berkowitz's pawnshop and buying stocks and dies. P. 817; Mohr testifies he had been at Bradley's pawnshop and pledged diamonds.
S. C. p. 100; Powell tells about going over certain roads Brunen traveled from his winter quarters for show at Williamstown that he traveled going to and from his home, and laying for Brunen at bridge, and parking car on road, where a path leads to bridge.	S. C.; Camden County Engineer testifies there is such a road and bridge. County detectives testify to a path from where car was parked to and from bridge.
S. C. p. 100; Powell tells how Mohr described the	This shooting was testified to by Mrs. Brunen,

Testimony of Powell	Corroboration
shooting affair, on Christmas day when Mrs. Brunen shot at her husband 6 times.	Hazel Brunen and others.
S. C. p. 101, line 31; Powell testifies that Mohr was at his house almost every day.	This is testified to by Marie Powell, Mrs. Earnest.
S. C. p. 102, line 18; Powell testifies he went back to Wilkes-Barre on Dec. 31, 1921, had no money, Mohr had none. Mohr gave him his pistol, Smith & Weston, 38 cal. and stocks and dies, to pawn, that he went to Berkowitz got back $3.50 that Mohr had paid for them there. That he pledged at 17th & Market St., the 38 cal. Smith & Weston revolver of H. Mohr's.	Berkowitz testifies, Mohr bought stocks and dies at his place, for $3.50, that he took them back Dec. 31, and received the $3.50. P. 350, line 12; William L. Leary testifies that he is a pawnbroker at 17th & Market St., Phila., on Dec. 31, 1921, there was a revolver pledged in the name of H. Mohr, 521-2nd St. Camden, N. J.
S. C. pp. 102-105; Powell tells about his return to Camden a few days later, from Wilkes-Barre, permanently, about Mrs. Brunen coming and stating her troubles at house, and	S. C. p. ; Marie testifies about Mrs. Brunen being there. Mrs. Brunen testifies that she was there at the time. P. 103; Mohr was away from home.

Testimony of Powell	Corroboration
asking Powell to telegraph to Mohr who was away.	Telegram that Powell sent for Mrs. Brunen, produced.
S. C. p. 105; Powell testifies, Mohr coming home, that Mrs. Brunen told him about the trouble, insists that he, Powell, must get Brunen at once, that Mohr was mad, wanted him to get Brunen when he, Mohr, was in Chicago.	Mohr goes to Chicago, telegram produced, addressed to Mohr, from John Brunen, at Sherman Hotel, Chicago, dated Feb. 22 '22.
S. C. p. 106; Powell testifies that Mohr had trouble with Brunen while he was in Chicago, that Mohr was madder than ever.	S. C. p. 106, line 31; Telegram produced, from it shows trouble and character of contents; shows it would make him mad.
S. C. p. 108, line 3; Powell testifies to conversation with Mohr on Feb. 24, when he returned from Chicago, showed him telegram from Brunen saying he didn't want to meet Brunen; wanted Powell to get him that night.	This shows Powell had knowledge of the telegram Brunen sent to Mohr.
S. C. p. 108, line 19; Powell testifies to a letter of Feb. 18, 1922, addressed	S. C. p. 109, line 7; Letter produced, marked S5 read into record.

Testimony of Powell	Corroboration
to him as "My dear Pal" from Mohr while he was in Chicago, and signed "as ever your pal" Harry C. Mohr.	
S. C. p. 110, line 1; Powell testifies about Mohr giving him money before he went to Chicago, and told him to get Brunen while he was away. Mohr tells Powell he will get $1000 the minute Brunen is shot.	Mohr testifies he gave Powell money at different times. Mohr testifies he gave Powell around $400.
S. C. p. 111, line 20; Powell testifies that the single barrel gun was broken and they threw it on the ice going over the bridge at Delanco, this was about two weeks after they bought the guns.	S. C. p. 503, line 6; Chas. Bernd testifies that on Jan. 1st, 1922, he found a gun barrel on the ice on creek at Delanco at place described where Powell said he and Mohr threw it. Gun barrel of single gun produced.
S. C. p. 113; Powell testifies how he and Mohr went out to Riverside to try to get Brunen, that Mohr went each time with him; how they planned to shoot him at the time two trains passed the Brunen	Telegraph operator states time trains passed to and from Riverside station at time, corresponds with time stated by Powell.

Testimony of Powell	Corroboration
house, at 7:15 and 7:17 so the noise of the gun would not be heard on account of the trains.	
S. C. p. 113; Powell testifies that for three or four nights before murder of Mar. 10, 1922, he and Mohr were at the Brunen home trying to kill Brunen, came from Camden in Mohr's coupe, parking the car, walking up to Brunen's.	James Cannon saw tall and short man night before murder in front of Brunen home. Powell is short, Mohr is tall.
S. C. p. 115, line 4; Powell testifies 2 nights before murder, Mohr tried the back door of Brunen home, could not locate Brunen.	S. C. p. 619; Barbara Walters testifies she saw a man on the porch of the Brunen house two nights before the murder told Mrs. Brunen about it at time.
S. C. p. 115; Testifies the night before murder he and Mohr were at Riverside in Mohr's car and came away again.	S. C. p. 595; Ruth May Haines testifies she knows Harry Mohr and night before murder she saw him pass her home in his car with a person which she later identified as Charles M. Powell.
S. C. p. 115; Testifies that on the night of the	This policeman was the John Potter and the

Testimony of Powell	Corroboration
murder, he met Mohr about 6:00 or 6:15 P. M. at Post Office in Camden, Mohr went to cigar store, started in coupe for Riverside, that they went around the policeman at 26th & Federal.	same that Mohr had written at bottom of statement he testified to. S. C. p. 524; John Potter testifies he knows Mohr and saw him on the night of murder, going toward Camden ferry and hailed him, in Ford coupe.
S. C. 116; Powell said Mohr told him when they went around this policeman, that he had signaled this same policeman a short time before, when he was going toward Camden from Riverside and he didn't want him to see him (Mohr) going back.	How did Charles Powell know this, unless Mohr told him.
S. C. p. 116; Powell said Mohr told him he had no money, that Brunen was going to New York that evening, or the next morning on business and would be gone for three or four days, that Brunen must be gotten that night, the night of the murder, March 10, 1923.	Doris Brunen and Hazel Brunen, as well as Harry Mohr, all testified that Brunen was going to New York the next morning.
S. C. p. 116; Powell tes-	S. C. p. 38; Dr. Maul de-

Testimony of Powell	Corroboration
tified to the route they took to Riverside; that they drove to Cambridge station, that he got out of car, Mohr said, "I will be here when you get back." That he (Powell), went to loft back of Brunen house and got the gun; that Harry Mohr told him the blinds would be at a right angle, so that there would be no light showing out into the back yard, only just enough to see Brunen at the window. That Brunen would be at the window if they could get him there; that there was a dog in the yard. Mrs. Brunen called the dog in. Mrs. Brunen left the kitchen. The train came up. S. C. p. 136; Mohr told Powell, Brunen would be at the table at the window, the dog in the cellar, everything would be arranged. Hazel and Mrs. Mohr would be at the moving pictures.	scribes location of John Brunen in chair by kitchen window. S. C. p. 606; Fred Sheetz testified that Hazel and Mrs. Mohr were at moving pictures. Dog in cellar. Mrs. Stecher tells about the time of hearing shot, as train goes by Brunen house. Hazel Brunen tells about Sheetz coming after them at moving picture place.

Testimony of Powell	Corroboration
S. C. p. 117; Powell tells how he ran up, shot John Brunen sitting in chair, through the window with shot gun.	Hazel tells about curtains.
S. C. p. 118; Powell tells how he ran after the shooting, through the hedge, taking gun apart, dropped part of stock, two shells; ran through field to Cambridge station; ran and jumped in his (Mohr's) car, Mohr opened door for him and that Mohr had his tail light disconnected.	S. C. p. 483; Mr. Parker testified he saw tracks across field. S. C. p. 480; Voshell saw tracks across field to Cambridge station. Voshell found two shells.
He drove me to Riverton, this side, crossed over railroad tracks, went around station on road to Burlington Pike, straight down pike to bridge. We threw barrel and stock of gun in creek. He (Mohr) connected his tail light. Went to Camden.	S. C. p. 462; August Muensch, found part of stock of gun. Part of stock and two shells produced and identified by Powell. S. C. p. 582; Mary Bauer, saw Powell run toward Cambridge station. Saw him go across road to car. Saw Ford coupe. Saw man hold door open and saw Powell enter car. Heard them talking. Saw car go toward Riverton.

Testimony of Powell	Corroboration
	S. C. p. 601; Albert Fletcher saw Ford coupe go past him. Tail light out. S. C. p. 1091; Albert Fletcher took license number of Ford coupe as it passed him. Copied it down. No. 69564, at Cambridge station, on night of murder. Clifford Cain took license tag off of Mohr's car, produced it in Court. License tag No. 69564, N. J. 1922. S. C. p. 466; Leroy Hutchinson found barrel of gun in creek at place named by Powell. S. C. p. 476; George Swain found stock in creek at place named by Powell. Barrels and stock with piece found near Brunen home, placed together, fit properly and produced in Court.
S. C. p. 121; Powell testified he got out of Mohr's car at ferry. He came back to his home in	Mr. Earnest, Mrs. Earnest and Marie Powell testified that Powell came home.

Testimony of Powell	Corroboration
Camden. Mohr went on to Philadelphia in his car.	Mohr testified he was in Philadelphia. Produced witnesses that he was in Philadelphia with his Ford coupe.
S. C. pp. 115-22; Powell testifies he was at places named by Mohr, a few nights before murder, after coming back from Riverside.	Mohr names same places in Philadelphia where he went on night of murder.
S. C. p. 121; Powell tells about Mohr coming to see him next morning, giving him $50 bill; said that was some of the money on John Brunen's person that night.	S. C. p. 536; Marie Powell saw Harry C. Mohr give Powell the money ($50) bill the morning after murder.
S. C. p. 121; Powell testifies Mohr gave him two $50 bills on Monday following murder, about twelve or one o'clock in morning.	Marie Powell testifies she saw Mohr give Charles Powell the $100 at the time.
S. C. p. 672; Elizabeth Jaeschke, testifies Mohr showed her where guns were found in creek at place Powell testified on March 21, 1922.	S. C. p. 712; Mr. Parker testified to finding of guns. Was kept secret until April 11, 1922.

Testimony of Powell	Corroboration
S. C. p. 270; Mr. Keown asks Charles M. Powell as follows: "Q. Did Harry say anything about another single barrel gun after the single barrel gun had been broken? A. Yes. Q. Did you get another single barrel gun? A. Yes."	Query. No testimony that a third gun had been purchased, or knowledge that State had before Keown asked question. Did Mohr tell him? S. C. p. 685; Mary Miller saw Mohr day after murder, March 11, 1923. P. 686, S. of C.; Mohr told her, they would never catch the murderers, that if John Brunen was here now, he, Mohr, would knock him off.

It will thus be seen from an examination of the case that Mohr's defense is that of an alibi as to whether the testimony provided by Mohr is sufficient to overcome the testimony of Powell and the strong incriminating circumstances, together with the strong corroborating circumstances was truly a jury question, and it is respectfully submitted that not only has the State borne the burden out but has borne the burden of proof beyond a reasonable doubt that the defendant is guilty as charged.

It is therefore respectfully submitted that there was no error in the record and proceedings of this cause and that the proof shows beyond a reasonable doubt that the plaintiff-in-error is guilty as charged and that this writ should be dismissed.

JONATHAN H. KELSEY,
Prosecutor of the Pleas.
JAMES MERCER DAVIS,
Of Counsel.

NEW JERSEY COURT OF ERRORS AND APPEALS.

State of New Jersey,
Defendant-in-Error,

v.

Harry C. Mohr,
Plaintiff-in-Error.

On Error in the Burlington County Court of Oyer and Terminer.

On Indictment and Conviction for Murder.

BRIEF FOR PLAINTIFF-IN-ERROR.

STATEMENT OF THE CASE.

The plaintiff-in-error was indicted jointly with Charles M. Powell and Doris Brunen, charged with the commission of the crime of murder of one John T. Brunen, on the tenth day of March, 1922. On motion of the Prosecutor of the Pleas and for reasons which the Court deemed sufficient, an order was entered for a severance as to the defendant, Charles M. Powell.

The plaintiff-in-error was thereafter tried jointly with Doris Brunen. Doris Brunen was acquitted but the plaintiff-in-error was convicted of murder in the first degree, the jury as a part of the verdict recommending the sentence of imprisonment at hard labor for life. The plaintiff-in-error thereupon brings said conviction before this court for review under Sections 136 and 137 of the Criminal Procedure Act (2 Comp. Stat. 1863) on assignments of error and specifications of causes for reversal.

FACTS.

John T. Brunen was the half-owner of a circus, Doris Brunen being his wife, Harry C. Mohr being the manager of the said circus and the brother of the said Doris Brunen. Charles M. Powell was a former employee of the Brunen circus.

On the evening of March 10th, 1922, John Brunen arrived at his home in Riverside at about 6.30 P. M. His family, consisting of his wife, daughter Hazel and mother-in-law, Mrs. Charles Mohr, were at home. Hazel Brunen and Mrs. Charles Mohr shortly afterward left for the motion picture theatre. John Brunen and his wife had their supper. John Brunen then sat down in a rocking chair in the kitchen near a window to read a newspaper. Doris Brunen left the kitchen and went upstairs.

Very shortly thereafter a shot was heard and Doris Brunen ran downstairs and found John Brunen sitting in the chair in the kitchen bleeding profusely from a gapping wound in the left temple. Doris Brunen ran from the house immediately to a neighbor's home, then returned and notified a doctor.

An investigation showed that John Brunen had been murdered by some one firing a load of shot from a shotgun outside of the kitchen window, the shot entering the brain and death resulting almost instantly.

On April 6th, 1922, Charles M. Powell was arrested by the Burlington County authorities. On April 28th, 1922, Charles M. Powell made a statement confessing that he had committed the murder and implicated the plaintiff-in-error who was thereafter arrested on April 29th, 1922. Shortly thereafter, Charles M. Powell made another statement implicating Doris Brunen. Doris Brunen was arrested on June 12th, 1922.

Doris Brunen and the plaintiff-in-error were denied the right of counsel from the time of their arrest until July 13th, 1922, when Justice Kalisch ordered the Burlington County authorities to permit counsel to see said prisoners.

Doris Brunen, Charles M. Powell and the plaintiff-in-error were jointly indicted by the Grand Jury in and for the County of Burlington for the murder of John Brunen. Because of the generality of the indictment, the Court ordered a bill of particulars to be furnished counsel for Doris Brunen and the plaintiff-in-error. In the bill of particulars, the State alleged that the murder of John Brunen was the result of a conspiracy between Charles M. Powell, Doris Brunen and the plaintiff-in-error, that the plaintiff-in-error had hired, engaged or induced Charles M. Powell to commit the murder, and that Doris Brunen and the plaintiff-in-error had planned, aided and abetted in the murder of said John Brunen, and that Doris Brunen and the plaintiff-in-error had aided and assisted the said Charles M. Powell in the murder of John Brunen.

BRIEF OF THE ARGUMENT.

The plaintiff-in-error has filed five assignments of error and nine causes for reversal, which are relied upon for a reversal of said conviction. The first five causes for reversal correspond with the five assignments of error.

In the brief following, the points relied upon for a reversal will be dealt with in the order in which they appear in the specification of causes for reversal as filed.

NOTE: The page numbers referred to in the argument following refer to the pages as numbered in the printed State of the Case.

POINT ONE.

ASSIGNMENT OF ERROR AND CAUSE FOR REVERSAL No. 1.

> "Because the Court below overruled the challenge to the array" (p. 17).

The plaintiff-in-error respectfully contends that the Court erred in denying his challenge to the array.

Section 82 of the Criminal Procedure Act (2 Comp. Stat. 1847), provides that in all cases where any defendant in any indictment is entitled to twenty peremptory challenges and to have a list of the jurors delivered to him previous to his trial, it shall be the duty of the sheriff to draw such list of forty-eight jurors or such larger number as the court in which such indictment shall be pending shall by special order direct so to be served.

Section 83 of the Criminal Procedure Act (2 Comp. Stat. 1847) provides that when the special panel or list of jurors served on the defendant in a case in which the defendant shall be entitled to twenty peremptory challenges shall be exhausted from any cause before a jury for the trial of the indictment is obtained, talesmen shall be taken from the general panel of jurors returned, for the term at which such indictment is to be tried, if any remain, and if more talesmen shall be required than the number of jurors remaining on the general panel the sheriff shall forthwith summon from among the by-standers and others such additional number of persons qualified to serve as jurors as may be ordered by the Court and make return thereof immediately and place the names of the jurors so returned in the box and draw therefrom until the jury is completed.

In the plaintiff-in-error's case, the sheriff on the 29th day of November, 1922, pursuant to an order entered by the Court of Oyer and Terminer of Burlington County and duly filed in the office of the clerk thereof, drew a special panel of sixty jurors, a copy of which list was duly served upon the plaintiff-in-error on the second day of December, 1922.

On the 5th day of December, 1922, the sheriff, in accordance with a second order of the said Court filed in the said clerk's office, drew another panel of one hundred and twenty jurors which panel was likewise served upon the plaintiff-in-error on the same day.

The refusal of the Court to sustain the challenge to the array was an absolute violation of the Statutes of the State of New Jersey and the plaintiff-in-error's statutory rights were thereby invaded by the trial Court.

POINT TWO.

ASSIGNMENT OF ERROR AND CAUSE FOR REVERSAL NO. 2.

> "The defendant, by his counsel, objected to Charles M. Powell being called as a witness for the State on the grounds that the said Charles M. Powell was incompetent by reason of the fact that he was insane. That the said Charles M. Powell had been insane during the time in which he was confined in the Burlington County jail and that he, at the time he testified, did not possess such an understanding that he could retain in memory and accurately narrate the events, if any, of which he was a witness and that he did not and could not comprehend the sanctity or obligation of an oath. The defendant requested the said Court of Oyer and Terminer to permit him to submit testimony to the said Court in order to show that the said Charles M. Powell was incompetent but the said Court erroneously and illegally refused to allow your petitioner to submit such testimony and permitted the said Charles M. Powell to testify" (page 1129).

The part of the record pertinent to the above point is found on page 60, line 1, to page 61, line 34, as follows:

> "Mr. Keown: Now, if your Honor please, I wish at this time to object to Charles M. Powell testifying in this case on the ground that he is incompetent. The defense contends that he is incompetent by reason of the fact that he is insane and was at the time of the commission of

the alleged crime; that he has been insane during the time which he was confined in the Burlington County prison at Mount Holly, and that he is at the present time insane and he is not possessed of such understanding that he can retain in memory and accurately narrate the events, if any, of which he was a witness, and that he does not and cannot comprehend the sanctity and obligation of an oath. As I understand the law to be, your Honor has the privilege of examining a party offering himself as a witness, and that it is the duty of your Honor to make such examination. I understand further that I have the right to produce witnesses to testify in regard to his insanity, and at this time request the Court to examine the person offering himself as a witness in this case, and that the Court grant me the privilege of also examining him. I also request the further privilege of submitting testimony to your Honor as to the insanity of this witness, and respectfully request the Court to hear this testimony before ruling on this question.

The Court: Well, I have to judge as to his competency. It is for me, like any other witness that you might object to as being incompetent. The question is for the Court, is it not?

Mr. Keown: Yes.

The Court: Well, if that is so where do you find any authority that it is necessary for me to hear outside testimony, extraneous testimony? What case have you?

Mr. Keown: If your Honor please, I have no New Jersey authority on it where objection is made to a witness testifying on the ground of incompetency. It is unquestionably the duty

of the Court to make such examination as would satisfy him and therefore rule on the subject accordingly. It may be shown by examination of the witness, by my examination.

The Court: By examination of the witness himself. I will examine this witness and see whether he is mentally competent. It would be a very drastic rule which would exclude a person from being a witness who is sane, merely because at one time or another he was insane. I don't know that you can find any case that sustains such a proposition. It doesn't make any difference whether he was insane two months ago or six months ago. That may be a matter of defense. I don't know whether you can show that. I don't rule now upon the admissibility of such testimony until it is offered, but it may be that you can show it, that at a certain time he was in a deranged state of mind. The only question before me is whether the man understands the nature of the oath, and whether he has sufficient mind to testify. He is responsible to the law if he testifies falsely. To that extent I am going to examine him."

And on page 65, line 10, to page 66, line 11, as follows:

"The Court: I think that is objectionable. The question is whether this man is competent now to testify. On his cross-examination, when he is a witness, you may go probably into some of these matters that you are trying to go into now.

Mr. Keown: Well, I won't press my examination any further now, then, sir.

The Court: I think you will agree with me, Mr. Keown, so far as the witness has gone now

that he shows mental capacity to testify as a witness. I now decide upon the examination that was made that the witness is competent to testify.

Mr. Keown: Then your Honor at this time refuses to allow me to introduce witness to test his sanity?

The Court: To test his sanity, merely to show that he was insane at some other time. I want to know what you want me to do.

Mr. Keown: Yes, during the period that he has been incarcerated.

The Court: That has nothing to do with this case. If the testimony becomes competent to show a condition of mind when these transactions that you refer to took place and they have relevancy to the case, I will rule on it then. But at present I feel, from my examination of this witness, that he is competent to testify.

(Whereupon the defendant, by his counsel, prays a bill of exceptions, which is hereby allowed and sealed accordingly.)

Samuel Kalisch, (Seal)
Judge."

The law is that where timely objection is made to a witness testifying on the grounds of incompetency, it is unquestionably the duty of the Court to make such examination as will satisfy him as to the competency or incompetency, and rule on the objection accordingly.

28 *Ruling Case Law,* 448;
40 *Cyc.* 2239;
1 *Whar. Cr. Ev.* 751.

It is conceded by plaintiff-in-error that the competency of a witness is a question for the Court

alone, and it is further conceded that every person presenting himself as a witness is presumed competent, and the burden of showing the incompetency is on the objecting party.

1 *Wharton Cr. Ev.* 756;
40 *Cyc.* 2237;
28 *Rul. Case Law,* 448.

Plaintiff-in-error, realizing the above, therefore was prepared to submit evidence to the Court below on this question and requested the Court to allow him to do so in order to assist the Court in his decision. The trial Court, however, refused to allow plaintiff-in-error to do so and plaintiff-in-error respectfully contends that this was error on the part of the trial Court.

Being unable to find any New Jersey cases directly in point, the Court's attention, therefore, is called to the case of *Livingston v. Kiersted and Heermance,* decided by the New York Supreme Court and reported in 10 Johns, 362, which case is precisely in point. In this case, Kiersted and Heermance sued Livingston, in a Justice's Court, for unlawfully raising and keeping a mill dam contiguous to their lands. The main defense of Livingston was justification under certain deeds from the owners of the lands, which he claimed gave him the right to keep up the dam. The trial was held by the justice with a jury, and plaintiffs proved that the dam had been raised by one V. twelve years ago, that it flowed over their lands, and that they had exercised acts of ownership on the lands. The justice thereupon ruled that it was competent for plaintiffs to prove by parol proof that they were in possession of the lands overflowed. Plaintiffs then called a witness, defendant Livingston objected to

the witness as incompetent, and offered to prove that the witness was *non compos,* and had been deranged for some time. The justice refused to accept this evidence, and later the jury returned a verdict for plaintiffs. The defendant Livingston then appealed to the Supreme Court.

The Supreme Court held that the exclusion of the testimony to prove that a witness offered on the part of plaintiffs was *non compos,* by reason of his mental derangement, was erroneous.

The Supreme Court said further that

> "if it could have been shown below that the witness was deranged, or had not the ordinary understanding, he must have been excluded as incompetent. Idiots, lunatics and madmen are not competent witnesses, and this must be shown to the Court by proof, like any other charge of incompetency. The defendant here was prevented from showing this, and the witness was admitted. As we cannot tell what weight the jury may have given to his testimony the judgment must, for that cause, and without considering the other points raised, be reversed."

The above decision is commented upon and approved by the Supreme Court of Vermont in the case of *Robinson v. Dana,* decided in 1844, and reported in 16 Vt. 474. This was a prosecution for bastardy. Plaintiff was offered as a witness at the trial, and defendant objected to her as being incompetent, in that she had not sufficient capacity to understand the obligation of an oath. Defendant then offered to examine her for the purpose of ascertaining her capacity and degree of understanding. Plaintiff objected and the trial Court sus-

tained the objection. The plaintiff obtained a judgment, defendant sued out a writ of error, giving the above action of the trial Court as one of his assignments of error.

The opinion of the Court was delivered by Justice Hebard, and the part pertinent to the above is as follows:

> "The examination of a witness under 14 is subject to the discretion of the Court. The Court may permit counsel to examine, but they are not bound to do so; and when the Court is satisfied on the competency of a witness, that is conclusive. In this case the witness was cross-examined, for the purpose of testing her capacity and understanding, as affecting her credit with the jury, and this was the only purpose for which the examination was proper. If, however, the defendant had offered to prove, by other witnesses, that the witness in this case was *non compos,* as was done in the case of Livingston v. Kiersted, *et al.,* 10 Johns, 362, and the Court had excluded the testimony, it would clearly have been erroneous. As it was, the Court committed no error."

The leading case on this subject is one in which the facts in point are touched upon only indirectly. The case is that of *Reg. v. Samuel Hill,* decided in 1851 by the English Court of Criminal Appeals and reported as follows:

5 *Eng. Law & Eq.* 547;
5 *Cox, C. C.* 259;
2 *Den., C. C.* 254;
Temple and M. 582;
15 *Jur.* 470;
20 *L. J. Mag. Cas.* (*N. S.*) 222.

In this case, the defendant was tried and convicted of manslaughter, subject to the opinion of the Judges of the Court of Criminal Appeal on a point reserved at the trial.

The question reserved for the Court of Appeal was as to the propriety of the trial Court in admitting a witness by the name of Richard Donnelly for the prosecution.

Donnelly and the deceased were inmates of an insane asylum. Defendant Hill was the keeper in charge of the ward. Donnelly was laboring under the delusion that he had a number of spirits about him which were continually talking to him. That seemed to be his only delusion.

At the time Donnelly was offered, testimony was offered and accepted by the Court as to Donnelly's condition, then Donnelly himself was examined. The trial Court then allowed him to be sworn, and reserved the question of his competency for decision, of the Court of Appeal.

Lord Campbell, C. J., delivered the opinion, and stated that the fact that a person is *non compos mentis* does not disqualify him as a witness. The proper test is, does the lunatic understand what he is saying and does he understand the obligation of an oath? The lunatic may be examined himself, and witnesses may be adduced to show in what state of sanity or insanity he is in.

In this case, there was a disease upon the mind of the witness, operating upon particular subjects, of which the transaction of which he came to speak was not one. He was perfectly sane upon all other things except the subject of his delusion. As far as memory was concerned, he was in the position of ordinary persons, and upon religious matters he was remarkably well instructed, so as to understand

perfectly the nature and obligation of an oath. The Court therefore decided that the witness was competent to testify, and confirmed the conviction.

The part of the above decision pertinent to this case is:

> "The lunatic may be examined himself, and witnesses may be adduced to show in what state of sanity or insanity he is in."

It is true that the word may denotes permission only, but at the trial of the above case, there was no question but that the tesimony offered by the defendant would be received by the Court. Indeed, it is contended that the Court wanted the facts produced by the testimony, and the facts brought out were so important that the trial Court did not attempt to decide the competency question himself, but reserved this for the decision of the Court of Criminal Appeal.

In the case of *State v. Simes,* 12 Idaho, 310-9, Ann. Cas. 1216-85 Pac. 914, the prosecuting witness was objected to in a prosecution for rape. The Court refused to examine the witness, but allowed the counsel to do so before she was sworn. No offer of testimony as to her condition was made, however. Defendant after conviction appealed to the Supreme Court.

Justice Ailshie, delivering the opinion for the Court, practically held that the action of the trial Court was error, but also held that it was harmless, since defendant on cross-examination fully examined the witness. Justice Ailshie in the course of the opinion, says as follows:

> "When a witness is produced, it is a right and privilege accorded to the adverse party to object to the examination of such witness upon

> the ground of incompetency to testify. The question of competency is clearly one of law, and must be determined by the Court. There is no fixed or established rule for determining such question. It seems, however, to be the usual practice, and, we think, the proper and orderly way to proceed, for the Court to examine the witness for the purpose of ascertaining his condition of mind and ability to truthfully and correctly narrate the facts concerning which he is called to testify; and in the determination of this fact, it may often be found proper and necessary to call other witnesses to testify."

Perhaps the most recent case on this point in the United States is the case of *State v. Cremeans,* decided by the Supreme Court of Appeals of West Virginia, April 23, 1907, and reported in 62 W. Va. 134-57 S. E. 405.

In this case, the defendant was on trial for murder. One of the witnesses offered by the State was objected to by the defense as incompetent by reason of insanity, the defense at the time of objection offering to prove that the witness had been confined to an asylum for the insane, and had also been put in jail for lunacy. Defendant requested the Court to allow him to prove these facts before the witness was permitted to testify.

The trial Court refused to allow this testimony and permitted the witness to testify. The defendant was later convicted, and sued out a writ of error in the Supreme Court of Appeals.

The opinion of the Court, which was delivered by Justice McWhorter, bearing upon this point is as follows:

"Bill of exceptions No. 12 goes to the objection by the defendant to the introduction as a witness of Frank Lunsford by reason of his having been confined in the asylum for the insane, and was also put in jail on the charge of lunacy, and asked the privilege of showing this fact before he should be examined, and to show also that he had never been discharged from his lunacy, which motion was overruled. In 30 A. & E. E. L. 935. 'If the witness has been once found insane, this has the effect of casting upon the party offering him the burden of showing him to possess the necessary qualifications.' Rwy. Co. v. Thompson, 82 Fed. 720, 27 C. C. A. 333; Armstrong v. Timmons, 3 Har. (Del.) 342. In Hoyt v. Adee, 3 Lans. (N. Y.) 173, it is held: "An inquisition of lunacy found against a witness is *prima facie* evidence of his incompetency to testify. And this is so although his testimony is offered against one who was not a party to the proceedings in lunacy.' Coleman v. Commonwealth, 25 Grat. (Va.) 865, 23 Am. Rep. 711. The question of the competency of the witness having been raised, the Court should have determined that question upon a careful examination into the facts and the condition of the mind of the witness. The question of his competency is for the Court, and not for the jury. State v. Michael, 37 W. Va. 565, 16 S. E. 803, 19 L. R. A. 605. The exception was well taken."

It is therefore contended by the plaintiff-in-error that the action of the trial Court set out in this cause for reversal was reversible error, since it seriously prejudiced plaintiff-in-error in maintaining his defense upon the merits.

POINT THREE.

ASSIGNMENT OF ERROR AND CAUSE FOR REVERSAL No. 3.

> "Because the Court below, after the close of the State's case and after the defense had rested and after the State had concluded its rebuttal, permitted the State to reopen its case and allowed the witness Albert Fletcher to testify" (p. 1088).

The witness, Albert Fletcher, was called by the State in its main case and the part of his testimony, pertinent to this argument, will be found on page 603, line 14 to line 35, which reads as follows:

> "The Witness: Well, I heard a shot go off and I stopped the car and got out thinking I had a tire blowed up, and I looked at them all and I saw no tire blowed up. I was going to King's Corner, if it was, and proceeded to Camden. We went there slow. I had to keep wiping the windshield. We didn't see anything at the Cambridge Station. We had to pick our way, and we didn't see anything until we got opposite the first part of Dreer's nursery. There is a switch. As we were passing on the nursery part of that a Ford coupe passed us at traffic speed.
>
> Q. Terrific speed?
>
> A. Yes, sir, going in the same direction. In order to avoid hitting us, my wife grabbed my hand. I said, 'That's all right, the fool ain't got no lights.'
>
> The Court: That will be stricken out. If you do this thing again after I have admonished you, I will commit you."

The State later rested its case. The defendant-in-error put in his defense. The State then offered its rebuttal testimony and while so doing recalled the witness Fletcher whose testimony will be found on page 1086, line 22, to page 1089, line 12, which reads as follows:

"Albert E. Fletcher, recalled for the State.

Direct examination.

By the Prosecutor:

Q. Mr. Fletcher, on the night of March 10th, you testified in your direct examination that a car passed you going toward Camden at a terrific speed. Did you get the license number of that car?

Mr. Keown: I object to that on the ground it is affirmative proof and should be proved in the main case and not now.

The Court: I am astonished. If you had the license number of this car you should have developed this at the beginning of the case.

The Prosecutor: We didn't have it at that time, your Honor, and Harry Mohr testified his car wasn't there. Now, we will prove it was there on March 10th.

The Court: I know, but you must prove all the evidence affirmatively. If you make an application now for me to open the case on the part of the State I will give you leave then to produce witnesses.

The Prosecutor: I will.

The Court: Mr. Keown, there ought not to be a miscarriage of justice.

Mr. Keown: I am very much afraid, if your Honor please, if the case is opened at this time it may be a miscarriage of justice. The Prosecutor knew that was a very important fact in

the case. The witness was here and if the witness had that within his knowledge, he could have given it to us then.

The Prosecutor: May it please the Court, I can prove by this witness ——

The Court: Don't tell me what you can prove. Why didn't you examine him at the time?

The Prosecutor: I did not have the information myself, your Honor.

The Court: It isn't the question of whether you had the information. You had this witness and you must have had the information that Mr. Mohr had driven the car or Mr. Mohr owned the car and had a certain license number. This is something that ought not to be permitted.

The Prosecutor: Your Honor, the defendant had the information.

Mr. Keown: If your Honor please, that is certainly not a fair statement.

The Prosecutor: All right, I will prove it by the witness.

The Court: Mr. Parker, please don't. You have counsel in the case, and they must conduct their case on the basis of legal principles. Do you insist upon putting in this evidence?

The Prosecutor: Yes, I do.

The Court: Well, I will receive it.

Mr. Keown: Will your Honor allow me an exception?

The Court: Yes.

(Exception noted for defendants.)

Samuel Kalisch, (Seal)
Judge.

The Court: But in receiving it, I now say to the defendants I will give them every oppor-

tunity to produce any evidence that they may be able to in regard to this very matter. The case will be opened to that extent.

Mr. Keown: If your Honor please, we will not be in a position to do that.

The Court: I don't know whether you will or not. You must hear the testimony first. Of course, you put in this evidence at your peril now."

The witness then goes on in his testimony and relates that he obtained the number of the license tag of the car which passed him, that the number was as is found on page 1091, line 4 to line 10, which reads as follows:

"The Witness: The number as I took it that evening was 69564, New Jersey.

Mr. Peacock: 69564, is that right?

The Witness: Yes, sir."

The State then recalled the witness, Clifford D. Cain, whose testimony is found on page 1095, line 21, which reads as follows:

"Mr. Keown: Just a moment, if your Honor please, I object to that now on the ground that that was proof which should have been submitted in the main case, and is not rebuttal.

The Prosecutor: This is the main case, your Honor. I made application to open.

The Court: I told him he might do it because it was an oversight, but I am going to give you an opportunity to rebut whatever the State now offers in the nature of proof which should have gone in affirmatively in their case. Go ahead."

The witness then goes on to testify and connects up the number 69564 as the number of the license

which was on the car of Harry Mohr when he recovered it from the Preisendanz Garage on April 30th.

At the conclusion of the testimony of Clifford D. Cain, the State again rested its case and the plaintiff-in-error offered no further testimony. The plaintiff-in-error was unable to offer any testimony to overcome this testimony, which is contended was improperly allowed. The plaintiff-in-error was greatly surprised by the introduction of such testimony. The witness Fletcher had previously been on the stand and had testified in the State's main case. The plaintiff-in-error had prepared and presented his case and had met successfully all of the evidence produced by the State. Such testimony as was offered by the witness Fletcher could not have been anticipated, particularly in view of the fact that the witness Fletcher, the one witness who had testified on direct examination, he having seen the car, never for an instant mentioned the fact that he had seen the license number. The plaintiff-in-error had no reason to expect such testimony and because of its introduction, at the time of its introduction, was surprised and unable to present any testimony to meet or answer it.

The authorities seemed to be clear as to the law on this subject and the law is clearly stated in the case of *Foley, et ux., v. The Brunswick Traction Company,* 69 N. J. L. 481, as follows:

> "The order of proof is always discretionary with a trial Judge. He may reopen the case on rebuttal if he so wills, *if no injury will follow to the defendant by way of surprise or otherwise.*"

An examination of the facts in this case and a comparison of them with the facts in the case under

consideration will show that in the Foley case no surprise was pleaded, while in our present case, objection was immediately made to the offer of such testimony on the grounds of surprise and on the grounds that the plaintiff-in-error would not, at that time, be in a position to offer testimony along this point.

In the case of *Hustis v. James A. Banister Company*, 63 N. J. L. 465, this question was also raised and the Court in that case held that the order of proof is always discretionary with a trial Judge, that no surprise was pleaded at the trial nor was time asked to meet the new proof. The Court intimated that had there been surprise pleaded, it might have had a different effect upon its findings.

It is, therefore, respectfully contended that even though the reopening of the case was a discretionary matter with the Court, that the reopening of the case in the present case, coming at the time it did, at almost the conclusion of the case, at such time that would naturally surprise the plaintiff-in-error and at such a time when it would be impossible for the plaintiff-in-error to produce any evidence in contradiction thereof, was a gross abuse of the Court's discretionary power and reviewable by this Court.

As to whether abuse of the Court's discretionary power worked any injustice upon the plaintiff-in-error is clear. There had been no testimony by the State to corroborate the witness Powell along any point whatsoever and this testimony, if true, could have been considered by the jury to corroborate the testimony of the witness Powell that Mohr and his car was on the scene of the murder at the time of its commission.

Surely the trial Court realized the seriousness of permitting the State to reopen its case as is found

in his remarks to the Prosecutor in the testimony hereinabove referred to, particularly the following:

By the Court at page 1087, line 4:

> "I am astonished. If you had the license number of this car you should have developed this at the beginning of the case."

By the Court at page 1088, line 7:

> "This is something that ought not to be permitted."

By the Court at page 1089, line 11:

> "Of course, you put in this evidence at your peril now."

Another point that can well be considered under this assignment of error and which would perhaps have some significance with the Court is the fact that the testimony of the witness Fletcher was incompetent testimony. (The proof showing this testimony to be incompetent will be treated under point 8.)

It is, therefore, respectfully contended that the Court further erred in permitting the State to reopen its case as the introduction of the testimony at the reopening by the witness Fletcher was incompetent.

POINT FOUR.

ASSIGNMENT OF ERROR AND CAUSE FOR REVERSAL NO. 4.

> "Because the Court below admitted in evidence a paper containing the words 'John Potter, 26th & Westfield Avenue,' which was in the

handwriting of the defendant and which paper also contained some typewritten matter not proven to have been prepared or written or in any way connected with the defendant Mohr'' (p. 1132).

The testimony pertaining to the introduction of this piece of paper and the objection to its admission can be found on page 866 at line 25, to page 869, line 32, which reads as follows:

''Q. I show you a piece of paper and ask if you have ever seen that before?

The Court: Well, look at it.

A. Well, it has got some of my writing on. I don't believe I could deny that.

Q. That handwriting is your handwriting, isn't it?

A. Yes, sir.

Q. What are the words in your handwriting?

A. John Potter, 26th & Westfield Avenue.

Q. When did you last see that paper?

Mr. Keown: Is that to be marked, Mr. Peacock, or for identification?

Mr. Peacock: I will let you look at it.

Q. When did you last see that?

A. I don't remember.

Q. Did you drop that paper on Market Street, Philadelphia?

A. I don't remember.

Q. But it is in your handwriting, the handwriting on it?

A. Yes, sir.

Mr. Peacock: I ask that it be marked.

Mr. Keown: For identification, that is marked for what?

Mr. Peacock: Yes.

The Court: Do you intend to follow it up? Do you want the contents to go in evidence?

Mr. Peacock: The whole thing.

Mr. Keown: I object to this piece of paper going in evidence.

The Court: Why?

Mr. Keown: On the grounds it does not contain anything but some typewriting matter on a piece of paper and then a man's name down at the bottom of the piece of paper. Now, that certainly could not be binding upon this man whatever might be on that piece of paper.

The Court: What part of the paper do you offer?

Mr. Peacock: I understood Mr. Mohr to say that was his paper.

Mr. Keown: I have no objection to the name John Potter being offered in evidence.

Mr. Peacock: I will ask another question on that, your Honor.

Q. That is your paper, is it not?

A. I don't know. You mean the paper itself?

Q. The whole thing.

A. It is nothing more than part of a statement I have made.

The Court: I will let it go in.

Mr. Keown: May I have an exception, your Honor?

The Court: Yes.

(Exception noted for defendants.)

Samuel Kalisch, (Seal)
Judge.

Q. Now, read it, will you?

A. I was at Riverside on the afternoon of the murder. I arrived at Riverside about four o'clock P. M. I remember writing a couple of

letters, one to Harry Bentum at Baltimore, and the other to George Coleman at Chicago. I presume that it was about five o'clock P. M. when I left Riverside in my Ford car to keep an appointment in Camden concerning the booking of the show at Salem. When I arrived at Camden I went to the post office and deposited my mail. I did not connect up with my Camden appointment and I went to Philadelphia to attend an interview with the 83rd Barry Post of the American Legion at 5948 Spruce Street, Philadelphia. I first called for Dr. Poulson at his home at 5948 Spruce Street and he and I went from there to the Post Headquarters at 52nd and Locust Street to see Post Commander Warren Haight and I left Dr. Poulson at the American Legion Headquarters at 52nd and Locust Street, Philadelphia, and then I went to my sister's home at 921 North 16th Street, Philadelphia, Pennsylvania, where I received word of the tragedy and immediately left and went back to Riverside, and it has John Potter, officer, 26th and Westfield.

Q. When you wrote that statement you didn't put in anything about Jules Kresge, did you?

A. I don't know whether I did or not.

Q. You just read it, didn't you?

The Court: Well, it isn't there?

The Witness: No.

The Court: That is self-evident. Do you still object to it?

Mr. Keown: Yes, sir.

The Court: Your objection is overruled.

(Paper marked Exhibit S31.)''

Unfortunately this court does not have before it the actual paper. The Court's attention is called

to the fact that there is absolutely no proof as to when the statement was prepared, why it was prepared or by whom it was prepared and there is, further, no proof as to where the statement came from, in whose possession the statement had been and the mere fact that a piece of paper, that is only identified by the witness as being a piece of paper that he wrote the name John Potter, 26th and Westfield Avenue, on, should not be binding upon the plaintiff-in-error. The paper itself was a paper in full legal size. The typewriting on the page covered approximately one-third of the page and the name John Potter, 26th and Westfield Avenue, which had been admittedly written by the plaintiff-in-error, was on the bottom of the page. It was not in any way connected with the typewritten matter.

The question may be asked, assuming that the paper was improperly admitted in evidence, what harm, if any, could it have done the plaintiff-in-error? And the only answer can be that it did harm the plaintiff-in-error. The purpose of its introduction was not even clear to the trial Court, as is apparent from the testimony when after the paper was read the trial Court felt that it was in the plaintiff-in-error's favor and suggested that counsel would withdraw objection.

The injustice that it did cause the plaintiff-in-error was a manifest injustice. The plaintiff-in-error's case was not only a denial but an alibi and the argument which was used by the Prosecutor, having succeeded in getting this paper in evidence, was that this was a statement of the plaintiff-in-error, that it was not the same statement that he had made on the witness stand, that in this statement there was no mention made of one of his witnesses to his alibi, Jules Kresge, and it was argued to the

jury, for the purpose of discrediting not only the plaintiff-in-error but also the witness Kresge, to the effect that the testimony of the witness Kresge was a frame-up.

It is respectfully contended that the statement on the paper was improperly admitted in evidence. The said paper was proven by the State to have been out of the possession of the plaintiff-in-error for over seven months. In fact, it was not proven that the paper had ever been in the possession of the plaintiff-in-error. There was no evidence either offered by the State or required by the Court below as to whether the paper had been altered during this period; nor was it proven in what manner or from whom the said paper was obtained; nor was it proven whether, if the statement was made by the plaintiff-in-error, it was not a privileged communication made by him and unlawfully obtained by the State so that the error complained of was manifest error which caused and did injury to the plaintiff-in-error in maintaining his defense upon the merits in that he was seriously prejudiced by the said paper in establishing his alibi.

POINT FIVE.

ASSIGNMENT OF ERROR AND CAUSE FOR REVERSAL NO. 5.

> "The Court of Oyer and Terminer aforesaid erroneously and illegally overruled the motion of the defendant's counsel for a directed verdict at the close of the case, said motion being made on the ground that there was not sufficient evidence to warrant the submission of the case to the jury" (p. 1130).

The facts leading up to this motion and the argument in support thereof will be more fully treated in cause for reversal No. 9, set out in Point 9 of this brief, to which the plaintiff-in-error at this time begs leave to refer.

The law of this State that the Court's refusal to direct a verdict at the close of the case, if the evidence warrants it, is reviewable is well settled. The proposition in law is clearly stated in the case of *State v. Raymond,* 78 N. J. L. 61, 78 Atl. 761, in which it was held:

> "If, upon the trial of an indictment, the State fails to make a *prima facie* case of the charge against the defendant, it is legal error to deny a motion for the direction of a verdict made at the close of the case."

It is contended that when the motion was made there was no evidence sufficient in fact for submission to the jury. It is contended that the only evidence upon which the jury could convict the plaintiff-in-error was the testimony of the co-defendant Powell and that the testimony of Powell, which had been allowed over objection, was incompetent testimony and improperly admitted by the Court, which is more fully covered under Point 2 of this brief.

In conclusion upon this point, the plaintiff-in-error respectfully contends that there was no legal evidence in the case sufficient in law to justify the Court below in allowing the case to be submitted to the jury and that the action of the Court below in denying the plaintiff-in-error's motion to direct a verdict at the close of the case was illegal, erroneous and reviewable by this Honorable Court.

POINT SIX.

Cause for Reversal No. 6.

> "Because the Court below permitted James Mercer Davis, Esquire, of counsel with Charles M. Powell, one of the co-defendants, who was not on trial, to interpose objections to the cross-examination of the witness Powell by defendant's counsel; to answer objections of the defendant Mohr's counsel, and to make statements to the Court in the presence of the jury and to assist the Prosecutor in an audible tone of voice, within the hearing of the jury, with the examination of the witness Powell" (p. 1132).

Unfortunately, the State of the Case cannot show a photograph of the actions of Mr. Davis in the court room. His persistent interruptions and suggestions to the Prosecutor in the examination and cross-examination of the witness Powell and the numerous requests of counsel for the plaintiff-in-error made quietly to the Judge without the hearing of the jury, do not show on the record; but to assist this Honorable Court in weighing the manifest injustice and to prove that the plaintiff-in-error was greatly prejudiced by the actions and statements of Mr. Davis, who represented the witness Powell, the Court's attention is called to parts of the colloquies between the Court, the Prosecutor, Mr. Davis and counsel for the plaintiff-in-error.

The colloquies complained of are found in the testimony as follows:

Page 160, line 25 to line 34:

"The Prosecutor: I would answer them.

Mr. Davis: I would answer them and would so advise you as your counsel.

The Witness: I don't care to answer them. I don't care to answer them kind of questions.

The Court: Why not?"

Page 162, line 25 to line 38:

"Mr. Davis: But it seems to me, I representing this man, I have no desire to impede the progress of the trial in this case. It is my business to see to it that this man unburdens himself. It does not seem, however, to me that this is proper cross-examination.

Mr. Keown: I want to at this time object to any question by Mr. Davis.

The Court: I think it is proper cross-examination, so that ends it."

Page 163, line 1 to line 33:

"Mr. Davis: It might just as well be determined now whether or not I have a right to rise in the defense of my client on the stand.

The Court: You have a right if there is anything brought out which implicates him, anything that isn't pertinent to this case, I suppose you would have a right to speak. The question as to whether this is proper cross-examination, I doubt your propriety in making that objection. I think it is a proper cross-examination.

Mr. Davis: My thought was this. My right to make such objections is based upon this principle. While my client goes on the stand he is a competent witness to be cross-examined on any subject concerning which he has testified, but he is not a party to the matter, and the extent of permitting any other person to cross-examine him beyond the proper limits ——

The Court: He is an accomplice, and you can't get that out of this case. He confessed to the condition of his mind and therefore the greatest latitude is allowed to the cross-examination of any accomplice, and I propose to adhere to that rule. If he is asked something which is going to implicate him in the commission of a crime, I should think then you would have a right to object. He wouldn't be obliged to answer the question whether he has attempted to commit suicide. He is not bound to confess he is guilty of a crime, but no objection was made and I heard none."

Page 164, line 15 to line 23:

"The Court: I don't know how he can answer that.

Q. What was there to frighten you in jail?

Mr. Davis: That is objected to as purely hypothetical.

The Court: He can ask him what there was there to frighten. Answer the question."

Page 168, line 23 to line 30:

"Q. What made you make the confession? I understood you to say it was your condition that made you make your statement.

Mr. Davis: He hasn't said that.

The Court: Go on."

Page 234, line 1 to line 14:

"Mr. Davis: If your Honor please, I assume full responsibility for this testimony. I represent this man. It was at my suggestion that he goes on the stand and tells his story.

The Court: Well, I suppose, Mr. Davis, he would have a right to ask. Let him state.

Mr. Davis: Yes, but I want it understood that it is with the approval and advice of counsel.

The Court: Of course, he has a right to examine him to find out."

Page 269, line 31 to line 36:

"Mr. Keown: If your Honor please, can we now, as long as Mr. Davis has called the matter ——

The Court: Let the Prosecutor and his assistant here take care of the examination."

Page 270, line 1 to line 29:

"Mr. Peacock: What is Mr. Keown's objection, what is he talking about, what is his objection?

The Court: His objection was to Mr. Davis interposing. I don't know, I didn't hear anything that Mr. Davis said.

Mr. Davis: I made a suggestion to the Prosecutor. I have been practising at this bar a good bit longer than Mr. Keown and I think I am within my rights in sitting here and making such suggestions.

The Court: What he objects to is they are not loud enough for the jury to hear. I don't think he does that intentionally. He has a right to suggest through the Prosecutor any questions he thinks the Prosecutor should ask. I don't see why not.

Mr. Keown: I want it noted on the record right now I object to Mr. Davis getting on the floor and arguing in this case any answer to motions.

The Court: When he does it again you put in your objection.

Mr. Keown: I see.

The Court: And I will think it over."

Page 313, line 31 to line 35:

"The Prosecutor: Of course, that is made, may it please the Court, subject to Mr. Davis' approval, who represents Mr. Powell, and Mr. Davis wasn't present at the time."

Page 314, line 1 to line 21:

"The Court: If there is nothing in there that implicates this witness in anything else —

Mr. Davis: That is just the point.

The Court: That would incriminate him for some other offense, so far as this offense is concerned he has conceded that he did the act, and anything he may have said in regard to that —

Mr. Davis: If I may have an opportunity to read it I may offer no objection.

The Court: I think I will let him read it if he wants to.

Mr. Keown: Oh, yes, I have no objection. But I think Mr. Kelsey and Mr. Peacock, who have already read it, can assure Mr. Davis of that fact."

Page 319, line 16 to line 35:

"Mr. Davis: I have no objection to the reading of this statement, but I shall have objection to using this statement as any basis for contradiction, in other words, so far as what has been said in this statement ——

The Court: I will have to rule on it. Do you want to contradict the statement after it is read?

Mr. Keown: No, sir.

The Court: Well, what is the use of argument?

Mr. Davis: Well, I do say if he is not going to use it as a basis of contradiction, but use it as a statement on his behalf.

The Court: I would not limit him. I would allow him, if he can contradict the statement of this witness, I am going to allow if he contradict the statement of this witness, I am going to let the statement in."

Page 320, line 1 to line 9:

"Mr. Davis: But your Honor is not going to allow some questions asked in this statement about his attempt to commit suicide? I don't assume your Honor is going to allow that matter to be gone into.

The Court: No, I said yesterday that anything that would subject this witness to a prosecution outside of the crime of which he is now accused is improper."

It would seem quite apparent that the actions of Mr. Davis complained of, as is apparent from the above testimony, that a great injustice had been done the plaintiff-in-error. The State of New Jersey was ably represented through the Prosecutor of the Pleas who was assisted, by order of the Court, by Robert Peacock. The plaintiff-in-error had only one lawyer to represent him. It is true that Mr. Davis is a member of the court but it is respectfully contended that if Mr. Davis had the right to interpose, arise to the floor with objections, make statements to the jury, answer motions, that the same right would be afforded to all other witnesses that the State may have produced in its case against the plaintiff-in-error. Such an array of talent

staked against the plaintiff-in-error, with only one counsel to assist him in the conduct of his case, certainly deprived the plaintiff-in-error of his constitutional rights. The effect of the remarks of Mr. Davis in the presence of the jury and of the actions of Mr. Davis throughout the trial, upon the verdict of the jury is immeasurable and they in themselves may have been sufficient to prejudice the jury against the plaintiff-in-error.

It is respectfully contended that the trial Court should have ordered Mr. Davis to refrain from such actions and that the Court's refusal to do so, worked a manifest injustice upon the plaintiff-in-error in the trial of his case.

POINT SEVEN.

Cause for Reversal No. 7.

> "Because the Court below erred in its charge to the jury in referring to facts wherein in one particular (page 26 of the Court's charge) the Court said, 'but the giving of $400.00 which is a large sum of money and that it was paid so quickly after the murder of John Brunen is a matter that must have some bearing upon your conclusion in this case.' The testimony of Powell was that the defendant had given him between $500.00 and $600.00 from November, 1921, to April 6th, 1922, of which only four $50.00 bills, a payment of $25.00 and a payment of $15.00 had been made after the murder" (p. 1132).

This cause for reversal is based upon statements made and instructions given by the Court below in

its charge to the jury. The entire paragraph of this portion of the Court's charge is found on page 1120, line 17, to page 1121, line 5, and is as follows:

> "Now, that discredits Powell's testimony to some extent if it is true. And you may ask yourselves the question, if Powell made a statement of that sort and it is untrue, how much credence can be given to other parts of his testimony which tend to connect Mohr with the crime? I do not know. That is for you. You saw Powell on the witness stand and you saw the witness from the ferry company and you saw the defendant, you heard what he had to say and why he gave this money to Powell. He said he was moved by the fact that Powell's wife was in distress, Powell was in distress, and he did it out of humanity, for humanity's sake. There is some proof here that the defendant did some acts which show that he was liberal in some ways. He gave away his overcoat to one of his men, he gave away his shoes, he gave away shirts and things of that sort. He may be a man of that kind, I don't know. But the giving of four hundred dollars, which is a large sum of money, and that it was paid so quickly after the murder of John Brunen, is a matter that must have some bearing upon your conclusion in this case, and his going there early to Powell's house on the next day. Mrs. Powell, Marie Powell, I think, testified that she saw money handed to her husband on that morning. Mohr denies it."

It is contended by the plaintiff-in-error that the Court below erred in making the above statement; more particularly this portion thereof, "But the

giving of four hundred dollars, which is a large sum of money, and that it was paid so quickly after the murder of John Brunen, is a matter that must have some bearing upon your conclusion in this case, and his going there early to Powell's house on the next day."

The Court below erred in making this statement for two reasons: (1) Because the Court in its charge assumed as true the existence of a material fact in dispute; (2) because the Court in its charge incorrectly stated the testimony in referring to this material fact in dispute.

First: In making the statement set out above, the Court assumed as true a disputed and material fact; that is, that the plaintiff-in-error had paid Charles M. Powell the sum of $400.00 after the murder of John Brunen. There surely can be no other possible construction placed upon the above quotation and this was a very material fact as is evidenced by the language of the Court: "—— is a matter that *must* have some bearing upon your conclusion in this case."

The Court below clearly considered this an important fact and clearly charged it to be an admitted fact.

It was a material fact but not an admitted fact and a fact that should not have been established by the Court. The jury should have been the sole judges as to whether it was a fact or not. The statement of the Court below was not a comment upon the testimony but a statement of a fact and in charging as above, eliminated the testimony on the subject from the consideration of the jury and forced the jury to consider the testimony as a proven fact in the case. The construction forced by the Court

below in its charge was not the true construction. The testimony was disputed and disputed emphatically by the plaintiff-in-error in his defense.

The testimony as to the giving of the money is found in the direct testimony of the accomplice and self-confessed murder, Charles M. Powell, whose testimony is found on page 121, line 15 to line 30, and on page 122, line 32 to 35, wherein the witness testifies that Harry Mohr gave him four fifty-dollar bills; one fifty-dollar bill the morning after the shooting, two fifty-dollar bills the day before the funeral and one fifty-dollar bill after the funeral.

The witness Powell also testifies on page 124, line 30 to line 31, as follows:

> "A. He gave me $15.00. This was the 4th of April. On the 6th of April I was arrested."

Then there is again some testimony brought out later by the Prosecutor on page 144, line 12, to page 145, line 8, as follows:

> "Q. Now, Mr. Powell, the morning or two after the murder or just before the funeral, when Harry Mohr gave you the $100 or two $50-bills, what did he tell you to do? I mean in relation to what you have testified to this morning. What else did he tell you if anything?
>
> A. I don't believe he told me anything when he gave me the two $50 bills.
>
> Q. How much money altogether had Harry Mohr given you?
>
> Mr. Keown: I think that question ought to be tied in for a certain purpose and covering a certain period.
>
> Mr. Kelsey: All right. I am perfectly willing in that case.
>
> (Question repeated.)

Q. That is, say from the time he first met you in Wilkes-Barre up until the time you were arrested.

A. Around $500 or $600.

Q. What else did he give you if anything?

A. That is all.

Q. Did he give you anything else except money?

A. No, not from Wilkes-Barre.

Q. No, I mean from the first time he met you in Wilkes-Barre, when he spoke to you in the restaurant there, from that time up till the time when you were arrested.

A. He gave me around $500.00 and $600.00, and that is all."

Now this testimony shows not the payment of $400 after the murder but to the contrary shows the payment of four fifty-dollar bills or $200.00 with the extra payment of $15.00 after the murder with the fact that in all $500.00 or $600.00 had been advanced by the plaintiff-in-error to the witness Powell from the time of their Wilkes-Barre meeting up until the time of Powell's arrest.

In the cross-examination of the witness Powell upon this subject, as is found in his testimony on page 154, line 30, to page 157, line 30, we find that the witness Powell still testifies to the same set of facts; namely, the giving of $500.00 or $600.00 from the time of their Wilkes-Barre enterprise down to the time of his arrest including the payment of four fifty-dollar bills and the payment of the $15.00 from the time of the murder of John Brunen down to the time of his arrest.

In the further cross-examination of the witness Powell at page 298 when effort is being made to

have the witness account for the expenditure of the money alleged to have been given him after the tragedy, the witness sums up and we find the following testimony on page 300, lines 8 to 18:

> "Q. And according to your testimony he gave you $200 between the day of the tragedy and the time that you went to the pawnbrokers in Philadelphia, that is right, isn't it?
>
> A. No.
>
> Q. Isn't that according to your testimony yesterday?
>
> A. Two hundred and a quarter, I think.
>
> Q. What?
>
> A. I think there is two hundred and a quarter there, until we went to the pawnbroker's."

There appears to be no substantial difference between this testimony with the exception that the witness adds a quarter saying that there may have been two hundred and a quarter paid from the time of the tragedy to the time of his arrest.

In conclusion therefore, there is no testimony of the witness Powell to justify the Court's below finding as a fact or stating so to the jury that the sum of $400.00 had been given after the tragedy so the Court has, therefore, incorrectly assumed as a fact, testimony that was never even in the State's case.

Now let us consider the testimony of the defendant. His testimony on direct examination concerning this subject is found on page 821, line 21, to page 822, line 8, as follows:

> "Q. Have you ever given Powell $500 or $600 from the time of your meeting in Wilkes-Barre to the time of your arrest?
>
> A. From the time I met him in Wilkes-Barre? Well, now, that would be pretty hard for me to

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say. I don't think quite that much. I believe Mr. Powell has received—now did you say $500 or $600? I believe I did give Mr. Powell—that is considering the money that I advanced for the promotions at that time—approximately about $400.

Q. Now, just tell the jury how that $400 would be made up.

A. Well, the biggest part went for premiums, such as silverware, five dollar gold pieces and punch-boards and advertising matter. I believe some of it went to a stenographer for the purpose of writing up some instructions on how these promotions were to be worked. The other money was advanced to Mr. Powell for the purpose of maintaining his household, feeding his baby, his wife and himself, and carfare for himself and my wife, and Mr. Collins and myself back and forth in efforts to obtain contracts to promote these church promotions, and also my carfare back and forth to Wilkes-Barre."

From this testimony it is apparent that the $400.00 amount crept into the mind of the trial Court below but this testimony could not be construed for a second to infer as a fact that $400.00 had been given the witness Powell after the murder.

Now in the cross-examination of the witness Mohr upon this subject, we find the following testimony on page 841, line 9 to 842, line 4:

"Q. How many times did you give Powell money all together?

A. Where at?

Q. Any place.

A. You mean from the time I have known Mr. Powell?

Q. The time you met him in Wilkes-Barre.

The Court: As near as you can, so as to be expeditious.

A. Well, I gave him, if you call advancing money to the Karr & Auerbach novelty house, if you call that advancing money—he was in on the proposition, and I considered that that part of the money, yes, I believe I have advanced about $400, covering everything.

Q. On how many different occasions would that be, Mr. Mohr?

A. At any time that Mr. Powell happened to ask me for money while I was in Wilkes-Barre I would give him some.

Q. Did you ever have any of this repaid to you?

A. Sir?

Q. Did Powell ever repay you any of this $400 to $600?

A. Yes.

Q. When?

A. He gave me a ten dollar bill.

Q. On this $600?

A. No, not $600.

Q. $400?

A. $400."

Certainly from this testimony the Court could not assume as a fact that $400.00 had been given from the time of the tragedy to the arrest of Powell.

In view, therefore, of the testimony of the witness Powell and the plaintiff-in-error Mohr, there can be no question but that the trial Court invaded the province of the jury. There was no testimony there which the Court could have found as a fact that $400.00 had been paid after the murder. This testimony should have been left for the consideration and

decision of the jury. The Court, however, erroneously assume as true this fact, it having no foundation, not even from the State's case and plaintiff-in-error respectfully contends that in assuming this as a fact, the Court below committed a manifest error to the great injury of the plaintiff-in-error in that he was prejudiced in maintaining his defense upon the merits. The cases in New Jersey and other States are well settled on this point.

The Court's attention is called to 14 *Ruling Case Law,* page 738, paragraph 12, which reads as follows:

> "It is a general rule that an instruction which assumes as true the existence or non-existence of any material fact in issue in respect to which there is some evidence or want of evidence in conflict therewith, should not be given either by the Court of its own motion, or at the request of either party, for the jury is the only tribunal passing on controverted facts in courts of law; and until the verdict is rendered no such fact is established or shown to exist."

The above rule has been followed in the following cases:

Blannon v. U. S., 213 Fed. 320; 130 C. C. A. 22;
Palmer v. People, 138 Ill. 356; 28 N. E. 130;
McKenzie v. Montgomery Branch Bank, 28 Ala. 606; 65 Am. Dec. 369.

It is error for the Court in instructing the jury to assume the existence of a fact which it is the province of the jury to determine from the evidence or of one in support of which there is no evidence.

Dolan v. U. S. (U. S. C. C. A.—Alaska), 132 Fed. 52; 59 C. C. A. 176.

The rule has been set forth in numerous cases in New Jersey. In the case of *Smith, et al., v. State,* 41 N. J. L. 370, which was a prosecution for murder, the Court in its charge stated that it was part of the defendant's story that the murderer came in through an opening in the floor and the Court commented unfavorably on the probable truth of this story. No such statement had been made by the defendant. The Court held that this was reversible error.

In the case of *State v. Diamond,* 84 N. J. L. 17, this case was a prosecution against two defendants for stealing a horse. One of the witnesses, Geyer, testified as to a horse which he saw on the morning after the horse had been stolen and testified as to the description of the two men with the horse. A part of the trial Court's charge was as follows:

> "If the description given by Mr. Brewster (the complaining witness) of his horse is such that, together with the description of the horse which Mr. Geyer said he saw on the morning of March 19th, satifies you beyond a reasonable doubt that this is the horse which he saw and identified as the horse of Mr. Brewster, and that his identification of these two defendants satisfies you beyond a reasonable doubt that these are the two men he saw with that horse, then the defendants would be guilty as charged under the indictment."

The Supreme Court, upon a writ of error, held that this was injurious error for it told the jury that a directly incriminating fact had been established by a witness who had given no such testimony, since Geyer had not even pretended to identify Brewster's horse.

The syllabus by the Court in this case is as follows:

> "It is injurious error for the trial Court, in a criminal case, to charge in effect, that an incriminating fact had been proven when such fact had neither testimony nor the color of testimony to support it. Such a charge is not a comment upon testimony made for the benefit of the jury but an elimination of testimony from the consideration of the jury."

The same rule has been followed in the case of *State v. Herbert,* a Supreme Court case, 92 N. J. L. 341. This case was a prosecution against several defendants for conspiracy to obtain a divorce and in its charge, the trial Court said in part, "defendants on trial and Helen Knittel all testified before the master in support of the good faith of the divorce." Justice Kalisch, writing the opinion for the Court, remarked:

> "It seems to us, that such a statement of fact made by the Court, with material before him to refresh his memory, carried with it great force and conviction, and would naturally have impressed the minds of the jury of the existence of a fact (which, on account of the great length of the trial, the jury might have forgotten) to such extent so as to overrule any recollection that the jury might have had of that very material and important circumstance.
>
> "The statement, made by the Court, had no foundation in fact, and was harmful, being a material factor in the case to be weighed by the jury as to Weinberg's connection with the unlawful agreement, and hence bearing materially on his guilt or innocence. And for this reason

the plaintiffs-in-error are also entitled to a reversal of the judgment."

In the case of *State v. Lionetti,* a New Jersey Supreme Court case, 93 N. J. L. 24, which was a case in which the defendant was charged with manslaughter, the defense being that the defendant had acted in defense of her husband, Justice Swayze, speaking for the court follows the above rule in the following opinion:

> "The Judge stated as a fact that the husband was the agressor and charged that he who sets up the law of self-defense cannot be the agressor and take advantage of the law of self-defense. This question of fact should have been left to the jury. The Judge finally did so, but only after having made the statement we have paraphrased."

True, the judgment in this case was reversed on other grounds but the point was decided and commented upon in the opinion so that in a re-trial the above error might be avoided.

The plaintiff-in-error respectfully calls the attention of this Honorable Court to the comment of Justice Bergen in the case of *State v. Schilling,* 95 N. J. L. 145. This case was a homicide case brought before this Court on a writ of error. Justice Bergen, in commenting upon one of the assignments of error, relative to the charge of the trial Court, refers to the rule of this State as laid down in the case of *Smith, et al., v. State, supra,* as follows:

> "It is competent for the Judge presiding at a criminal trial to lay before the jury for their consideration his own views and inferences from the proofs, and such expressions, no mat-

ter how ill advised or erroneous can be reviewed on a motion for a new trial, but not on a writ of error.

"It is only where the trial Court assumes a fact to be proven which is not in the case or not to be inferred from the testimony, when the comment ceases to be of that character."

In conclusion upon this sub-division one under this point, it is respectfully contended that the Court assumed that the giving of $400.00 after the murder was a proven fact and so charged the jury; and plaintiff-in-error respectfully contends that the making of this remark by the trial Court was manifest error and that he was greatly prejudiced thereby in maintaining his defense upon the merits.

SECOND: It is respectfully contended by the plaintiff-in-error that the Court below in instructing the jury, as set out in the Court's charge and complained of in this cause for reversal, not only assumed as true a fact in issue but also misstated the testimony.

As covered more fully under the first part of this point, there was no testimony in the case as to the plaintiff-in-error giving Charles M. Powell $400.00 after the murder of John Brunen. The only testimony as to any amount of money being given after the tragedy comes from the witness Powell himself and his testimony, assuming it to be true, is as fully set out above in substance that the plaintiff-in-error gave him at the most $240.00 after the murder. This constitutes a very important and material deviation from the amount as stated by the Court below and the plaintiff-in-error contends that this was manifest error, prejudicial to him in maintaining his defense.

"An instruction misstating the facts, or a part thereof, is erroneous."

17 C. J. 965, citing the following cases:

Sims v. State, 146 Ala. 109; 41 S. 413;
State v. McDowell, 129 N. C. 523; 39 S. E. 840;
Kirby v. State, 5 Ala. A. 128; 59 S. 374.

And when the Court endeavors to state the evidence, it must do so with accuracy, and a mistake, though apparently inadvertently made, on a pivotal point in the case is a serious error.

14 *Ruling Case Law,* 731;
Potts v. House, 6 Ga. 324; 50 Am. Dec. 329;
Glaser v. Rothschild, 221 Mo. 180; 17 Am. Cas. 576; 22 L. R. A. (N. S.) 1045;
Steinbrunner v. Pittsburgh, etc., R. Co., 146 Pa. St. 504; 23 Atl. 239; 28 A. S. R. 806;
Cupps v. State, 120 Wis. 504; 97 N. W. 210—98 N. W. 546; 102 A. S. R. 996.

In further support of his contention, plaintiff-in-error refers to the following cases in this State which have been more fully considered under the first section hereof.

Smith v. State, 41 N. J. L. 598;
State v. Diamond, 84 N. J. L. 17; 86 Atl. 57;
State v. Herbert, et al., 92 N. J. L. 341; 105 Atl. 796.

Plaintiff-in-error respectfully calls the attention of this Honorable Court to the case of *State v. Young,* 117 Atl. 713 (not yet reported in our State

reports). This was a prosecution for murder, and one of the causes for reversal relied upon was that the trial Court in its charge had reviewed the testimony of the State for the benefit of the jury. The syllabus by the Court upon this fact was as follows:

> "The defendant cannot justly complain of the charge of the Court to the jury to the extent of refreshing their recollection on facts, if correctly stated. Every comment on evidence by the Court has that effect and comment on evidence is not error where the jury is instructed to rely on their own recollection as was done by the trial Court."

The natural inference from the above statement by this Court is that the plaintiff-in-error could complain, if, in refreshing the recollection of the jury as to the facts, the trial Court *incorrectly stated them.*

The plaintiff-in-error submits that this was done by the Court below and further, that the Court below did not only refresh the recollection of the jury as to facts but incorrectly stated them to the jury.

In conclusion, therefore, under this point, the plaintiff-in-error submits that the Court erred in its charge; first, in assuming a disputed fact as an admitted fact; and secondly, when commenting upon the testimony, misquoted testimony and that the error was such error as worked a manifest injustice upon the plaintiff-in-error and such error as would be reversible error.

POINT EIGHT.

CAUSE FOR REVERSAL No. 8.

"Because the Court below in its charge to the jury (page 23 of the Court's charge) referred to the testimony of the witness Albert Fletcher. the witness Fletcher was the witness used by the State after the State had reopened its case and testified upon being recalled that he had made a memorandum of a license number appearing on a car in the vicinity of the murder at about the time of the alleged murder. Counsel for the defendant objected to the witness using the memorandum on the ground that it, having been out of his possession for so long a time, may have been altered. The Court overruled the objection and proceeded to examine the witness and by the Court's examination of the witness the fact was developed that the memorandum had been altered by the witness Fletcher at his wife's suggestion, which alteration, therefore, made the testimony of the witness Fletcher hearsay testimony. Such testimony should have been stricken from the record and certainly should not have been allowed to have been considered by the jury. Particularly this testimony should not have been mentioned by the Court in its charge and left in the hands of the jury to consider it as corroborating the accomplice and co-defendant Powell" (p. 1133).

The Court's attention is called to that part of the witness Fletcher's testimony as appears under ar-

gument under point three and the additional testimony of the witness Fletcher which appears on page 1093, line 27, to page 1094, line 14, which reads as follows:

"The Court: I want to ask a few questions. Look at the third figure. What was that first? What had you written there first? What figure (indicating on paper)?

The Witness: That figure, your Honor ——

The Court: No, what had you written there first?

The Witness: I had an eight down at first.

The Court: Then you changed it to a five?

The Witness: Then my wife said it was the wrong number.

The Court: Said it was the wrong number?

The Witness: Yes, sir.

The Court: How long after did you change it?

The Witness: When we got into Camden at 534 ——

The Court: That's all."

and to some additional testimony of the witness Fletcher, who was recalled to the stand by the Court after Clifford D. Cain testified and after the State had again rested its case, which testimony is found on page 1097, line 8, to line 32, which reads as follows:

"The Court: There is another question I would like to ask this man who wrote this number down.

Albert E. Fletcher, recalled.

By the Court:

Q. Mr. Fletcher, was your car going at the time you wrote the number?

A. It was running, going slowly.
Q. Well, it was running?
A. Yes, sir.
Q. And did you put your paper up on anything?
A. Did I put the paper upon anything? I pulled the first paper I got hold of and turned it.
Q. Did you put it upon anything?
A. Just right like that on my knee (indicating).
Q. And the car was going?
A. Very slow.
The Court: It was going? That's all.
The Witness: Your Honor, if I may say a few words about my ——
The Court: No."

It appears very clearly that the testimony of the witness Fletcher as to the license number and as to the memorandum that was made by him, in view of his testimony wherein he testified that it was not his figures but that it was the figures of his wife which he used, made the testimony of the witness Fletcher along these lines, hearsay testimony and incompetent. The testimony had been admitted over the objection of counsel and the testimony brought out at the examination by the Court was to the effect that the memorandum had been changed and had not been written in the manner in which it had first appeared to have been written. The manner in which the Court dismissed the witness Fletcher, discredited the witness Fletcher as a witness. It is true the testimony of the witness Fletcher, however, was not ordered stricken from the record but it is respectfully contended that the

trial Court erred when it, in its charge to the jury, commented upon the testimony of the witness Fletcher and permitted the jury to consider this testimony in corroboration of the defendant Powell.

Part of the Court's charge which refers to the testimony of the witness Fletcher will be found on page 1118, line 11 to line 28, which reads as follows:

> "On the other hand, you have got the testimony of a witness who says he passed this car on the highway, took the number, said he made a mistake, put down 8, I think, instead of 5, one of the numbers, and that it is the license number of Harry Mohr's car. And you may ask yourselves the question, how did Powell happen to enter Mohr's car? How did it happen that he was in Mohr's car, and whether if it was Mohr's car it is corroboration of Powell's testimony that Mohr had some connection with the commission of the crime? That is the way to look at that; that is what you must consider. I do not say that it is proof of it. It is for you to say whether it is corroboration of a fact which tends to establish Mohr's connection with the crime."

POINT NINE.

Cause for Reversal No. 9.

"Because the verdict of the jury was contrary to the weight of the evidence.

"The only evidence that the State produced to warrant a conviction was the uncorroborated testimony of the co-defendant Powell, a self-confessed murderer, whose testimony was fur-

> ther impeached and discredited by witnesses produced on the part of the defense showing irrational actions by Powell while incarcerated and expectations of his that he would be liberated by testifying to statements made by him to the authorities; while the defendant, in his defense, offered a general denial, proved an alibi which was corroborated by at least two disinterested witnesses and the defendant also produced a test of an automobile run covering a route shorter than that testified to by Powell showing it to be impossible for the defendant to have been on the scene of the murder at the time the State alleged its commission; the defense further offered testimony discrediting the witness Powell and proved in many instances that the testimony of Powell as to these alleged facts was untrue'' (p. 1133).

It is respectfully contended that the testimony of the witness Powell is the only testimony upon which the jury could have justified itself in bringing in a verdict of guilty as to the plaintiff-in-error Mohr. This testimony of Powell's, as will be shown later, stands uncorroborated. His testimony is impeached and discredited in many ways. Impeached, as the testimony clearly shows that the mental condition of Powell after his arrest and during his incarceration was such that would make his testimony incompetent. Discredited, because on cross-examination in many ways, it was proven that he was lying, and by the testimony of the defense, which likewise proved that the testimony of the witness Powell was unbelievable to say nothing of the numerous witnesses produced by the State who not only failed to corroborate Powell but who gave damaging evi-

dence and in support of the defense interposed by plaintiff-in-error. It seems like a very broad statement to make that the witness Powell deliberately lied and confessed to a murder in which he had no part but that is the statement that plaintiff-in-error now makes and supports that statement by the testimony.

So much testimony having been taken, it is hard to follow it and keep it in mind and for that reason, a review of the testimony will be made so that it will be fresh in considering the argument under this point.

Let us consider whether there is any testimony in the entire records that could be used to corroborate the witness Powell.

The witness Wilkins proved the telegrams; Wills, the maps; Grimes was called for the purpose of proving photographs which were not allowed; Dr. Maul testified as to the hour of his arrival on the scene of the tragedy; Belton, the coroner, as to his arrival; Albertson to prove a map, and then the testimony of the witness Powell.

The witness Berkowitz, who was called to identify the guns, not only neglected to corroborate Powell's story but his failure to identify either Powell or the plaintiff-in-error Mohr, can be considered a point in contradiction of Powell's story as to the fact that he bought a gun from Berkowitz.

The witness Bradley testified to the selling of a single barrel shotgun, not identifying either Mohr or Powell. The witness Leary testified to the pawning of a revolver, not identifying either Mohr or Powell.

The witness Moore only testified to the seeing of Powell at Wilkes-Barre which fact was admitted and proved nothing concerning the tragedy, as it

was clearly developed by the entire testimony that the meetings of Powell and Mohr in Wilkes-Barre were purely of a business nature.

Hazel Brunen's testimony does not corroborate Powell. Her testimony will, however, be considered more fully later.

The witnesses, Muench, Leroy Hutchison, Thomas Hutchison, Beck, Swain, Lamb, Voshell and Ellis Parker proved the finding of the guns. None of their testimony corroborated the witness Powell in the least, not as to the plans or the shooting or to the whereabouts of Mohr or Powell on the night of the tragedy.

The witnesses Edwards and Windhoven, both passengers in the same automobile, testified to the passing of a car; one claiming that they passed a car between Cambridge and Riverside and the other that they passed a car after they had left Cambridge going toward Riverton.

Howard Ellis only testified to his working at the Brunen home and to the receiving of an overcoat from Harry Mohr.

Bernd, and Bernd, Jr., proved the finding of a gun barrel in the creek.

The witnesses, Johnson, Sterling and Eno produced telegrams and records of telephone calls, none of which had any significance with the murder.

The witnesses Cannon and Handley's testimony could not be used in corroboration. They merely testified as to the seeing of a big and little man the night before the tragedy, not identifying either Mohr or Powell.

The witness Potter does not corroborate Powell in the least nor does his testimony strengthen the State's case.

Marie Powell, wife of Charles Powell, only corroborates the accomplice Powell as to the business

relations and the meetings of her husband and the plaintiff-in-error, Mohr, which business relations and meetings are admitted, and in no way connected with the tragedy.

Walter Ernst's testimony not only failed to corroborate Powell but goes a long way to prove that Powell's testimony is not true.

The testimony of the witness Mary Bauer can certainly not be used in corroboration of the witness Powell's testimony as the substance of her testimony is that she saw a man running toward her. She does not identify Powell. It could not have been Powell as Powell's testimony is that while running from the Brunen home to the Cambridge station, he carried a gun and saw no one, while the witness says the man she saw was short and stout and had no gun.

The testimony of Ruth May Haines certainly cannot be believed. She testifies that she was sick and lying upon a couch in her kitchen and that from this position she looked out the window and saw two men passing on the night before the tragedy in an automobile. She later said that she identified these two men. One being Mohr and the other being Powell; that she had never seen Powell before and that she had identified Powell from a photograph.

The next witness is Fletcher whose testimony has been gone into fully under points 3 and 8 to such an extent that at this time, plaintiff-in-error contends that his testimony should not be considered in corroboration of the witness Powell.

The witness Fred Scheetz does not corroborate any fact testified to by the witness Powell.

The testimony of Mrs. Stecker likewise, in fixing the time of the shooting, fails in any way to cor-

roborate the story of Powell, nor does the witness Wood corroborate Powell as to a single material fact.

Barbara Walters does not corroborate in any way the witness Powell, but her testimony somewhat strengthens plaintiff-in-error's case. That part of it will be considered later.

The witness Grant's testimony, although being called by the State, will be found in support of plaintiff-in-error's defense and will be treated later.

The witness Doyle, the next witness for the State, tried in vain to corroborate some of Powell's testimony. He only agreed with Powell as to the Wilkes-Barre meeting, which had no bearing upon the tragedy, and he was admittedly discredited as a witness by reason of his criminal conviction.

Mr. Arthur Stecker did not corroborate Powell, but merely testified as to two fifty-dollar bills which had no connection with the case.

Irene Ernst corroborated no part of Powell's testimony only that Powell lived at her house and was home on the night of the tragedy.

The testimony of Elizabeth Jaeschke, the sister of the decedent, John Brunen, does not corroborate the story told by Powell.

Harry Edge's testimony is of such nature and so brief that it is hard to see what significance it has upon the case.

The testimony of Mary Miller is not corroborative of Powell. It was apparently introduced by the State to show feeling between the plaintiff-in-error and the decedent John Brunen. As will appear later, her testimony was most favorable to the plaintiff-in-error.

Clifford D. Cain and Herman Bading, detectives assisting in the prosecution, in no way corroborated Powell.

Walter Wilder was a witness called for the purpose of corroborating that part of Powell's testimony where he referred to the changing of a $50.00 bill. The witness failed to identify Powell as is apparent from the testimony found on page 747, line 33, to page 748, line 8, as follows:

> "The Court: You are swearing. You don't know whether he did or not? When you say you will not swear to it you are under oath. You are testifying under oath. The question put to you is whether he gave you a fifty-dollar bill or not. Now answer it as you recollect it.
>
> A. No, I couldn't swear to it now."

The testimony of all of the witnesses called by the State has now been considered fully insofar as it may corroborate Powell.

At this point we therefore have the testimony of Powell as to the actual shooting and the participation in the shooting by the plaintiff-in-error Mohr standing uncorroborated with the exception of the testimony of Fletcher which it is respectfully contended should not and cannot be considered as corroborative.

We, therefore, consider whether there is any other testimony in the case which the jury could possibly consider in support of the State's case as to the guilt of the plaintiff-in-error. Let us consider, therefore, the testimony of Hazel Brunen. Her testimony is found on page 352 and we immediately see her relation in the case; that of an interested party. Her testimony is more strongly directed against the co-defendant, Doris Brunen, than it is against Harry Mohr. The only testimony against the plaintiff-in-error is found on page 369, line 1 to line 12, as follows:

"Q. Well, tell the whole conversation that led up to the time that Harry Mohr said the guy that killed your father ought to have a gold medal. Tell the Court and jury the entire conversation, what he said and what you said.

A. I was upstairs making up Harry's room and Harry came in. I believe he was going away. When he came up we got to talking about my father and I said it was brutal how papa was shot, he didn't have a chance and he didn't say anything for a while and then he said, 'Well, the guy that done this ought to get a gold medal,' or some words to that effect."

The apparent purpose of this testimony was to show bitter feeling between the plaintiff-in-error Mohr and the decedent, John Brunen, but is such a statement, "Well, the guy that done this ought to get a gold medal," such a statement that a guilty man would make? The facts show conclusively that Hazel Brunen and Harry Mohr were together from the time of the tragedy to plaintiff-in-error's arrest and this is the only thing that the witness can charge to plaintiff-in-error to assume guilt.

The testimony of Howard Ellis certainly could not be construed as a circumstance pointing to the guilt of the plaintiff-in-error Mohr. In substance, his testimony was to the effect that the plaintiff-in-error had given him some clothing after the tragedy. This was fully explained on cross-examination, and by the plaintiff-in-error in his testimony and by the undisputed proof that most of the odds and ends around the house were disposed of prior to the family moving from the Riverside home and the fact that the witness testifies that he wore the clothes around the property and worked around the prop-

erty with the clothes on for weeks after the tragedy, certainly discounted this testimony as a suspicious act, drawing an inference of guilt.

Perhaps the testimony of Elizabeth Jaeschke should be considered fully to see whether there are any circumstances that she testified to which would raise an inference of guilt as to the plaintiff-in-error. An examination of her testimony will show that the only testimony that could be charged against the plaintiff-in-error is her testimony found on page 668, line 31 to line 36, as follows:

> "Q. On your way from Riverside to Philadelphia with Harry Mohr in the automobile when you went home did Harry Mohr point any places out to you or tell you anything or show you anything concerning the Brunen murder or have any conversation with you?
>
> A. Yes, he had suspicion against another man."

and then again after the colloquy between the Court, the Prosecutor and Mr. Keown on page 672, line 13 to line 29, as follows:

> "Q. On the way from Riverside to Philadelphia what happened between you and Harry Mohr?
>
> A. He was talking to me about the murder of John. I said, 'Harry, my goodness, can't you find whoever murdered John?' And he said, 'Let me tell you, Lizzie, they were always after John for a long time.' He said, 'They laid out for him on this road. Always every night he came by on this road when he came from Williamstown.'
>
> Q. Who came by on that road?
>
> A. My brother in his car. And Harry said to me, 'Look here, right here. In that creek—'

he pointed—'right there there was three guns found.' I still looked at it and I said, 'Harry, how do you know this?' I looked out of the windows and looked at the scenery on both sides."

The apparent purpose of this testimony was to raise an inference that the plaintiff-in-error knew that the guns were found before the news was common knowledge to the world but this was not the case. It was proven later by the testimony of the witness Powell himself that he knew of the finding of the guns before he was even apprehended, as is found in his testimony on page 268, line 27, to page 269, line 3, as follows:

"Q. How do you know where the guns were found?

A. I know they were found in the creek.

Q. How do you know that?

A. I read that in the paper before I was arrested.

Q. Did you read in the newspapers just where the guns were found?

A. In the creek.

Q. How do you know just where the guns were found?

A. I know they were found in the creek. Wherever the creek is."

Certainly the testimony of Mary Miller could not raise any inference as to the guilt of the plaintiff-in-error Mohr. Her testimony is found on page 682 and is apparently offered for the purpose of showing feeling between the plaintiff-in-error and the decedent Brunen. That part of her testimony is found on page 685, line 28, to page 686, line 6, as follows:

"Q. What was the occasion of his visit to you the day after John Brunen was killed?

A. He just came to tell me Mr. Brunen had been shot.

Q. What did he say?

A. He said, 'John was knocked off last night.' I said, 'Yes?' I said, 'My God, no.' I said, 'Harry, have you any idea whoever killed John?' He said, 'No.' I said, 'I hope to goodness they get the one killed John and give him exactly what he gave him.' He said, 'They will never get him. I wish he was here now and I would knock him off myself.' "

The apparent purpose of this testimony was likewise to show a feeling between plaintiff-in-error Mohr and the decedent, John Brunen, but are we to consider this statement as a statement raising an inference of guilt? Is this the language that a guilty party would make, "They will never get him. I wish he was here now and I would knock him off myself." It would seem that this testimony was more in the plaintiff-in-error's favor than to show guilt.

We, therefore, arrive at the point where we find the uncorroborated testimony of the witness Powell and after the consideration of the other testimony of the State's witnesses we find no evidence whatsoever in the case, with the exception of Powell's uncorroborated testimony, that would warrant the jury in inferring that the plaintiff-in-error was a participant in the crime or had aided and abetted in the commission of it or had any knowledge of the same.

It is respectfully contended, as is more fully covered under Point 2, that the testimony of Powell should not have been even considered; but to fur-

ther discredit the testimony of Powell, let us now consider the testimony of the witnesses who were produced on the part of the plaintiff-in-error to show the condition of Powell from the time of his arrest to the time of the trial.

Ernest L. Mayo's testimony begins on page 941 and shows that he was an inmate of the Burlington County prison from May 16th to October 23rd, during part of the period that the witness Powell was in the Burlington Conuty prison. The Court's particular attention is called to that part of his testimony which is found on page 943, line 4 to line 20, as follows:

> "Q. What did Mr. Powell do on these occasions?
>
> A. Why I would ask him how he was getting along, and he would shake hands with me, and that would be all that he would do. He would never say anything to me.
>
> Q. Have you ever heard Mr. Powell do anything or say anything other than usual conversation?
>
> A. Yes, sir.
>
> Q. That is what I wish you to testify to.
>
> A. I have heard him at night barking like a dog. 'Don't bother with me. I am here under the bath tub, call the cops, and don't bother me. I am a T. N. man.'
>
> The Court: What?
>
> The Witness: T. N."

Grover Landis Duncan's testimony begins on page 944 and shows that he was, at the time of the trial, an inmate of the State's prison; that he had been in the Burlington County jail from the 13th day of January, 1922, to the 31st day of May, 1922,

and that he was in the Burlington County jail during part of the time that the witness Charlie Powell was in there. The Court's attention is called to the part of his testimony which is found on page 944, line 38, to page 945, line 38, as follows:

"Q. Have you ever heard Powell make any queer yells or rackets while you were in the Burlington County prison?

A. Yes, sir.

Q. Will you just please tell his Honor and the gentlemen of the jury what you have heard Powell say while you were confined in the prison?

A. Well, I have heard him holler, yell, he would make some pretty wicked yells, 'Help! Help! Help! Here I am under the bath tub,' and he screamed for the night watchman that was on duty to come up, that the man was out in the back yards trying to get to him with guns to kill him.

The Court: Go ahead.

The Witness: And he would holler, 'No, that man doesn't live there, that's not Charlie Powell, here is Charlie Powell next door.'

The Court: Anything else?

The Witness: Then he would holler, 'Help! Help! Help! Don't hit me with that stick. Here I am under the bath tub. Come around this way. Don't let the man hurt you there.'

Q. Have you ever heard any noises from the cell, coming from anything other than Charlie Powell's voice?

A. Yes, sir.

Q. Just please tell us what you heard.

A. Well, I have heard noises in there like he was probably hitting his head against the wall, or something.

The Court: Did you hear him bark?
A. Yes, sir."

John Denno's testimony begins on page 947 and shows that he is an inmate of the State's prison and that he was confined in the Burlington County prison during part of the time that Charlie Powell was confined there and the Court's attention is called to his testimony found on page 947, line 33, to page 948, line 25, as follows:

"By the Court:
Q. Did you hear anybody there ——
A. Yes, your Honor.
Q. Did you say you heard somebody?
A. Yes, sir, your Honor, please.
Q. Well, now, let us see. What do you know? Did you hear any noises coming from any of the cells there in the jail?
A. Yes, your Honor.
Q. What kind of noises?
A. Why, I heard a man hollering, 'Help! Help! Help! Here I am under the stove. Don't hit me anymore with them sticks. I don't know anything about it. Help! Help! Help!'
Q. Did you hear anything else?
A. 'Here I am under the stove, here I am under the stove.' For three nights in succession I was awakened by it.
Q. How often did it occur?
A. Your Honor, I heard it for three days, continuous, that was.
Q. But, of course, you didn't see the man?
A. No, I didn't see the man.
Q. Did you know what cell it was?
A. Well, I couldn't say exactly, it sounded very near, but I couldn't say where it was.

Q. Were you in an upper tier?
A. I was in a dungeon, your Honor."

Job Noe's testimony begins on page 949 and shows that he is confined to the State's prison but that he was in the Burlington County prison from the 29th of May, 1922, until the 10th of June, 1922, and the Court's attention is called particularly to that part of his testimony which is found on page 949, line 32, to page 952, line 32, as follows:

"Q. During that period while you were in the Burlington County prison did you ever hear any peculiar sounds or noises from Charlie Powell?

A. Yes.

Q. Just please tell his Honor and the gentlemen of the jury what you heard.

A. I heard Mr. Powell—I don't know whether it is Charlie Powell or not, but I heard a noise.

Mr. Peacock: I object to it, unless it is proved it was Charlie Powell. I will withdraw the objection.

A. Shall I proceed with my statement?

The Court: Yes, you will proceed.

A. Why, some guy, it was a man there—I will say a man; of course I mean a man—some man over in this end, down below, he made a peculiar noise. Well, I was in great pain, I wanted him to stop the noise, and of course that caused me to walk a great deal. He had a way of making this noise late at night and early in the morning, just before the officer arrived who gave us our breakfast, and of course I walked up and down the room and sometimes I would lay down, and this guy made this noise—it was a kind of noise—barking, and somebody was

trying to catch him; he thought he was trying to shoot him, something or other; and I don't know what he imagined. I know that he—whomsoever the guy was—he continued with that noise on the 5th, 6th, 7th, 8th and 9th, and I inquired about him and they says, 'Why, they carried him away.' I says, 'They have?' And then the fellow commenced to holler, 'Take this guy out of here. I won't stay here. Take care of this guy. Take him out.' Some red-headed fellow. And eventually this guy came up, stirring up, and he says, 'I got out from it.'

By the Court:

Q. You said he was barking at times?

A. He barked at times.

Q. Barked like that?

A. Barked something like a dog, but it was not quite the bark of a dog, because it had that man's twang.

Q. Did he do that often?

A. He did it. I could almost remember the date. I heard him the first time last Saturday—Sunday—I was not in this room a day, I don't think, until I heard this fellow. I heard him Saturday, Sunday. He didn't bark any during the church, but he barked, by jacks, right afterwards. He barked Sunday, Monday, Tuesday, Wednesday, and I inquired about him Thursday and that was the day I came over here, when I came to court. I didn't hear him when I got back until that night, and he barked that night and he barked the next morning, and the next morning I was brought away, that was Friday. That is, I was carried away.

By Mr. Keown:

Q. Have you ever taken any precautions by reason of these sounds you heard?

A. Yes, sir.

Q. Just tell your Honor what you did.

A. Well, there was a young man in the next room to me and he had a good voice. I had never seen this young man, neither had I seen this other party. So this young man said he was afraid of him and what he would do and what he did do, had he broken out. And I was a little afraid that if this fellow broke out he could easily get me, because I had one arm then; and I used to put my bed up close to the door, in order if he broke through he wouldn't get me in my room. I kept my bed up at all times during the night up close to the door. And when this young fellow used to hear about what he had done in the preparation he had made in order if this fellow broke out, he says, 'He will never get me, by jacks, I will get him first.' I didn't want to say that 'By jacks.' He says, 'I will get him first.' "

Joseph Ballman's testimony begins on page 954 and shows that he was in the Burlington County prison during part of the time that Charlie Powell was in there; and the Court's attention is called particularly to that part of his testimony which is found on page 954, line 20, to page 955, line 20, as follows:

By the Court:

Q. Do you know him?

A. I know him when I see him from being in the jail.

By Mr. Keown:

Q. Has Mr. Powell ever made any queer noises or sounds while he was in the prison over there that you heard?

A. I seen him jumping around hollering, 'Here I am under the bath tub. Come and get me;' jumping over the tub, seen a gentleman that was in there, Mr. Eckert, taking care of him, watching him up and down when he was raving, one of his fits.

Q. How many times have you heard this kind of noises from Mr. Powell?

A. I just exactly don't know how many times, but numerous times; seen him jumping around; seen him down in the yard; come down in the yard; the man couldn't hardly walk straight, couldn't hardly stand up on his feet, walking around. When I was in the yard the man told me upstairs, 'There is a crazy man down there.' I went upstairs and he went in the yard.

Q. Anything else that you heard of or saw, or I mean things that you have heard from Mr. Powell or seen from him while you were over there?

A. Why, I seen the man jumping around there, and a big man, Mr. Eckert, walking him up and down, and once in a while hollering, 'Here I am under the bath tub. Come and get me;' and hollering, 'Mr. Horner, Mr. Horner, Mr. Horner.' ''

Joseph L. Swanson's testimony begins on page 999 and shows that he was an inmate of the Burlington County prison during part of the time that Charlie Powell was there and the Court's attention is called particularly to that part of his testimony found on page 1001, line 4, to page 1003, line 36, as follows:

''Q. Did you ever see Charlie Powell while you were in the Burlington County prison?

A. Seen him every day for four months.

Q. What was he doing?

A. He was in there confined, as far as I know about, the paper said for murder.

Q. What was he doing? Have you ever seen Charlie Powell do anything or heard him do anything while he was in there?

A. Seen him play poker every night.

Q. Where?

A. In the cellar, in the engine room, out in the yard.

Q. What hour of the night?

A. Between seven till nine-thirty.

Q. With whom?

A. With all of us; Bobby Arnwein and myself and a bunch of other fellows in the cellar—old John.

Q. All trusties?

A. No, they were locked in the cellar, they could go out in the yard and come in there in the evening and play poker.

Q. When was that?

A. It was about from September to October.

The Court: Why go into all this thing?

Q. Did you have any conversation with Charlie Powell?

A. Yes, talked to him.

Q. Will you just please tell his Honor and the gentlemen of the jury here just the conversation that you have had with Charlie Powell while you have been in jail?

A. Well, I used to talk to him every night, or he got to talking to me and asked me about this case. He asked me how Mrs. Brunen was, asked me if she was worrying. I said no, she didn't seem to be worrying. Then he got to

talking to me, he asked me, 'What is she in here for?' I says, 'I don't know what she is in for.' I says, 'You ought to know what she is in here for.' So another time he got to telling me about one night there I was standing at the window and he come over and patted me on the back; he was laughing. I says, 'What is the matter, Charlie?' 'Oh,' he says, 'I have got a little baby boy.' I got to talking to him and I says, 'How would you like to be home over Christmas with that little baby boy?' He says, 'I don't like it, but Mr. Parker told me if I just stick to my story and don't break down I will be there.'

Q. Any other conversation?

A. He told me several things like that.

Q. Well, tell us just all the conversation that you had with him along those lines.

A. He told me he had been out fishing, I think, in a car, and took a ride to Philadelphia around and back.

Q. Anything else?

A. That he would ask me every once in a while how Mrs. Brunen was; he told me she was a nice woman. First he would ask me if she was worrying. I said no.

The Court: You have told us all this.

A. He told me this again.

Q. He told you several times, eh?

A. Yes. And so I got to talking to him and I would say that I didn't see where she is worrying.

Q. Did you ever hear any peculiar noises from Mr. Powell?

A. No.

Q. Was he out in the yard there in the time that you saw him?

A. Yes, he was out in the yard one night I sit out under the cherry tree there, and then I moved over to the woodhouse and he was sitting there by the window and he came to me and held me by the neck like that, kind of funny. He says, 'Is there anything that beats in your neck?' I says, 'No, there is nothing that beats in my neck.' He says, 'Feel of mine.' So me and Curtis felt him on the neck, and something was beating in his neck. He says, 'Do you hear that?' I says, 'No, I can feel it though.' There was a bump in his neck, like. Curtis, the fellow that was caring for him, said he could feel it. He said he hears music playing.

Q. What else?

A. I said, 'I don't hear no music.' So he listened and he says, 'It sounds like a band carnival or something.'

Q. Has he ever said anything to you about a statement or confession that he made?

A. Yes, he told me. I asked him this time he asked me about Mrs. Brunen, what was she in there for, I went and asked him then, "Didn't you make a confession or something that she was implicated in the murder?' He said not, he didn't know what kind of a statement he made. He said when he made it he was afraid to look at it, afraid he lied, afraid the spirit or something would get him.

Q. Has Mr. Powell ever asked permission to feel your throat?

A. No, he reached over and felt without asking permission."

From the testimony of the above witnesses, it shows conclusively the mental condition of Charlie

Powell while he was in the Burlington County prison, and if this Honorable Court does not feel that the Court erred in refusing to permit counsel to offer testimony, as is argued under Point 2 of this brief, then it is respectfully contended that this testimony above referred to certainly discredited the witness Powell. The uncorroborated testimony of a witness, who was in the mental condition that the witness Powell was in, certainly should not be considered sufficient to warrant the jury in believing his story.

Now let us consider the uncorroborated testimony of Charlie Powell, the only testimony in the case which, if it was properly admitted, and it is respectfully contended that it was improperly admitted, can be used to infer guilt on the part of the plaintiff-in-error Mohr.

In addition to his testimony having been discredited by the testimony of Ernest L. Mayo, Grover Landis Duncan, John Denno, Job Noe, Joseph Ballman and Joseph L. Swanson, it is further argued that Charlie Powell either did not kill John Brunen or he is not telling the truth about it.

The testimony of Powell, which it is urged should be read by this Honorable Court, including the cross-examination, is very lengthy; but an endeavor will now be made to point out that part of his testimony which shows conclusively that the witness Powell did not give a true version of the shooting and his connections with the plaintiff-in-error Mohr.

The direct testimony of Charlie Powell begins on page 66, after the argument of counsel as to the question as to whether Powell should be permitted to be sworn; and from page 66 down to page 96, we find testimony introduced by the State for the purpose of proving an exchange of letters and tele-

grams between the plaintiff-in-error Mohr and the witness Powell. The apparent purpose of the introduction of these telegrams was to show the planning of the murder but the State absolutely failed and it is respectfully contended that the witness Powell lied as to the meaning of these telegrams and that it had no effect upon the jury. The true purpose of these telegrams was a business proposition between the plaintiff-in-error Mohr and the witness Powell and the telegrams showed conclusively that they were purely of a business nature, as is evidenced by the following remark of the Honorable trial Judge when the attorney for the plaintiff-in-error endeavored to explain fully these telegrams when the plaintiff-in-error was called upon the stand. The comment by the Court is found on page 778, line 15, to page 779, line 2, as follows:

> "The Court: Well, now, Mr. Keown, I understand from the statement on the part of the State that these telegrams all related to business matters between the two. Isn't that so?
>
> Mr. Keown: If that can be agreed between us I am willing.
>
> The Court: Are there any of these any more than business relations?
>
> Mr. Peacock: They certainly were not business. We do not agree to that.
>
> The Court: Which ones do you contend were not pertaining to business?
>
> Mr. Peacock: We contend that the telegrams at the time Charles Powell saw the letter in the 'Billboard,' from that time on down that none of these telegrams were on business.
>
> The Court: Then of course you are entitled to examine and go into an explanation from this witness as to these telegrams."

Nevertheless, the telegrams were fully explained by the plaintiff-in-error and as the testimony will undoubtedly show, proved them to be of a purely business nature.

We then, in the testimony of the witness Powell, find the description given by him of the shooting and the Court's particular attention is called to the very meager description of the witness Powell which is found on page 117, line 18 to line 29, as follows:

> "A. Harry Mohr. He told me that Mr. Brunen would be sitting at the window if they could get him there; whatever I did, be sure and get him and not miss him, even if I had to pull both barrels. I went there and got the gun and the first train passed and I let it pass. There was a dog in the yard. Mrs. Brunen came to the side door, opened the side door and called the dog in. What she did with the dog I couldn't see. She immediately left the kitchen and the train came and I ran up to the window and pulled the trigger and turned around and ran."

This appears to be the only testimony as to the actual shooting testified to by the witness Powell. On cross-examination of the witness Powell, effort was made to have him more fully describe the shooting but in vain. The Court's attention is called to the demonstration that the witness gave as to the shooting during the cross-examination of the witness. An examination on that point, however, being conducted by the Court, as is found on page 306, line 5, to page 307, line 8, as follows:

> "By the Court:
>
> Q. How far about the ground, how high

above the ground, I should have said, was the window at which John Brunen sat at the time you did the shooting?

A. I don't know, sir.

Q. Can't you point to any article right in this room that would indicate it, for instance, this desk?

A. About the size I am.

Q. Will you get down from there and take that gun and show how near you approached that window and did the shooting?

(Witness takes gun and leaves the stand.)

Q. Suppose this is the line of the house (indicating)?

A. Yes, sir, the window was just about as high as I am.

Q. Did you stand as far away from the window as that, as far as I am now?

A. There is a cellar right there.

Q. A cellar door?

A. Yes, sir.

Q. How many feet would that be? Estimate, gentlemen.

The Prosecutor: The window is out back, your Honor, if that can be brought in as an exhibit.

Q. I want to know just where he was standing.

A. About as far as I am from you.

Q. How many feet would you say?

Mr. Keown: About ten.

A Juror: Nine or ten feet."

These two descriptions of the shooting, by a close examination, will show that they are absolutely different. The testimony surrounding this shooting

certainly is very meager and it is hard to believe that any one who did the shooting could have described it in the meager way in which this witness described it. In the first place, we have the witness, in the description that he gives to the Court, standing ten feet away from the window. He holds the gun in a horizontal position. The height of the window is fixed by the testimony. The position of Mr. Brunen at the window is also fixed. Could the witness, standing ten feet from the window, holding the gun in a horizontal position, make the clear cut hole that was in the window pane, shoot a bullet which would have taken the course that it took in the decedent's head? The testimony shows clearly that it took an upward course. Had the curtain been lowered to about twelve inches, as the testimony shows it was lowered, the head of John Brunen would not have been apparent through the space of the window not covered by the curtain.

Then we may consider the testimony of the witness Powell as to what he did prior to the shooting. His testimony is that he went to the barn, got the gun and was to shoot whenever the first or second train passed by.

An undisputed fact in the case is that the first train passed Riverside at 7.14 P. M. going toward Trenton. This would, in all probability, make the train pass the Brunen home at about 7.13 P. M. The witness Powell says that he waited three or four minutes for the next train. An undisputed fact in the case is that the next train did not leave Riverside until 7.23 P. M. which would certainly mean that it did not pass the Brunen home until about 7.24 P. M. This would mean that Powell, instead of waiting three or four minutes, waited at least ten minutes. Could he be mistaken in this? Could it

be possible for a man to stand there engaged in a mission he was engaged in for ten minutes and then think it was a period of three or four minutes?

Let us consider his testimony as to what he did immediately after the shooting. His testimony is that he ran through the rear hedge, over into the field then across the street into a field. An effort on cross-examination was made to get him to point out the position in regard to the house shown on the plan and his testimony is found on page 288, line 15 to line 20, as follows:

> "Q. Don't you know that there is a house back there, don't you remember the location so that you can remember the house that the engineer has put back there?
>
> A. No, I don't; never saw that before."

Compare this testimony with the testimony of Mr. Muench who testified that he found part of the gun along the side hedge just opposite the garage. This would indicate that Powell was either lying as to the course that he took after the shooting or that he was not the one that did the shooting.

Then again let us consider the testimony of the witness as to his running across the field. His testimony, in answer to a question on cross-examination as to whether he was wet or muddy, was "I don't remember." To cure this apparent blunder, the witness then replies as follows (page 289, line 33, to page 290, line 30):

> "A. Yes, I had a pair of overshoes.
>
> Q. Were you muddy?
>
> A. Yes, my shoes were muddy.
>
> Q. Why did you say you didn't know?
>
> A. You said wet or muddy.
>
> Q. Were you wet?

A. Well, I can't remember those things.

Q. Well, isn't that important to remember when you got back in the car, whether you were wet or not?

A. No, it wasn't important.

Q. Do you remember whether your shoes were muddy?

A. I remember my overshoes were muddy.

Q. Did you clean them off?

A. In the car.

Q. You cleaned them off in the car, what on?

A. With a handkerchief.

Q. What did you do with the handkerchief, throw it away?

A. Yes, sir.

Q. Then you did notice that you were muddy and that you might look suspicious, and you cleaned them off, didn't you?

A. Yes, sir.

Q. Didn't you also notice whether you were wet?

A. No.

Q. Where did you throw that handkerchief?

A. I don't know. I threw it out of the car after I wiped my shoes off.

Q. Where?

A. Out on the ground some place.

Q. Wasn't it important to get rid of that evidence?

A. No. I wiped the mud off and threw the handkerchief is all I did."

Now the question is did he have rubbers on and did he clean them off as he says he did with a handkerchief and why does he not remember where he threw the handkerchief?

Then again how could the footprints that Mr. Parker says he noticed within five feet of the window be the footprints of the witness Powell if Powell did not get nearer than ten feet of the window and if the witness Powell had rubbers on, as ne says he did?

Could the witness Powell have ran towards Cambridge station the way he says he ran? He says he saw no one and the Court's attention is called to the testimony of the witness Mary Bauer who says she saw a man running. It certainly could not have been Powell as Powell's testimony is that when he was running he had a gun in his hand and Mrs. Bauer, although in fear of the approaching man and although he passed within twenty feet of her and although she could see me get into the car, says that the man she saw had no gun in his hand.

Consider also the meager description that the witness Powell gives as to his actions after he entered the car after the shooting.

Page 135, line 17 to line 25:

> "Q. What else did he tell you?
>
> A. I don't remember after the shooting just about what did happen, only that we went back to Camden and I drove the car in the ferry for him.
>
> Q. I mean before the shooting when you and he were coming up from the time you left the post office in Camden?
>
> A. We passed 26th and Federal Street. There was an officer there and we went around him."

The uncontradicted testimony in the case by the engineer who testified is that the route that Powell says he took from Cambridge station to Camden covers 13.6 miles.

The testimony of Mr. and Mrs. Ernst absolutely fixes the time that Charlie Powell was in their home. It is true that there is some variance in their testimony. On direct examination they say that he was there between 7.30 and 8.00 o'clock P. M. That it may have been as late as 8.00 o'clock P. M.; but Mr. Ernst testifies just as emphatically that he had a conversation two or three days after the tragedy and that his recollection was at that time that Charlie Powell was in the house between 7.30 P. M. and 7.45 P. M. The testimony of Powell is that he arrived at the ferry at 8.00 o'clock. In view of the testimony made as to the running time from Cambridge station to the ferry, can it be possible that Powell could have been home when he says he was home? The shooting certainly happened at 7.24 P. M. From the testimony it would be reasonable to assume that it would take at least five minutes to run across the lot. The time consumed from Cambridge station to the ferry across the boat and back to Powell's house would certainly have been much greater later than to have permitted him to be home between 7.30 and 7.45 P. M. as Ernst testifies to or shortly after 8 o'clock as the witness Powell himself testifies to.

The witness Powell testifies that he does not remember how they drove after the tragedy; whether they drove rapidly or not. The testimony of the witness Jonas Edwards who testifies that he passed the car and that the car was going in a zig-zag manner across the road would indicate that the car was not going fast or he could not have passed it.

We must also bear in mind that the automobile, if Powell's story is to be believed, was stopped at the bridge, that it took some time to throw the gun overboard, that the tail-light was connected which

would take some time; and the Court's attention is also called to the description that Powell gives as to where the bridge was from which they threw the guns overboard. An effort was made to get him to describe where on the bridge the car was stopped and the only evidence that could be drawn from him was as is found on page 268, line 21 to line 25, as follows:

> "Q. Tell us where on that grade you or Mr. Mohr stopped the car and where you got out?
>
> A. We stopped the car right in front of where the guns were found."

Is the witness giving the description of the trip on the night of the tragedy or is he not relating the trip that he must have taken with the authorities after the gun was found?

Now let us consider the deliberate falsehood that the witness Powell told as to his going to Karr & Auerbach's. He absolutely denies supplies were bought for the contests in Wilkes-Barre. Mr. Auerbach's testimony, which will be treated later, shows conclusively that the goods were bought.

Let us consider the story that the witness Powell tells as to the gun being in the Ford car from the time that it was bought, December 23rd, 1921, up until the time that the plaintiff-in-error Mohr went to Baltimore, about the first of February, 1922. The witness Powell testifies that the gun was in the rear of the Ford coupe. We all know the size of the part in the rear of a Ford coupe. Will a thirty-inch double barrel gun, as testified to by Mr. Parker, go in that space? The testimony of many witnesses on behalf of the defense is to the effect that the plaintiff-in-error stopped frequently for gas at gas stations during that period; that it was necessary

to raise the lid at the back part of the car to put gas in; that they never saw any gun in the back of the car. There is testimony in the case that shows that John Brunen himself drove this Ford car during this period quite frequently. Is it possible that the plaintiff-in-error would have been so foolish as to have a gun stored in the rear of the car when he knew that Mr. Brunen, the man the gun was to kill, could see the gun?

The Court's attention is called to the fact that the testimony shows clearly that the gun was not taken apart but was merely broken. Then again, we must bear in mind that the witness not only says that one gun was put in the rear of the car but that part of the time two guns were in the car.

The Court's attention is called to the testimony of Powell where he says that in Wilkes-Barre, Mohr told him that Mr. Brunen had $3800.00 in bank; that if Powell killed Mr. Brunen, he would get one-half and that then later the witness Powell entered into an agreement to do the job for $1000.00.

Why does the witness Powell lie about the plaintiff-in-error giving him $50.00 on the day after the tragedy? He was asked fairly where he changed the fifty-dollar bill. He says emphatically that he changed it at the ferry. The ticket seller at the ferry, who testified that he had been ticket seller for fifteen years, that he was on duty the morning following the tragedy, denies emphatically that he, on that day or during his entire years of service, ever changed a fifty-dollar bill. Why does not the witness Powell remember where he changed the other fifty-dollar bills? Changing a fifty-dollar bill is not an every-day occurrence and it is argued that a person changing fifty-dollar bills the way Powell says he changed them, if he did change them, is a

matter for the witness to tell as to just where he changed them.

Can it be possible that Powell is telling the truth about Mohr concealing himself in the Ford car, that upon the arrival at the ferry he got out of the Ford car and walked through the passenger entrance with a white conspicuous cap on? Had he wanted to hide himself on a rainy night, where could he possibly have concealed himself better than in the enclosed Ford coupe?

Can we imagine anything more ridiculous than the plaintiff-in-error taking the witness Powell to Riverside on 25 different occasions, if the purpose was the planning of the murder of John Brunen?

The question may be raised as to why, if Charles Powell did not kill John Brunen, he says he did and why he knows so much about it. The answer is clear and it is the plaintiff-in-error's contention that the witness Powell was working upon a hallucination, that he was arrested charged with the crime, read about it in the newspapers long before he was arrested, examined by the authorities and that while in the mental condition that he was in, imagined that he actually committed the murder.

The testimony of Ellis Parker shows conclusively that he worked out all possible clews and by elimination arrested Charlie Powell. It is an admitted fact in the case that Powell was arrested on the 6th day of April, 1922, and it is reasonable to suppose that the county authorities examined him while he was in prison, that they were telling him the facts that had come into their possession and that the witness was in such a frame of mind that he was willing and anxious to fit in all the facts that had come to his knowledge either by reading them in the newspapers before he was arrested or by hearing

them through the authorities who were investigating the case.

It is an admitted fact that he had a breakdown while in prison at the time he made his first statement. Bear in mind that Charlie Powell himself on cross-examination when he was questioned as to how he knew where the guns were found, replied, as is found on page 268, line 28 to line 31, as follows:

"Q. How do you know where the guns were found?

A. I know they were found in the creek.

Q. How do you know that?

A. I read that in the paper before I was arrested."

Space and time prevents the further attack upon the testimony of the witness Powell and it is respectfully contended, at this time, that his testimony has been so shaken by deliberate falsehoods and contradictions that it cannot be believed.

So far, therefore, for the State's case. The uncorroborated testimony of an accomplice and co-defendant. No testimony from any other witnesses that would infer guilt on the part of the plaintiff-in-error. Irrational conduct by the witness Powell while incarcerated and then meager descriptions, false testimony and improbable testimony of the witness Powell.

Now let us consider the testimony offered by the defendant. To offset any possible inference of guilt of the plaintiff-in-error Mohr, it is urged that the entire testimony of the plaintiff-in-error be read. He stood the attack of the Prosecutor and Mr. Peacock in an able manner. He was never once shaken or successfully attacked. His entire story from beginning to end rang true and not only rang true, but

is backed up by the testimony of the other witnesses who corroborated him in everything he said and proved his alibi conclusively.

Perhaps, for the purpose of this argument, it would be better not to consider the testimony of Doris Brunen who was a co-defendant at the trial. Her testimony, however, not only vindicated herself but did much in the defense of the plaintiff-in-error.

The testimony of the witnesses Mayo, Duncan, Denno, Noe, Ballman and Swanson, has already been considered.

The next witness called on behalf of the plaintiff-in-error was Melvin Knaub who, in his testimony, explains the entire surrounding and statement made by plaintiff-in-error at Salamanca, the time and place the witness Doyle said he heard Mohr say, "All right, I will get this show sooner or later" (page 624, lines 32 to 33). The witness Knaub's testimony in this respect is found on page 959, line 38, to page 960, line 26, as follows:

"Q. Have you ever heard any quarrels between Harry Mohr and John Brunen?

A. I have.

Q. Did you hear a quarrel at Salamanca?

A. I did.

Q. What was the quarrel about?

A. State the incident relative to it?

Q. Yes, please.

A. It was in regard to a supposed order that Mr. Mohr had given to a concessionaire that did not meet with the approbation of Mr. Brunen, and as a result Mr. Brunen censured Mr. Mohr in the presence of some of the committeemen, which appeared to cause an argument.

Q. Did Harry Mohr have any conversation with you about this quarrel?

A. He did. He came to me and told me he had left; that is, had left the employment of Mr. Brunen and that he intended getting his shows and wagons. He says, 'I am going to attach this show,' he said, 'and take my circus, by Joe, and my athletic show and wagons by means of an attachment.'

Q. Do you know whether Harry Mohr owned the shows and wagons of which you were just speaking?

A. I do.

Q. Did he own them?

A. He did.''

The next witness called on behalf of the plaintiff-in-error is the witness Bentum whose testimony contradicted the testimony of the witness Powell who testified that Mohr hired Powell to go with the show after the tragedy. Bentum's testimony in contradiction is found on page 969, line 22, to page 970, line 21, as follows:

''Q. When did you first hear of John Brunen's murder? The night of March 12th, about twelve or one o'clock? How did you get this information?

A. Harry Mohr called me on the long distance telephone.

Q. Upon your arrival in Camden, by whom were you employed?

A. By Harry C. Mohr.

Q. What was your position then with the Brunen shows?

A. I was general advance agent and promotion agent for the show.

Q. Did you have charge of the promotion of the Brunen show at 10th and Luzerne Streets, Philadelphia?

A. Yes, sir.

Q. At that time was Charlie Powell employed to assist in the promotion of the show?

A. Yes, sir.

Q. By whom was Powell employed?

A. By me.

Q. By whom was Charlie Powell paid?

A. By me.

Q. What was your contract with the Brunen show?

A. I received a certain salary and net profits of the promotion. I was to give the show a certain percentage and the committee a certain percentage, and whatever was left was split between my assistants and myself.

Q. Did you make any arrangements with Charlie Powell as to what he was to receive?

A. Yes, sir.

Q. What was that arrangement?

A. He was supposed to get $30 a week salary and 25% of the promotion."

The witness Bentum also proved the hour that the witnesses Mr. and Mrs. Ernst said Charlie Powell was home on the night of the tragedy, as is found on page 971, line 8 to line 38, as follows:

"Q. Now, did you three or four days later accompany Mr. Mohr to the home where Mr. Powell lived?

A. Yes, sir.

Q. And interview Mr. and Mrs. Earnest?

A. Yes, sir.

Q. Was that at 45 Cooper Street?

A. That's right.

Q. Was Marie Powell present at that time?

A. She was.

Q. What did Mr. and Mrs. Earnest tell you in Mr. Mohr's presence, and the presence of Marie Powell, with regard to the movements of Charles Powell on the night of the tragedy?

A. Well, I asked them the night this murder was committed, I asked the lady whether she seen Charlie Powell, rather Mr. Earnest, rather, and they said positively seen Mr. Powell at 7.30 in the bathroom in their own house, and later on while I made several trips I happened to run across—my wife and I asked him the same question again, and I said, 'Is it really true you seen Charlie Powell at 7.30 in your house?' and he said, 'Yes.'

Q. Was that conversation after Charlie Powell was arrested?

A. It was after Charlie Powell was arrested. One conversation was about three, four months later, and the other was about four or five days after the murder.''

The witness Bentum also contradicts the witness Hazel Brunen who says that the plaintiff-in-error Mohr said, as is found on page 369, line 11, ''Well, the guy that done this ought to get a gold medal,'' or some words of that effect. Bentum's testimony along this line is found on page 973, line 32, to page 974, line 2, as follows:

''Q. Did you say to Harry Mohr, in the presence of Hazel Brunen that Bennie Franklin told you, just before leaving Baltimore, 'The guy that killed John Brunen ought to have a gold medal?'

A. I did.

Q. Did Bennie Franklin make that statement to you?''

and after some colloquy between the Court and counsel on page 975, line 19, to page 976, line 13, as follows:

"(Question repeated.)

The Witness: He did, in Baltimore.

Mr. Peacock: That was the statement concerning the awarding of the gold medal to the party that killed John Brunen.

The Court: He is the author of that statement, as the witness testified.

Q. Now, are you sure that Hazel Brunen was present when you made that statement to Harry Mohr telling what Bennie Franklin had told you?

A. Yes, sir. In fact, there was more present.

The Court: Who were they?

The Witness: Why, Dr. Knaub was present at that time and Mrs. Brunen and Mrs. Mohr, the grandmother, and Hazel Brunen was present.

The Court: Where was this made?

The Witness: In the Riverside home.

The Court: In the morning or afternoon, or do you recall?

The Witness: I don't quite recall, Judge, because I was there two or three times a day sometimes."

The next witness was Officer John Potter, the witness called on behalf of the State and later recalled on behalf of the plaintiff-in-error to prove the conduct of the plaintiff-in-error Mohr on the night of the tragedy. His testimony will be found on page 988, line 11 to line 27, as follows:

"Q. What was the appearance of Mr. Mohr on that evening when he returned?

A. Why, nothing out of the ordinary.

Q. What was his conduct?

A. Well, his conduct was as a gentleman. There was nothing that I could see that was out of ordinary at all.

Q. What was Mr. Mohr endeavoring to do while in your presence?

A. Well, most of the time in my presence he was using the telephone.

Q. For what purpose?

A. Calling Mr. Parker or calling Williamstown. I believe Mr. Stanley was the one who called Mr. Parker. I am not sure about that."

We then come to the alibi of the plaintiff-in-error Mohr and in corroboration of the testimony of Mohr, we consider the testimony of Dr. William C. T. Poulson, a practising physician since 1899, only a passing acquaintance of the plaintiff-in-error, having only met him through business. In addition to corroborating the plaintiff-in-error Mohr as to Mohr's whereabouts on the night of the tragedy, his testimony also shows the conduct of the plaintiff-in-error on the night of the tragedy. That part of Dr. Poulson's testimony which is called to the Court's attention is found on page 991, line 10, to page 993, line 18, as follows:

"Q. Do you remember the night that John Brunen was murdered?

A. Very well.

Q. Did you see Harry Mohr on that night?

A. I did.

Q. Where?

A. In my office.

Q. What time was Mr. Mohr at your office?

A. I can't specifically state the exact time

that he was at my office, but it must have been between eight o'clock and half-past or probably prior to eight o'clock. Why I am so exact about half-past eight is this: because in leaving the office I have a habit of looking at my watch and telling Mrs. Poulson that I am leaving and I will be back at a certain time, and I said this night, 'It is half-past eight. I will return shortly.'

Q. Had you had any conversation with Mr. Mohr prior to your leaving your office?

A. Oh, yes.

Q. How long had you and Mr. Mohr conversed in your office before you left?

A. I can't say. Time is a relative fact. Some may be short, some may be long, and you can't tell exactly which it is. But I judge it must be from twenty minutes to twenty-five, maybe. I am giving that somewhat of a guess, because my answer will be that I don't know.

Q. How long was Mr. Mohr in your office, to your knowledge, before you interviewed him?

A. Well, the bell rang and I admitted Mr. Mohr; then I said, 'Excuse me, Harry. I have a patient in my office. You sit down till I finish the patient.' Now of course you can't do a patient in less than ten minutes. And when I was through with the patient, that being the middle front room, I went and saw Mrs. Poulson in the back part of the house. I went in and I says, 'Let's don't wait down around here any more; let's go to the Post and go down and see what the fellows down there have got to say.' He says, 'All right, let's ride down in a car.' He says, 'I have got my own car here.' I says, 'That is fine.' And we got in and I remember

I said it was half-past eight, when we got in the car.

Q. Where did you go with Mr. Mohr?

A. Down to the Legion Post Headquarters at that time.

Q. What was Mr. Mohr's appearance?

A. Very courteous and suave, polite, as he always had been when I knew him.

Q. Any difference in his appearance that night from any other night?

A. Nothing special, nothing that I noticed, except he appeared very much disappointed at not being able to get the ground for the circus.

Q. Where did you and Mohr go after you left your office?

A. To the Post.

Q. Where is that?

A. 52nd and Locust, on the southwest corner, it was then; it is not now.

Q. Who was there at the Post?

A. Why, I think there was two men, Goldberg and Fox, playing pool at that time.

Q. Did they see Mr. Mohr to your knowledge?

A. Oh, yes. As we went in I said, 'You know this fellow, don't you? This is Mr. Mohr.' And they said, 'Oh, yes,' and shook hands with him.

Q. Did he converse with you and others there?

A. Oh, yes, just the ordinary commonplaces of the day, I suppose, bad weather and pretty nice clubroom and something like that, you know.

Q. Have you any idea as to how long you were at the Post?

A. Haven't a bit; not very long, though.

Q. And did you have any conversation with Mr. Mohr when you left him?

A. Except to say, 'Where are you going, Harry, from here?' He says, 'I am going to see my sister.' I says, 'Where does she live?' I thought she might live in Camden. He says, 'No, Sixteenth Street.' So I says, 'So long,' and I walked down the street and got on a car.''

The testimony of David Goldberg likewise corroborates the alibi of the plaintiff-in-error and the testimony of Dr. Poulson as to the plaintiff-in-error's whereabouts on the night of the tragedy and his testimony also shows the conduct of the plaintiff-in-error on the evening of the tragedy.

The testimony of Milton K. Stanley, a detective in Camden County, corroborates much of the testimony of the plaintiff-in-error. He testifies that he saw the plaintiff-in-error on the afternoon of the tragedy; that he had an appointment with the plaintiff-in-error at six o'clock that evening; that his phone rang about that time, but that when he went to the phone the party had hung up; that he later met the plaintiff-in-error Mohr at 10 o'clock on the evening of the tragedy. In his testimony, he goes on to tell how the plaintiff-in-error acted after having heard of the tragedy; how he not only went to the City Hall in Camden to look over some men who had been arrested on suspicion but how he had also phoned to winter quarters, the place where the Brunen show was wintering, for the purpose of checking up the men; how he also spoke over the telephone to Mr. Parker and how he then left towards Riverside. This testimony is exact with the testimony of the plaintiff-in-error Mohr and should have much weight in showing the plaintiff-in-error's actions and conduct on the night of the tragedy.

The testimony of Charles H. T. Geary has already been considered but may be mentioned at this time in defendant's case to further show the deliberate lie that Powell told as to the changing of the fifty-dollar bill on the morning after the tragedy. That part of the witness Geary's testimony which is called to the Court's particular attention is found on page 1011, line 2 to line 18, as follows:

> "A. It is the common understanding among the ticket sellers that the Courts have ruled that $2 is the limit; that is the understanding among ticket sellers.
>
> Q. In the event of a collector changing a note and receiving a counterfeit bill who would have to make that good to the company?
>
> A. The ticket seller.
>
> Q. In your experience throughout these fifteen years have you ever had occasion to change a $50 bill at that window?
>
> A. To the best of my knowledge and belief never.
>
> Q. If you had changed a $50 bill on the 11th day of March, 1922, would you have remembered it?
>
> A. I think I undoubtedly would."

The witness Edward F. Doyle corroborates the plaintiff-in-error Mohr's story as to where the plaintiff-in-error was on the evening of March 8th, thus contradicting the testimony of the witness Powell as to their whereabouts on that evening.

Now let us consider the testimony of Jules Kresge who further corroborates the plaintiff-in-error Mohr's alibi. It is true an effort was made on the part of counsel for the State to discredit this witness but it is respectfully contended, by an exam-

ination of the entire testimony of this witness, that he was not shaken in the least and his testimony stood out as true; and we find in his testimony just where and at what hours he saw the plaintiff-in-error on the night of the tragedy. The Court's attention is called to that part of his testimony which appears on page 1017, line 33, to page 1019, line 12, as follows:

"Q. Did you see Harry Mohr on March 10, 1922?

A. Yes, sir.

Q. When did you first see him on that day and about what time?

A. Why between fifteen and twenty minutes after seven, and between 9.15 and 9.21 North Sixteenth Street.

Q. Did you have a conversation with him at about that time?

A. Yes, sir.

Q. What was the conversation?

A. Why, about his sister Mattie.

Q. How long did Harry Mohr stay with you on that occasion?

A. About ten minutes.

Q. And did you later see Harry Mohr on that night?

A. Yes, sir.

Q. If so where?

A. At the same place, between 915 and 921 North Sixteenth Street.

Q. Who was with you on that second occasion when you met Harry Mohr?

A. Miss Mattie Mohr.

Q. Where did you three go?

A. We went up to Miss Mohr's room.

Q. Did the phone ring while you were in Miss Mohr's apartment with Mr. Mohr?

A. Yes.
Q. Who answered the telephone?
A. Miss Mohr.
Q. Did she call any one to the phone?
A. Called Harry.
Q. What did Mr. Mohr say after answering the phone?
A. Why, Harry came in and said that John was shot.
Q. Where did you and Mr. Mohr then go?
A. We headed for Riverside.
Q. Where did you stop?
A. Why, the first stop we made was a traffic officer in Camden.
Q. And from there where did you go?
A. Detective Stanley's residence.
Q. And then from there?
A. To the police station.
Q. From there?
A. To another police station towards Camden.
Q. And then where?
A. And then back to Mr. Stanley's home.
Q. And then where?
A. Then to Riverside."

The cross-examination by the Court which is found on page 1019, line 12, to page 1020, line 5, shows conclusively that the witness was telling the truth and that his testimony should be considered and believed by the jury. That testimony is as follows:

Page 1019, line 12, to page 1020, line 5:

"By the Court:
Q. When did you say was the first time you saw Mr. Mohr on the 10th of March?

A. It was between 915 and 921 North Sixteenth Street.

Q. That was the first time you saw him that evening?

A. Yes, sir.

Q. On the 10th of March?

A. Yes, sir.

Q. You didn't see him again that evening afterwards?

A. Yes, sir; I saw him around nine o'clock. I don't know whether it was a little before or whether it was after nine o'clock. I couldn't say.

Q. You just said between nine ——

A. I just said around nine or a little after nine.

Q. Did you see him before that?

A. I saw him between fifteen and twenty minutes after seven.

Q. Between fifteen and twenty minutes after seven on the evening of March 10th?

A. Yes.

Q. How do you fix that time?

A. Why, I left the restaurant about two or three minutes before seven, where I eat my dinner.

Q. Where is that?

A. That is about five blocks from where I live, Fairmount and Ridge Avenue."

The Court's attention is called, just for a moment, to the testimony of the witness John Dobish who proved a conversation had with Charlie Powell while they were both incarcerated in the Burlington County prison.

Page 1035, line 18 to line 31, as follows:

"Q. And what was the conversation you had

with him? Turn around so the jury can hear you.

A. One night Charlie come down and said, 'I playing cards pass the time with you,' and some fellow there, I don't know, but say it took him by the State's business, well, what prisoners are allowed to do, State prisoners that played cards, Charlie asked him allow to play any cards in State prison? The fellow answered him no, and I turned around and asked Charlie, 'You think you going to State prison?' He said, 'No, I don't think anything like it, I don't think anything will be over it.' That's all I had to do with him."

The Court's attention is also called to the testimony of Walter Ernst who was recalled by the plaintiff-in-error. His testimony is found on page 1038, line 28, to page 1039, line 8, as follows:

"By Mr. Keown:

Q. Mr. Earnest, you have been called before?

A. Yes, sir.

Q. Do you remember a conversation had in your home in your presence, when Mr. Bentum was there and Mrs. Powell was there and Harry Mohr?

A. Yes, sir.

Q. And was that conversation about three or four days after the murder of John Brunen?

A. Yes, sir.

Q. Or was that after Charlie Powell was arrested?

A. After Charlie Powell was arrested.

Q. Did you state to them at that time that Charlie Powell was home in your house between seven-thirty and seven forty-five?

A. Yes, sir."

Could Mr. Ernst be mistaken about this? Does it not prove conclusively, therefore, that Charlie Powell could not have been at the Brunen home with the plaintiff-in-error Mohr on the evening of March 10th, when he says he was there? Particularly in view of the automobile run test which will be considered later?

Let us now consider the testimony of Charles Auerbach. The purpose of his testimony was to show that the proposition between the plaintiff-in-error Mohr and the witness Powell, between Philadelphia and Wilkes-Barre when the numerous telegrams were exchanged, was of a business nature. The witness Powell denied that they were of a business nature and denied any business transactions with the firm of Karr & Auerbach. Mr. Auerbach's testimony is found on page 1043, line 31, to page 1046, line 7, as follows:

"By Mr. Keown:

Q. Mr. Auerbach, do you know Charlie Powell?

A. Yes, sir, I do.

Q. Is he in the court room?

A. Yes, sir, I see him right there.

Q. And do you know Harry Mohr?

A. Yes, I do.

Q. Do you see him in the court room?

A. Yes, sir, right in back of you.

Q. Have you had any business transactions with either of these two men during the months of November or December, 1921?

A. Well, I got copies of ——

The Court: Well, did you or did you not?

The Witness: I can't remember until I look at these copies of orders.

The Court: Oh, you have a memorandum?

The Witness: Yes, sir, I have copies of orders, what date it was that was.

Q. I ask you whether you had any transactions with them during the months of November or December, 1921?

A. Yes, I had.

Q. Will you just tell his Honor and the gentlemen of the jury what that business transaction was?

A. On the 11th month, the twenty-first, 1921, why we shipped some goods to Harry C. Mohr at 20 West Jackson Street, Wilkes-Barre, Pa. The merchandise consisted of a lot of silverware. This silverware was used for premium purposes. Bill amounting to $20.

Q. Do you know who ordered that bill of goods?

A. Why, at that time Harry Mohr and Powell was in my place of business and they placed the order with me, and we shipped that merchandise to Wilkes-Barre, as requested.

Q. Have you any other records of any transactions between them?

A. Yes, sir, and then we had a bill of goods the 11th month, 22, 1921, Harry C. Mohr, Wilkes-Barre, Pa., which was a lot of punchboards, used for premium purposes. There was a thousand boards, 100-hole boards, amounting to $150. He gave me cash $70, and there was a balance of C. O. D. of $80.

Q. Who ordered that bill of goods?

A. That was purchased by Powell and Mohr.

Q. And who paid you the $80 or the money that was paid?

A. Why, I believe Mr. Mohr.

Q. Were those goods shipped?

A. Yes, sir, those goods were shipped.

Q. You say they were shipped C. O. D. balance?

A. There was an $80 C. O. D. Of course, I don't know which one lifted it.

Q. Were those goods lifted?

A. Yes, sir.

Q. You got your money?

A. I got my money.

Q. Any other transactions?

A. On the 12th month, 23rd, 1921, Charles M. Powell, Wilkes-Barre, Pa., there was a bill of goods amounting to—a lot of fruit bowls, we use for premium purposes, amounting a C. O. D. $35, was ordered by Powell.

Q. That was delivered to Powell?

A. That was delivered and paid for.

Q. Any other transactions at that time?

A. Well, that is the only transactions that I can remember in purchasing merchandise, but they have been in the store several times previous to that time, but they didn't purchase any merchandise. They told me they were going to have some kind of doings in Philadelphia or Camden under some churches, and so forth, and they would purchase some more merchandise, perhaps."

From this testimony, there certainly can be no dispute and it would seem to prove conclusively the nature of the relations between Mohr and Powell.

The testimony of the witness Grant is called to the Court's attention to show that on numerous occasions during the month of December, 1921, which was the period that Charlie Powell said that the gun was in the rear of the Ford car, while he was in the employ of Harry A. McCoy, he supplied gasoline

to Harry Mohr. His testimony is found on page 1047, line 10, to page 1048, line 13, as follows:

"Clarence Grant, recalled, for the defense.

Direct examination.

By Mr. Keown:

Q. Mr. Grant, you have already testified?

A. Yes, sir.

Q. With whom were you employed during the month of December, 1921?

A. Harry A. McCoy.

Q. And where is his place of business?

A. Riverside.

Q. Did you have occasion, during your employment, to serve Mr. Mohr with gas?

A. Lots of times.

Q. What kind of a car did Mr. Mohr drive?

A. Ford roadster and a Ford coupe.

Q. Did you ever serve him with gas when he drove the Ford coupe?

A. Yes, sir, lots of times.

Q. And where is the tank in the Ford coupe?

A. Why, in the back.

Q. Have you ever lifted the lid of the back and put gas there in his tank during that time?

A. Lots of times.

Q. Did you ever notice a gun in the back of that car?

A. No, sir.

Q. Was there ever any gun in that car?

A. Not to my knowledge.

Q. You never saw any?

A. No, sir.

Q. Do you know the general reputation of Mr. Mohr, Mr. Harry Mohr and Mrs. Doris Brunen in the community where they reside?

A. Well, as far as I know it is very good. I knew Mr. Mohr quite well."

Warren V. Hait, Jr., corroborates the plaintiff-in-error Mohr as to the plaintiff-in-error's whereabouts on March 8th, thus contradicting the witness Powell.

Hugh Delaney testified as to the apparent friendly feeling existing between the plaintiff-in-error Mohr and the decedent Brunen just prior to the tragedy.

The Court's particular attention is called to the testimony of the witnesses Andrew O. Parks and Clarence Grant. These are the two men that made the test run in the automobile. Their testimony is that they made the run in record time; that it took 55 minutes to go from Cambridge station to Dr. Poulson's home in Philadelphia. Now from the testimony of the witness Powell, he could not have left Cambridge station on the night of the tragedy much before 7.30 and assuming that it was done in record time that night, it would mean that Mohr could not have arrived at Dr. Poulson's before 8.25 P. M. Dr. Poulson's testimony clearly shows that the plaintiff-in-error Mohr was there long before that time, as it was 8.30 P. M. when they left and he had already been there for twenty or twenty-five minutes. The witnesses Parks' and Grant's testimony also shows that it would have been impossible for Powell to have left the scene of the tragedy and to have arrived home, over the route he says he took, at eight o'clock or a few minutes thereafter. This testimony alone, of these two witnesses, should prove to the satisfaction of this Court, in view of the fact that the time of the shooting is admitted, that it was a physical impossibility for Powell to have been there and to have gotten home when he says he arrived home.

The witness Joseph Clair testifies as to the friendly feeling existing between the plaintiff-in-

error Mohr and the decedent John Brunen, just prior to the night of the tragedy.

In conclusion, therefore, upon this point, it is respectfully contended that we have (1) the uncorroborated testimony of the witness Powell; (2) no testimony of any other witnesses to infer guilt. (3) The testimony showing Powell's condition while in jail. (4) His testimony challenged. (5) Contradicted in almost every detail on one hand; and on the other we have the absolute denial by the plaintiff-in-error, corroborated in almost every statement that he made, to say nothing of a perfect alibi corroborating his statement as to his whereabouts by at least three distinterested witnesses. Then again there is the testimony of all of the witnesses who saw him after the tragedy and had occasion to observe his demeanor and conduct. Certainly the verdict of the jury was contrary to the weight of the evidence, and clearly must have been the result of passion, mistake or prejudice against plaintiff-in-error.

CONCLUSION.

The plaintiff-in-error respectfully contends that from an examination of the record as set forth above reversible errors have been committed which prejudicial to his interests, and that he has therefore suffered manifest wrong and injury which warrants and requires a reversal of the judgment in this case, and that therefore the judgment heretofore entered should be set aside and for nothing holden, and that plaintiff-in-error is entitled to and should receive a new trial in the premises.

WALTER S. KEOWN,
Atty. for and of Counsel with Plaintiff-in-Error, Harry C. Mohr.