

**CERTIFICATE OF CHANCELLOR
IN CHANCERY OF NEW JERSEY.**

STATE OF NEW JERSEY,	}	SUR INDICTMENT
Defendant in Error,		FOR MURDER.
vs.		
EDWIN DANSER,	}	CERTIFICATE OF
Plaintiff in Error.		CHANCELLOR.

This is to certify that application has been made to
me for the allowance of a writ of error to be issued out 10

ERRATA

Between the 18th and 19th Reasons, interpolate the
following, viz:

18½. Because the verdict of murder in the first
degree was against the weight of the evidence.

In the Assignments of Error, between the 14th and
15th Assignments interpolate the following, viz:

14½. Because the verdict of murder in the first
degree was against the weight of the evidence.

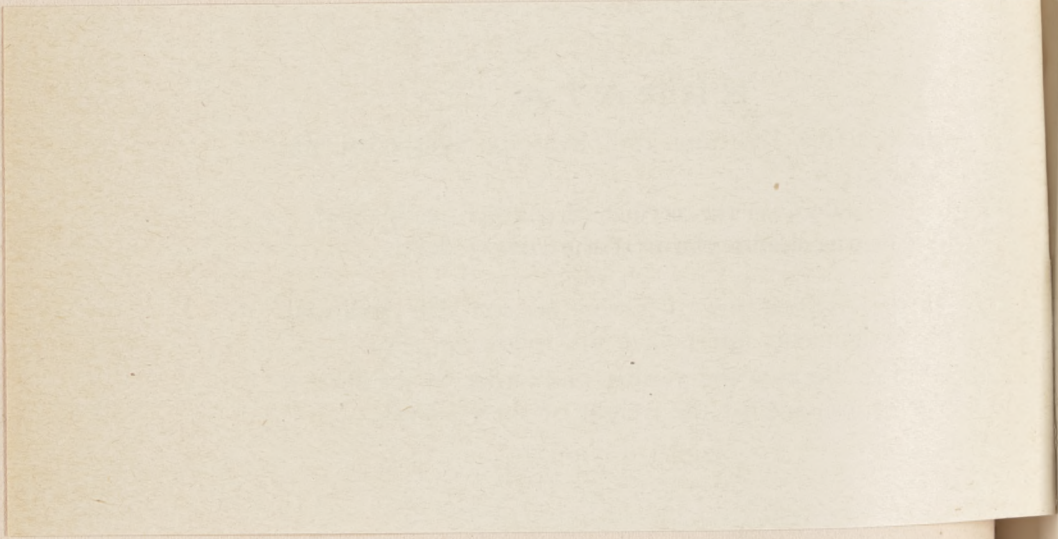
STATE OF NEW JERSEY,
Defendant in Error, 30
v.
EDWIN DANSER,
Plaintiff in Error.

Sur Indictment for Murder.
Certificate of the Chancellor.

HENRY BURT WARE, Att'y.

Filed December 17, 1935.
E. L. WHELAN,
Clerk.

New Jersey State Library



**CERTIFICATE OF CHANCELLOR
IN CHANCERY OF NEW JERSEY.**

STATE OF NEW JERSEY, Defendant in Error, vs. EDWIN DANSER, Plaintiff in Error.	} } } } }	SUR INDICTMENT FOR MURDER. CERTIFICATE OF CHANCELLOR.
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This is to certify that application has been made to me for the allowance of a writ of error to be issued out of the New Jersey Supreme Court for review of the judgment of the Salem County Court of Oyer and Terminer in this State, convicting the said Edwin Danser of the crime of murder in the first degree, without exhibiting to me the record of the proceedings in the cause or any part thereof, and without alleging any error in those proceedings, and that I have refused to order a writ of error for the review of said judgment, solely because no cause, arguable or otherwise, is shown for the granting of such writ of error to the Supreme Court. 10 20

Dated December 17, A. D. 1935.

L. A. CAMPBELL,
Chancellor.

[ENDORSED]

IN CHANCERY OF NEW JERSEY.

STATE OF NEW JERSEY, v. EDWIN DANSER, Plaintiff in Error.	} } } } }	Defendant in Error, 30
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Sur Indictment for Murder.
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HENRY BURT WARE, Att'y.

Filed December 17, 1935.

E. L. WHELAN,
Clerk.

NEW JERSEY COURT OF ERRORS AND APPEALS

NEW JERSEY, to-wit:

10 THE STATE OF NEW JERSEY to FRANK
F. NEUTZE, ESQUIRE, Judge of the
Common Pleas Court of the County of
Camden, constituting the Court of Oyer
and Terminer of the County of Salem
by designation and authority of the
[SEAL] order of said Court made by the Hon-
orable Ralph W. E. Donges, a Justice of
the Supreme Court of New Jersey,
holden at Salem, in and for the County
of Salem, of the Term of September,
in the year of our Lord one thousand
nine hundred and thirty-five.

20 Because in the record and proceedings, and also in
giving of judgment upon a certain indictment against
Edwin Danser, late of the township of Upper Penns
Neck in the said County of Salem, that on June fifth,
1935, at the township aforesaid, in the County of Salem,
he did wilfully, feloniously and of his malice afore-
thought, kill and murder one Ada Danser, in the peace
of God and of this State, then and there being, *pro ut*
the said indictment, and the several counts therein, where-
of before you he has been indicted, and is thereof con-
victed by a certain jury of the county, taken between the
30 State of New Jersey and the said Edwin Danser, as it
is said, manifest error hath intervened, to the great
damage of the said Edwin Danser, as from his complaint
we have received information, we being willing, in his
behalf, to correct the error, in due manner, if any there
shall be, and that speedy justice be done to him, the said
Edwin Danser, command you that if judgment be there-
on given, then that you distinctly and openly send, under
your seal, the entire record of the proceedings had upon
the indictment and trial, including the judgment thereon,

to our Court of Errors and Appeals in the Last Resort in all Causes of the State of New Jersey, on the sixth day of January next, 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 of the State of New Jersey ought to be done.

WITNESS, HIS HONOR, LUTHER A. CAMPBELL, Chancellor and President Judge of our said Court of Errors and Appeals, at Trenton, this seventeenth day of December, A. D. 1935. 10

THOMAS A. MATHIS,
Clerk.

HENRY BURT WARE,
Attorney.

[ENDORSED]

COURT OF ERRORS AND APPEALS. 20

THE STATE OF NEW JERSEY,
Defendant in Error,

v.

EDWIN DANSER,
Plaintiff in Error.

Writ of Error.

Returnable January 9th, 1936. 30

HENRY BURT WARE, Atty.,
Room 3, Dunn Bldg.,
Salem, New Jersey.

Filed December 17, 1935.

THOMAS A. MATHIS, Clerk.

The entire record of the proceedings whereof mention is within made, with all things touching the same, I certify to the Court of Errors and Appeals in the Last Resort in all Causes, at the day and year within contained in a certain schedule to this writ annexed, as I am commanded.

F. F. NEUTZE,

10

[SEAL.]

Judge of the Court of Common Pleas of the County of Camden, constituting the Court of Oyer and Terminer of the County of Salem by designation and authority of the order of said Court made by the Honorable Ralph W. E. Donges, a Justice of the Supreme Court of New Jersey, holden at Salem, in and for the County of Salem, of the Term of September, in the year of our Lord, one thousand nine hundred and thirty-five.

20

STATE OF NEW JERSEY, SS:
SALEM COUNTY,

Be it remembered that at the Court of Oyer and Terminer, held at Salem, in and for the County of Salem on the third Tuesday of April, in the year of our Lord one thousand nine hundred and thirty-five, before Honorable Ralph W. E. Donges, one of the Justices of the Supreme Court of Judicature of the State of New Jersey, and
30 Honorable J. Forman Sinnickson, Judge of the Court of Common Pleas of the County of Salem, according to the form of the statute in such case made and provided, by the oaths of Frank Kates, Wilhelmina Klein, Theowald Clawson, Harry Crispin, Harman Van Meter, Loren Dilks, Earl Urion, Harry Blohm, Mrs. Harry T. Jones, Charles Harbeson, Charles Rinda, Harry Elliott, Howard O. Plasket, Charles Fitzgerald, Thomas McAllister, Edward Harris, Rigg Banco, George Coleman, Henry Schapner, Carroll Finlaw, and William Kelley,

good and lawful men of said County of Salem, duly summoned then and there sworn and charged to inquire in behalf of the State of New Jersey and for the body of the County of Salem:

It is presented in manner and form following, to-wit:

*In the Court of Oyer and Terminer of Salem County
April Term, in the year of our Lord one thousand nine
hundred and thirty-five.* 10

SALEM COUNTY, TO-WIT:

The Grand Inquest of the State of New Jersey, and for the body of the County of Salem, upon their respective oath and affirmation, those who affirmed having first alleged themselves conscientiously scrupulous of taking an oath,

Present that Edwin Danser, late of the Township of Upper Penns Neck, in the said County of Salem, on the 5th day of June, in the year of our Lord one thousand nine hundred and thirty-five, at the Township aforesaid, in the County of Salem aforesaid, and within the jurisdiction of this Court, did wilfully, feloniously and of his malice aforethought, kill and murder one, Ada Danser, in the peace of God and of this State, then and there being, 20

To the evil example of all others in like case offending, 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. 30

And which said indictment was, by the Grand Jury aforesaid, returned into Court on August 13, 1935; and the Honorable Ralph W. E. Donges, Justice of the Supreme Court (nor any other Justice of the Supreme Court) not being present at the Court House, in and for the County of Salem, on said day, the Court of Quarter Sessions of said County received said indictment so presented and ordered than said indictment be delivered to

the Clerk of the Court of Oyer and Terminer, and by him filed.

And afterwards, that is to say, on September 17, 1935, it now being of the September Term, 1935, at Salem aforesaid, in the County aforesaid, before the Honorable Ralph W. E. Donges, Judge of the Court of Oyer and Terminer of the County of Salem, cometh the said Edwin Danser in his proper person, and being asked in what manner he will acquit himself touching the premises in the said indictment above specified and charged upon him, says that he is not guilty thereof, and of this he puts himself upon the country; and W. A. W. Grier, Esq., Prosecutor of the Pleas of the County of Salem, and Robert Peacock, Assistant Attorney General, who prosecute for the State in this behalf, do likewise the same.

And later, to wit, on September 17, 1935, it was requested in writing, by the Honorable Ralph W. E. Donges, Justice of the Supreme Court, within whose district the Salem County Oyer and Terminer Court is, that the Honorable Frank F. Neutze, Judge of the Inferior Court of Common Pleas of Camden County, sitting alone, constitute and hold the Court of Oyer and Terminer of Salem County, for the purpose of arraignment of said defendant, Edwin Danser, and the trial of or other and further proceedings on said indictment as authorized by law.

Thereupon, to wit, on December 2, 1935, it still being of the September Term, 1935, before the Honorable Frank F. Neutze, Judge of the Inferior Court of Common Pleas of the County of Camden, sitting alone, and constituting the Court of Oyer and Terminer of the County of Salem, it was ordered that the trial of the said indictment do now come on, and that the Sheriff return a panel for the trial of the same, and that a jury of fourteen members be empaneled and sworn; which being accordingly so done the following named jurors were called, examined under oath, accepted, and duly sworn to try the issue joined between the State of New Jersey and the

prisoner at the bar, to wit: Houston Toulson, Mrs. Elsie Brayerton, Mrs. Mary E. Driver, William J. Grosscup, John Franklin, Mrs. Joseph Breen, Charles Hendrickson, Mrs. Clarence Henderson, Earl Matlack, Grover Justice, Moses J. Paulding, Edward H. Hitchner, Mrs. Lottie Biddle and James H. O'Brien; and George Schrier, Henry Keen, Bertha Roberts and Laura Lloyd, four officers of the Court, were sworn to attend said jury during trial and adjournments.

10

The following named persons were severally sworn to give testimony as witnesses, to wit:

For the State: LeRoy Ditzel, Harry T. Davis, Joseph A. Camp, Alfred Matthews, William A. Jones, Dr. John S. Dunn, Robert C. Cole, Emelia Holien, Theodore Holien, Lillian Holien, Eunice Holien, Frances Mattson, Harold W. Taylor, Florence Hawn, Hubert P. Layton, Leslie Cole, Damon G. Humphreys, Helen S. Sparks, Frank Ruggerio;

20

For the Defendant: Warren T. Sparks, Edwin Danser, Hilda Bartie, Edna Barrett, Marie Fagan, Eldridge Bevis, Borden Danser, John Johnson, Charles Locuson, Harry Seehouse, Joseph Harvey, Frank Dietrich, John Layton, Joshua Scott, Ebenezer Zane, J. Summerill Davis, Edward M. Summerill.

The following exhibits were offered and admitted:

By the State—9 photographs, 2 diagrams, revolver, 2 rags, 2 bullets, 2 loaded shells, 3 empty shells, flashlight, 30
nightgown.

By the defense—Eight photographs.

And all the testimony having been heard and summed up by the respective Counsel, and the Court having addressed the jury, and after the charge of the Court, there being more than twelve jurors left on said jury, the clerk of the Court, in the presence of said Court, placed the names of all of said jurors on slips, folded

so as to conceal the names thereon, in a suitable box provided for that purpose by the clerk, and drew therefrom twelve names, as follows:

- | | |
|---------------------------|-------------------------|
| 1—Mrs. Mary E. Driver | 7—James O'Brien |
| 2—Earl Matlack | 8—Edward Hitchner |
| 3—Mrs. Clarence Henderson | 9—Moses J. Paulding |
| 4—Mrs. Joseph Breen | 10—Mrs. Garfield Biddle |
| 5—Mrs. Elsie Brayerton | 11—William J. Grosscup |
| 6—John Franklin | 12—Charles Hendrickson |

10

and whereupon the jury last aforesaid retires to consider of their verdict, with George Schrier, Henry Keen, Bertha Roberts and Laura Lloyd, four officers of the Court, sworn to attend them; and after having considered of their verdict the jury returns into Court, on December 6, 1935, in charge of the aforesaid officers, and being called all appear, and being asked if they have agreed upon a verdict reply that they have, and, in the presence of defendant and his Counsel, say, by their forelady, Mrs. Mary E. Driver, that they find the defendant

20 "guilty of murder in the first degree and we recommend imprisonment at hard labor for life." And so say they all. And the jury being polled at request of defendant's Counsel, each juror answers "guilty of murder in the first degree and I recommend imprisonment at hard labor for life."

30

Whereupon, on December 6, 1935, it was ordered, on motion of the Prosecutor of the Pleas of the County of Salem, that the prisoner be placed at the bar for sentence, and he being accordingly set to the bar, it is considered by the Court, and it doth order and adjudge that the prisoner, Edwin Danser, be imprisoned at hard labor in the State Prison of this State for the term of his natural life.

SALEM COUNTY COURT OF OYER AND
TERMINER

SALEM, NEW JERSEY.

THE STATE,
VS.
EDWIN DANSER.

}

10

December 2nd and 3rd, 1935.

NEUTZE (J) AND JURY.

APPEARANCES:

For the State— W. A. W. GRIER, ESQ.
ROBERT PEACOCK, ESQ.

For the Defendant—HENRY BURT WARE, ESQ.

20

Salem, N. J., December 2, 1935.

Drawing of the jurors was begun on the above date,
in the presence of the defendant and counsel for the re-
spective parties, and adjourned until December 3, 1935,
at 10 o'clock, A. M.

Salem, N. J., December 3, 1935.

Trial of the case resumed on the above date at 10 30
o'clock, A. M., pursuant to adjournment, in the presence
of the defendant and counsel for the respective parties.

(After the jury was sworn:)

(Mr. Peacock opened the case for the State to the
jury.)

(Mr. Ware opened the case for the defendant to the
jury.)

THE CASE FOR THE STATE

LEROY DITZEL, SWORN.

By Mr. Peacock:

Q. Are you a member of the State Police?

A. Yes, sir.

Q. How long have you been a member?

A. About five years.

10 Q. And what is your rank?

A. Trooper.

Q. At the time of this alleged homicide where were you stationed?

A. Woodstown.

Q. How long had you been stationed there?

A. About sixteen months.

Q. Did you know Mr. Danser?

A. Yes, sir.

Q. Did you know Mrs. Danser?

20 A. Yes, sir.

Q. How long had you known them?

A. A year and a half.

Q. And had you stopped at their store on your route at different times

A. Yes, sir, I have.

Q. Now, did you receive a call concerning this case on the night in question?

A. I did.

Q. At what time did you receive that call?

30 A. About 4:14 A. M.

Q. And from whom did you receive the call?

A. Miss Mattson.

Q. Frances Mattson?

A. That is right.

Q. Frances Mattson?

A. That is right.

Q. What did you do, do you remember, as a result of that call?

A. I immediately left the station and proceeded to Danser's gas station.

The Court: You better fix the date here now.

Q. What date was it?

A. June five.

The Court: Of this year?

Q. 1935?

A. 1935.

Q. When you arrived there, who was there?

10

A. When I arrived there, I was met in front of the gas-entrance to the gas station of the building, by Miss Mattson and Mr. Danser.

Q. Did you make a plan of the premises in question?

A. I did.

Q. I show you a plan and ask you if that is a correct plan of the Danser premises and surrounding property?

A. Yes, sir, that is.

Q. Will you explain that to the jury, before the jury?

20

Mr. Ware: It has got to be offered, hasn't it, to be explained to the jury?

The Court: I think so.

Mr. Peacock: I will offer it afterwards.

Mr. Ware: I don't think it can be explained to the jury.

30

The Court: Let Judge Ware see it, then you may question the witness with respect to it if there is anything you want to question him on.

The Court: Are you going to use the easel?

Mr. Grier: We will have it.

The Court: You better get an easel and put it right back of the witness here and the jury can all see it. Judge

Ware says that he has no objection to the plan as made by the Trooper and that it may go in evidence. You have offered it, haven't you?

Mr. Peacock: I offer it in evidence.

The Court: It will be marked Exhibit S-1.

(Said plan marked Exhibit S-1.)

10

Q. Trooper, you say that you are acquainted with these premises in question?

A. Yes, sir, I am.

Q. I show you a photograph and I ask you if that correctly depicts the scene of the defendant's premises on the night of the alleged homicide?

A. It does.

20

The Court: It would be a good idea, Mr. Peacock, to let the stenographer mark that Exhibit here and now so it won't get mislaid.

(Said plan already marked Exhibit S-1.)

Mr. Peacock: I offer this in evidence.

The Court: The photograph referred to is offered in evidence and marked Exhibit S-2.

30

(Said photograph marked Exhibit S-2.)

Q. Trooper, will you take this plan and this photograph and explain to the jury the house and surroundings?

A. This is rather small and rather hard for all of you to see. This is the Harding Highway, photographed at my right, going toward Sharptown and Woodstown to my left. This is what is known as the Auburn, Auburn road, Pennsgrove will be at the bottom, Auburn at the

top. This shows the front part, the store, behind the store there are two small rooms, one being used as a bedroom and one furthest left and next to that a small sitting room. The store continues on back alongside of that sitting room and adjoins the kitchen which is at the rear of the house. To the rear and to the right of the house there is a two-car garage visible here in the picture. In back of the house there are four cabins, tourist cabins, a double one and three single ones.

Q. Now, did you make a plan of the interior of the 10
Danser home?

A. Yes, I did.

Q. Was the plan made by you at the time you arrived there shortly after 4 o'clock?

A. I made a slight sketch of the plan of the house.

Q. I ask you if that is the plan made by you and if that correctly depicts the plan of the house at the time of the homicide?

A. Yes, it does.

20

The Court: You better submit it to Judge Ware. I would suggest before you put that up, for the moment, let it be passed to the jury.

Mr. Peacock: I have two extra plans that I will give to the Judge if he desires them.

The Court: Are they the same?

Mr. Peacock: The same.

30

The Court: Suppose you let me have one as long as Judge Ware has one.

Mr. Peacock: I have two others. Your Honor may keep those.

The Court: Judge Ware says he has no objection to this Exhibit and it may be marked. Before you question

the witness, let the stenographer mark it. It will be Exhibit S-3.

Mr. Peacock: I offer it in evidence.

(Said plan marked Exhibit S-3.)

Q. Trooper, will you explain to the jury the plan of the house as made by you?

- 10 A. This, looking towards from the front, this being the front door entering into the front part of the house, the building, the store, that showing the counter here, several tables along this side which leads back into the kitchen, there is a doorway from the rear part of the store into the sitting room and from there there is a doorway into the bedroom. There is also a doorway on the east side about the rear of the counter, into the bedroom. This is the bed that was used by Mrs. Danser that night. Here is the couch where Mr. Danser said he sat and
- 20 argued with his wife. That shows Mrs. Danser's position in the room. The room is well crowded with furniture. There are two large chairs, sewing table, a radio, a floor lamp and in this corner a dresser. In the sitting room, a round table and about six or seven chairs around. The kitchen, a frigidaire, electric stove, table, the sink in this corner, the rear door to the small porch and steps and in this corner a closet. Here in the store is the frigidaire.

- Q. Now, you said when you arrived at the house the
- 30 first person you saw was Mr. Danser?

A. That is right.

Q. Did you then proceed into the house to make an investigation?

A. I did, knowing and being familiar with the place, I immediately went through the store, through the sitting room and into the bedroom.

Q. Did you see the body of Mrs. Danser there?

A. I did. It was lying on the floor, between the couch and the bed and the chairs.

Q. And in what condition was the body?

A. Mrs. Danser was clad in a white nightgown, the left leg being well bent, the left foot up under the knee of the right leg and her head slightly to the left.

Q. Did you have a photograph made depicting a true situation and location of that body in that room at that time?

A. I did.

Q. I show you what is a photograph and ask you if that correctly depicts the situation of the finding of the body of Mrs. Danser that night? 10

A. That is right.

Mr. Peacock: I offer it in evidence.

(Said photograph marked Exhibit S-4.)

Q. What does that photograph show?

A. The room being well crowded with furniture and Mrs. Danser lying on the floor. 20

Q. Does that room show any of the articles that you have referred to on your plan?

A. Yes, it does, it shows the chairs, the cot, bed, the couch and table.

Q. Where is the bed you say Mrs. Danser occupied?

A. This, this object here shows the foot of it there.

Q. The foot of the bed, under the window?

A. That is right.

Q. Where is the davenport Mr. Danser told you he occupied? 30

A. This leather couch here (indicating).

Q. Now, in your examination, you referred to a bed in that photograph, that Mrs. Danser occupied?

A. Yes, sir.

Q. I show you a photograph and ask what that shows?

A. That shows the complete bed, the head at the fore end of the picture.

Q. With regard to the bar room, which you showed

on your plan, in which direction does the foot of that bed point?

A. Towards the entrance to the bar room of the store.

By the Court:

Q. When you say bar room, do you refer to it as the counter?

A. It is a store.

10 Q. That is where you have the counter?

A. Yes, sir.

Mr. Peacock: I offer this in evidence.

(Said photograph marked Exhibit S-5.)

By Mr. Peacock:

20 Q. Was the bed in that condition when you arrived there?

A. Yes, sir, it was slightly mussed.

Q. Referring to the other picture, Exhibit No. 4, and comparing that picture with this picture, where was Mrs. Danser's body or head with regard to this bed?

A. Near the foot of the bed here and before the chair. That just shows slightly in this picture.

Q. Now, I call your attention to Exhibit S-4 again. Will you explain to the jury just what you found surrounding Mrs. Danser's body.

30 A. This—I don't know what you call it, it is a cardboard used in these drink places to put their drinks on. That represents the place where an Iver Johnson .32-calibre nickelplated revolver was found and just above it the oily rag.

Q. Where is the spot where you found the revolver?

A. Where this round circle cover is lying.

Q. And just above that what?

A. The oily rag as it shows here in the picture.

Q. I show you a revolver and ask you if this is the

revolver you found there that night at the point designated on that photograph?

A. Yes, it is.

Q. Is there a number on that revolver?

A. Yes, sir.

Q. What is it?

A. 19490.

Q. What did you do with the revolver afterward, Trooper?

A. When I came into the room and noticed the revolver there, I used precautions in picking it up, wrapped it in paper and turned it over to Detective Ruggiero for further examinations for fingerprints. 10

Mr. Peacock: I offer the revolver in evidence.

Mr. Ware: Let's see it.

Q. Open that revolver, will you?

20

(Witness complies.)

Q. Nothing in it?

A. No.

The Court: Apparently there is no objection. The revolver may be marked as the State's exhibit.

(Said revolver marked Exhibit S-5 A.)

Q. You stated, Trooper, that at the spot just near Mrs. Danser's hands is the place where you found the oily rags? 30

A. Yes, sir, one oily rag was found and another one near the door leading from the sitting room to the bedroom.

Q. Now, you show me which rag you found near Mrs. Danser's hand.

A. This is the rag which was found near Mrs. Danser's hand.

Q. And in what condition was it when you found it?

A. It was apparently oily, apparently used to wrap the gun in.

Q. Well, it showed the evidence of oil, did it?

A. That is right.

Mr. Peacock: I offer it in evidence.

The Court: It may be marked as the State's Exhibit,
10 referring to the rag.

(Said rag marked Exhibit S-6.)

Q. Now, what was the condition of the second oily rag that you found?

A. The second rag was similar to the first one, an oily rag. This was found near the doorway leading from the bedroom to the sitting room. It was marked with my initials, L. D. number two.

20 Q. With regard to the doorway, how close was that rag found to Mrs. Danser's head?

A. To Mrs. Danser's head?

Q. Yes.

A. I would say nine, ten feet away.

Mr. Peacock: I offer that in evidence.

The Court: That may also be marked as the State's
30 Exhibit.

(Said rag marked Exhibit S-7.)

Q. Now, did you make a further examination of that room?

A. Yes, I did.

Q. Did you find any evidence of bullets in any other part of the room?

A. I did. There was a bullet that went through the leg of an end table at the foot of the bed, about three

and one-half inches above the floor. Another shot that went through the doorway and into the store wall, this bullet was about sixteen and one-half inches above the floor.

Q. Referring to Exhibit S-4, does the table appearing in that picture that you have referred to just now, show the bullet having gone through one of the legs?

A. This is the endtable that the bullet pierced one of the legs, nearest the bed.

Q. I show you another photograph and ask if that is 10
a larger photograph of the table than S-4?

A. It is.

Mr. Peacock: I offer this in evidence.

The Court: I do not suppose there is any objection,
Judge Ware?

Mr. Ware: I guess not

20

The Court: It may be marked as the State's Exhibit.

(Said photograph marked Exhibit S-8.)

Q. Now, will you show the jury where that bullet entered the table leg?

A. Why, here is the point the bullet entered the table leg, that leg being closest to the foot of the bed.

Q. Did it go through the leg?

A. It went through the leg and into the baseboard.

30

Q. How high was that from the floor, do you remember?

A. About three and one-half inches above the floor.

Q. Now, you say you found another bullet there?

A. A second bullet was found in the store wall.

Q. I show you a photograph and ask you what does that show?

A. That shows the doorway leading from the bedroom

into the store, a small stool below the window, also the hole made by the bullet in the store wall.

Mr. Peacock: I offer this in evidence.

The Court: It may be marked as the State's Exhibit.

(Said photograph marked Exhibit S-9.)

10 By the Court:

Q. Where did you say the bullet was there?

A. You will notice it right underneath the top of the stool, on the first shelf.

By Mr. Peacock:

Q. Now, will you show to the jury where that bullet hole is?

20 A. This is the bullet hole here (indicating). You can see it, this section of the stool (indicating).

Q. Were those curtains there that night in question?

A. They were.

Q. That is the exact condition as you found them?

A. That is.

Q. Now, referring to the other photograph that showed the bullet having gone through the leg of the chair, when you removed the chair did you see evidence of the bullet in the baseboard in the room?

30 A. Yes, it was visible.

Q. Does that picture show the bullet in the baseboard of the room, after you had removed the table?

A. That is right, that is the bullet in the baseboard.

Mr. Peacock: This photograph of the bullet and the table which the witness has just testified to, I would like to offer in evidence.

The Court: That has already been marked.

Mr. Peacock: The photograph of the bullet in the baseboard.

The Court: That may be marked.

(Said photograph marked Exhibit S-10.)

The Court: I would show the jury those two photographs together. Let them see one and take the other away and it shows where the bullet went into the baseboard. You have got to look at Exhibit S-8 and Exhibit S-10 together. 10

Q. Were those bullets removed by anyone in your presence?

A. They were removed by Detective Ruggiero and myself.

By Mr. Peacock:

20

Q. Will you show me which bullet was removed from the position under the table?

A. The bullet that was removed from the position under the table was marked "L" on the butt of the bullet for identification. These are the unfired shells. This is the bullet that was removed from the baseboard near the table leg.

Q. Was it marked by you at that time?

A. It was marked with the letter "L" at the base.

30

Mr. Peacock: I offer it in evidence.

(Received and marked Exhibit S-11.)

Q. What is the other bullet you have?

A. This is a bullet removed from the store wall.

Q. Was that marked by you at the time?

A. It was marked with the letter "T," it is hardly visible now.

Q. You know they were the two bullets that were removed?

A. Yes.

Mr. Peacock: I offer those.

(Received and marked Exhibit S-12.)

Q. What did you do with these two bullets?

10 A. These two bullets were turned over to Detective Ruggiero for further examination by ballistic experts.

Q. Were there any bullets in the gun at the time you found it?

A. Two unfired shells in the gun and three empty shells.

Q. Did you remove the shells, the unfired shells, as well as the bullets from the gun?

A. Yes, I did.

Q. What did you do with them?

20 A. They were marked with my initials, and the date on the side.

By the Court:

Q. How many slugs or bullets did you find, three unfired or two?

A. Two unfired, one in the wall, of the table, one in the wall of the store, three empty shells in the gun, and two loaded shells in the gun.

30

By Mr. Peacock:

Q. Will you produce the two loaded shells you found in the gun?

A. These are the two loaded shells that were in the gun.

Q. Were they marked by you?

A. Yes.

Q. What did you do with those two shells?

A. They were turned over to Detective Ruggiero for further examination.

Mr. Peacock: I offer them, the two loaded shells.

(Received and marked Exhibit S-13.)

Q. Do you have the three empty shells that were in the gun?

A. These are the three empty shells that were in the 10 gun at the time I broke it and examined it.

Q. Did you mark them?

A. They were marked with my initials, "LD-65."

Q. What did you do with those three empty shells?

A. Those were also turned over to Detective Ruggiero.

Mr. Peacock: I offer those in evidence.

(Received and marked Exhibit S-14.)

20

Q. Trooper, did you find anything else near or under the body of Mrs. Danser?

A. Upon the arrival of Coroner Cole, and County Physician John S. Dunn, Woodstown and Salem, the body was turned over on its right side, and underneath the body at the hips was found a two-cell "Sure-light" flashlight, and this light was burning at the time it was found.

Q. Is that the flashlight you found under the body of Mrs. Danser that was still burning when you found it? 30

A. Yes, this is the flashlight. I marked it with my initials, and also had Coroner Cole initial this.

Q. What did you do with that flashlight after you found it?

A. The flashlight was turned over to Trooper Camp for examination for fingerprints.

Q. You say this flashlight was burning at the time you found it?

A. The flashlight was lit at the time I found it.

Mr. Peacock: I offer this flashlight in evidence.

The Court: If there is no objection it may be marked as a State's exhibit.

(Received and marked Exhibit S-15.)

Q. Referring back to the two bullet holes in the wall, did you make an examination as to the direction in which
10 those bullets entered the wall?

A. To determine the direction or angle that those bullets entered the wall, before they were removed, we placed an icepick in the hole made by the bullets, and it pointed off in the direction of the door leading from the sitting room into the bedroom.

Q. I show you a picture of the bullet hole with a pick near the base of the floor, and ask you from your examination in which direction did that point?

A. That points to the left, or back towards the door
20 of the sitting room.

Q. That is the door that goes from the sitting room into the bedroom, in which Mrs. Danser's body was found?

A. That's correct.

Mr. Peacock: I offer that in evidence.

Mr. Ware: I object to it.

30

Mr. Peacock: They are made for the purpose of illustration only, and have been testified to by the Trooper as being the correct holes, and also showing that he put the pick in there for the purpose of showing the direction of the bullet, on which I will qualify him as being an expert on arms.

The Court: I will hear Judge Ware's objection, what is the objection?

Mr. Ware: The objection is that this does not represent physical evidence that happened at the supposed time of the homicide, which were subsequently discovered, but represents a situation created by persons interested in the detection of crime, and would have no bearing, except for the purpose of illustrating some evidence which it is sought to put in, and is no part of the case.

Mr. Peacock: They come within the same class as the testimony of ballistic experts, and so forth. They 10 make tests concerning the bullet to show that it came from a revolver, and this is the same class of test to show the direction upon which a person stood at the time the shot was fired, to show the direction where it entered, and to show the direction from which the shot came. It is the same character of test.

The Court: I am going to sustain the objection, the objection is sustained.

20

Q. I show you a photograph and ask you what that photograph is.

A. That photograph shows the point in the store wall that the bullet was at, also the position in the baseboard of the bedroom where the other bullet struck.

Q. Does that show the exact condition at the time you were there?

A. That's right.

Q. Are you acquainted with firearms?

A. Yes, sir.

30

Q. Do you hold any rank or position concerning firearms in the Police Department of New Jersey?

A. Nothing other than we must be qualified to average 65.

Q. What is your qualification?

A. My average with my right hand, 89; my left hand, 84 and a fraction.

Q. An expert?

A. With my right hand, yes.

Q. How long have you studied fire-arms?

A. For as long as I have been with the State Police.

Q. How long has that been?

A. Almost five years.

Q. You studied the position and direction of bullets, from the point fired to the point entered?

A. At times, yes.

Q. You studied the effect of bullets upon wood, iron and other points?

10 A. No, I can't say I have.

Q. From your experience in fire-arms of five years study, and from your examination of the wall where these two bullets entered, are you in a position and are you qualified to say which direction these bullets came from?

The Court: The answer is yes or no.

A. I don't think I could say.

20 Q. You say two bullets entered this point to the right of the photograph, and a bullet entered at that point?

A. That's right.

Q. I am asking you now in which direction was the bullet pointed in the baseboard?

A. At a downward angle, and from the position that it would have to have been fired off from the wall possibly eight feet, ten feet.

30 Q. And in which direction was the bullet pointing, to the right of the curtains in this photograph, was it turned into the left or to the right, in which direction?

A. It was at an angle that would have to be shot through the doorway.

Q. You took the butt end of the bullet, the end that you could see in the wall, in which direction was it pointing?

A. The butt of the bullet?

Q. Yes.

A. Was pointing at the direction of the doorway and towards the bedroom.

Q. The doorway enters from the kitchen to the bedroom?

A. The doorway that enters from the sitting room to the bedroom.

Q. They did not point towards the bar room?

A. No, sir.

Q. They did not point towards her bed?

A. In that direction.

Q. That is what I say.

10

Mr. Peacock: I offer this.

(Received and marked Exhibit S-16.)

Q. I show you another photograph, and ask you what does that photograph represent?

A. This photograph shows the doorway leading from the sitting room into the bedroom, the radio in the corner, and a chair there, being part of the sewing machine or sewing table.

20

Q. Is that the doorway you have just referred to, concerning the direction of these two bullets in S-16?

A. Yes.

Mr. Peacock: I offer that in evidence.

(Received and marked Exhibit S-17.)

Q. I show you another photograph and ask you what does that represent?

30

The Court: This is the last one?

Mr. Peacock: Yes.

A. This is a photograph of the store wall, the bullet hole,—

Q. Does that photograph indicate to you the direction in which it entered the wall, that you have referred to?

A. That's right.

Q. Is that in the direction of the door from the other room into the bedroom?

A. It is.

Mr. Peacock: I offer that in evidence.

(Received and marked Exhibit S-18.)

10 Q. You testified that you had talked to Mr. Danser, didn't you?

A. I did.

Q. Where did he tell you he was sitting that night?

A. Mr. Danser stated that he was sitting on the leather couch arguing with his wife.

By the Court:

Q. When did you talk to Mr. Danser?

20 A. After I had been in the place and made a slight examination of the room and buildings.

Q. Was that half an hour?

A. Approximately half an hour.

Q. I just wanted to know approximately the time, and it was right there, too?

A. Yes, right on his premises.

By Mr. Peacock:

30 Q. Where is that davenport with reference to the door which goes from the sitting room into her bedroom?

A. As you are standing in the store, looking through the doorway connecting the bedroom and the store, the leather couch would be to the left of the doorway.

Q. And how close is that to the doorway?

A. I would say it is almost right up to the edge of the door.

Q. Adjoins the door, doesn't it?

A. Yes.

Q. Did Coroner Cole arrive there that night?

A. Coroner Cole arrived there about, well, possibly 30 or 40 minutes after I did.

Q. Who arrived with him?

A. Shortly, very shortly after that, County Physician John S. Dunn, of Salem, arrived.

Q. What was done with the body when the Coroner and the County Physician arrived?

A. They examined it, looked at the wound and the 10 powder marks, and the nightgown, the body was then turned over on the right side, and the flashlight was then found at a position under the hips.

Q. Did you see a wound on the body of Mrs. Danser at that time?

A. I did, in the chest, on the left side.

Q. Can you show it on this photograph?

A. Yes, this black spot here is the powder burn on the nightgown.

Q. That was on the nightgown at the time you arrived 20 there?

A. Yes, sir.

Q. I ask you if this is the nightgown that was on the body of Mrs. Danser?

A. That was the nightgown, that was marked with my initials on the shoulder strap.

Q. Where is that bullet hole on the nightgown?

A. This is the bullet hole here, this being the bullet hole here, right here (indicating).

30

Mr. Peacock: I offer that in evidence.

Mr. Ware: This is in the same condition as found?

Mr. Peacock: The nightgown is in the same condition in which it was found, except that there are three test marks on there, that were made by the ballistic experts, which will be testified to by him, to prove that the gun that fired the shot which killed the woman was the same gun as the hole in the nightgown.

The Court: We will hold the offer in abeyance.

Q. What did you do with the nightgown?

A. The nightgown was removed by Coroner Cole, and it was turned over to me and given to Detective Ruggiero, and forwarded to headquarters for further examination.

Q. Did the Sheriff of the County arrive while you were there?

10 A. Yes.

Q. What time did he arrive?

A. The Sheriff arrived before Coroner Cole did.

Q. Was Mr. Danser's father there at any time?

A. Mr. Danser's father came there later on.

Q. In your presence did Mr. Danser's father have any conversation with Danser concerning the gun?

A. I don't recall him saying anything in the presence of Mr. Danser.

Q. You don't recall?

20 A. No, sir.

Q. Did he make any statement in the presence of Detective Ruggiero?

The Court: Who do you mean by "he"?

Mr. Peacock: The defendant.

Q. Did Mr. Danser, the defendant, make any statement concerning the gun in your presence and Ruggiero's
30 presence?

A. He stated the gun found at the left leg of Mrs. Danser was their property, it having been given to him by his father, Mr. Borden Danser, about six or seven years ago.

Q. That was the same gun that has been offered in evidence?

A. That was the same.

Q. It was shown to him by you that night?

A. Yes, he saw the gun.

Q. And who was present when he said that was the gun that Borden Danser, his father, had given him?

A. The only one I recall now was Detective Ruggiero.

By the Court:

Q. He is a trooper, too?

A. A trooper-detective, yes, sir.

By Mr. Peacock:

10

Q. Did he make any statement to you as to what he did that night immediately after the shots were fired?

A. When I arrived at the scene, and after looking the place over, and in talking to Mr. Danser, he stated that he had went to bed Tuesday evening at about nine-thirty. Later on he was awakened by someone prowling around the place.

Q. Did he tell you what time that was?

A. He said he thought it was about one o'clock.

20

Q. Proceed.

A. And that he came over, he was sleeping in one of the tourist cabins, and he came over to the house, and called to his wife, and asked her if there was anyone around. He then found out that there was a car that had run into the ditch there in the roadway, in the corner right opposite the store. Mr. Danser said he then went into the house, and sat on the leather couch, and he and his wife started arguing again over the accident he had had Tuesday afternoon with her car. He said after lying there and arguing for some time he decided to get up, and went through the doorway that goes to the bedroom to the store and go out to the frigidaire for a drink of water.

30

Q. Did he tell you which door he went through?

A. He told me he went through the doorway leading from the bedroom, connecting the bedroom and the store.

Q. Was it possible to get through the doorway into the store without walking on the body of Mrs. Danser, as he described to you?

A. He would have to step across it, it would be rather hard.

Q. Did the body take up the entire space in that opening entering from the bedroom to the store?

A. Yes, it did.

Q. What else did he tell you after he made that statement?

10 A. He said that he went, as he started through the doorway into the store he heard two shots fired, and he thought his wife was fooling, and he turned around and walked back through and lit the light.

Q. He came back through the store door, did he say?

A. He came back through the same doorway, and went to the far wall where the light switch was.

Q. Where were these lights located?

A. The lights in the room was the ceiling light.

Q. Where was the switch located?

A. The switch is in the wall that separates the sitting room and the bedroom.

20 Q. Then he would have to come back to the same position, from his statement to you, over the body of his wife again?

A. That's what I undertook he meant.

Q. He told you that?

A. That's what he told me.

Q. From your examination he would have to walk over the body of his wife?

A. Yes.

30 Q. No other way there, was there, from the condition of the room as you found it, and the condition of the body, is that correct, Trooper?

A. That's right.

Q. What did he say after he turned on the lights?

A. That he found his wife lying on the floor, and that he then went out and summoned Miss Frances Mattson, an employee, who was sleeping in another one of the cabins at the rear of the place.

Q. Was he shown the flashlight?

A. I don't know whether Mr. Danser—

Q. I mean by you.

By the Court:

Q. Did you show Mr. Danser the flashlight?

A. No, sir, did not.

By Mr. Peacock:

10

Q. Did you show him the oily rags you found with the gun?

A. He was there and saw me pick them up, the gun also.

Q. Did he give any explanation of those oily rags?

A. No, he didn't.

Q. Did you ask him anything concerning them?

A. No, I didn't, not at that time.

Q. Did you do anything else that night, Trooper, I mean that morning, rather, after the Sheriff and the Coroner and the doctor had arrived there, what was done? 20

A. Mr. Grier, the Prosecutor, and County Detective Emmor Robinson were called to the scene, they viewed it, and the body was then removed to Coroner Cole's morgue at Woodstown, and County Physician John S. Dunn performed an autopsy, and removed the bullet from Mrs. Danser's body.

Q. The body you saw in the Danser home, and the body upon which the autopsy was performed, was the body of Ada Danser? 30

A. Yes.

Q. You knew her personally?

A. Yes, sir.

Q. After you had completed your investigation in the house, did you see anyone outside the property, but situated on the property?

A. At the rear of the Danser property in the space between the garage—

Q. Point it out on that photograph.

A. In this space between the garage and the tourist homes there were a party of tourists by the name of Holien, who were touring this part of the country, and they had been camped there that night.

Q. Will you show me the cabin that Miss Mattson occupied?

A. I believe Miss Mattson occupied this middle single cabin here.

10 Q. Do you know which cabin Mr. Danser had occupied earlier in the evening?

A. Apparently this first one.

Q. How close to the house was the tent of the Holien's?

A. I should say within ten or twelve feet.

Q. How close was that to the bedroom in which Mrs. Danser was?

A. About the same distance.

Q. About ten feet?

20 A. Yes.

Q. After you had the conversation with Mr. Danser concerning going into the store, did you show him at that time it was impossible to pass the body?

A. No, sir.

Q. Did he later change his statement concerning going into that door?

30 A. Later on, when questioned by Detective Ruggiero and myself, he stated that perhaps he went around through the store, and into the sitting room and then to the bedroom, to the light switch.

Q. How long was it after he made that statement that he made the first statement going in through the store past the body?

A. Possibly five or six hours, maybe longer than that.

Q. You say he related to you also a story about kneeling beside the body, is that correct, or did you make that statement?

A. No, sir.

Mr. Peacock: You may cross-examine.

(A this point a recess of five minutes was taken.)

(After recess.)

LEROY DITZEL, resumed.

The Court: Are there any more questions you desire
to ask him? 10

Mr. Peacock: That is all. Cross-examine.

Cross-examination.

By Mr. Ware:

Q. Trooper, you are stationed where? 20

A. In Woodstown.

Q. And at this particular job?

A. Yes.

Q. That was in the month of June, wasn't it?

A. Yes, sir.

Q. About the fifth?

A. June 5, 1935.

Q. And the telephone message you received was from
whom?

A. From Miss Frances Mattson. 30

Q. And did she describe it was sent by direction of
Mr. Danser?

A. I don't know. Miss Mattson stated that Ada Danser had been shot and for us to come over.

Q. What time of the morning was this?

A. Approximately 4:14.

Q. 4:14?

A. Yes, sir.

Q. Not daylight?

A. No, sir.

Q. That is, 4:14 Daylight Time?

A. Daylight Time, yes, sir.

Q. But not as a fact, no daylight?

A. No daylight.

Q. What was the first place you went to?

A. When I arrived at the scene?

Q. Yes.

10 A. After getting out of my car in front of the Danser place, I was met there by Mr. Danser and Miss Mattson. Mr. Danser stated that Ada had shot and killed herself. I immediately walked through the store to the door leading from the store into the sitting room and from the sitting room into the bedroom.

Q. When you first saw the body of Mrs. Danser, what was its posture?

A. It was on the flat of the back.

Q. On the flat of her back?

A. Yes, and left leg being well bent.

20 Q. You have no picture, do you?

A. Yes, sir, we do.

Q. Which describes exactly how she was lying when you first observed her?

A. Yes, sir, this picture here marked Exhibit S-4, I believe.

The Court: There is only the one picture with the body and that one shows part of it.

30 Q. Does that picture show she is lying on her back?

A. Yes, sir.

Q. That is rather diagonally, isn't it?

A. The body lying flat on the back, the left leg well bent. The left leg well bent, the left foot under the right leg at about the knee, the arm extended like that (indicating on photograph) and this arm here was slightly bent, the head towards the left.

Q. And this circular object which you described as a protective measure from beer stains, didn't you?

A. That is what they use to place beer glasses on.

Q. That was not lying on the floor?

A. No, sir, that's the position the gun was lying in.

Q. These are rags (indicating)

A. Yes, sir.

Q. The gun was lying there?

A. Yes, sir.

Q. You picked up the gun?

A. Yes, sir.

Q. And in its place you placed this beer protector? 10

A. Yes, sir.

Q. Who took this photograph?

A. These photographs were taken by Trooper Camp.

Q. Trooper Camp?

A. Yes, sir.

Q. At what time?

A. I should say between seven and eight, sometime around there.

Q. That same morning?

A. Yes, sir.

20

Q. And were these the first-run of photographs?

A. Yes, sir.

Q. You did not make a smaller photograph first?

A. I suppose a smaller one. That's an enlarged one.

Q. This is an enlarged one of the smaller one?

A. Yes, sir.

Q. That is what I mean. Then it is not first-run?

A. No, it could not be the first-run.

Q. This is a photograph made from a smaller one, that is right, isn't it? 30

A. I believe so.

Q. Have they been compared?

A. I cannot answer that.

The Court: Take your seat, trooper.

The Witness: In the photographing, I do not know that.

Q. You admit this was an enlarged one?

The Court: They furnished me with the smaller ones.

Q. You said in the course of your testimony that Mrs. Danser's body was rolled on her right side, is that right?

A. That is right, yes, sir.

Q. And if that was done, it would bring it away from the insignia on the floor as well as away from the location of the couch?

A. That is right.

10 Q. And that was done?

A. Yes, sir, that was done.

Q. And what time was that done?

A. I should say possibly somewhere around 8 o'clock or sometime around that time.

Q. And that was before the photographs or subsequent to the making of the photographs?

A. About, well, directly afterward.

Q. What was the purpose of rolling the body away?

A. That was the examination of Coroner Cole.

20 Q. As soon as you arrived there, you say you met Mr. Danser?

A. Yes, sir.

Q. And he told you that Ada had shot herself?

A. That is right.

Q. And did you ask him for details?

A. Shortly after I had been there, after looking over the scene, I talked to Mr. Danser.

Q. What else did he tell you?

30 A. Told me that he had been sleeping in the cabin that evening and how he heard this noise outside and he came over to the house and asked his wife if there was anyone around and how he learned of this car being in the ditch, and then of his going inside and sitting on the couch and they started arguing over this automobile accident that she had had, rather that he had had.

Q. In the course of that conversation, this same conversation, did he tell you that he was going through the door leading to the store room when he first heard the shots?

A. He was going through the doorway from the bedroom into the store when he heard two shots.

Q. He heard two shots?

A. That is right.

Q. Did he describe to you where he went then?

A. Well, I don't know as he did.

Q. Did you ask him?

A. He just said that he heard two shots.

Q. And did he say that they were in the building?

A. I presume that is what he meant.

10

Q. Did he say these shots were behind him?

A. He heard two shots was all that he said.

Q. Didn't he say that he saw the reflection of the explosion?

A. He said he thought he saw some flashes.

Q. And he came back, didn't he?

A. That is right.

Q. And he came back through the same door?

A. That is right.

Q. And you say that somewhat later in the course of your examination, I think you described it as a matter of hours, he said that possibly he was mistaken?

A. Yes, sir.

Q. That he might have gone through the other door?

A. That is right.

Q. And did he say at the same time that when he said he might have gone through the other door he still believed he went through the same door that he first described as the aperture through which he went?

A. He was rather confused. He was not certain as to which way he went back and lit the light switch.

30

Q. That was characteristic, wasn't it, of his narrative, more or less confusion?

A. Well, I presume the man was in a worked-up condition.

Q. You were not surprised at that, were you?

A. No, sir.

Q. Don't you remember that he said he was not certain?

A. He said he was not sure as to which doorway he went through.

Q. And you say this room, described as a sleeping room—

A. Yes.

Q. Was well clogged up with furniture, wasn't it?

A. That is right.

Q. And this lady was lying on her back on the floor?

A. That is right.

10 Q. And did you or did anyone in your presence examine the body while it was lying on the floor?

A. Mr. Cole, coroner there at Woodstown, looked it over. I believe he made a slight examination of the bullet wound, and on the arrival of Dr. Dunn he also made a slight examination.

Q. And you also made one?

A. Yes, sir.

Q. You naturally made one to find out if there was life there?

20 A. I did, I felt the body.

Q. What did you do to that end, to determine whether life was extinct?

A. I felt the body, it was sort of warm, and I felt for any breathing, any breathing of any type.

Q. Was the body warm?

A. Yes, sir.

Q. The body was quite warm? Do you know anything about the signs of death? Do you know anything about the signs of death, from your experience?

30 A. Well, other than there were no heartbeat, there was no pulse or no breathing.

Q. Are you acquainted with a situation described as rigor mortis?

A. Yes, sir.

Q. What is that, if you know?

A. Rigor mortis is the stiffening of the body.

Q. Had that taken place?

A. I don't believe it had, no, sir.

Q. You do not think it had?

A. No, sir.

Q. You say the body was quite warm?

A. Yes, sir.

Q. And did you feel the parts of the body?

A. I did. I felt on the chest and on the nose, for breathing, and on the hand.

Q. And you described the time as something about half past four? Will you describe that time as half past four?

A. No, I don't believe I got there until about twenty minutes to five. It is about nine minutes from the station to Danser's corner. 10

Q. And between the time that you received the message to come there until the time of your arrival occupied how much time would you say, approximately?

A. I should say possibly twenty-five minutes.

Q. And the message then would have been received about a quarter to five or rather a quarter after four, wouldn't it?

A. Yes, sir 4:14. 20

Q. And did the message that you received describe the tragedy as having taken place about that time?

A. No, the message was that Mrs. Danser had shot herself or Mrs. Danser had been shot.

Q. It was not indicative as to time?

A. No, sir, there was no mention of time or when.

Q. Now, the room in which her body was lying, does that have windows?

A. Yes, sir, there are three windows in that room. 30

Q. Were the windows up?

A. I don't know whether the windows were up or not. The shades on all but one of the windows were drawn.

Q. Well, the weather at that time of year is rather warm, isn't it?

A. That is right, yes sir.

Q. The presumption would be it would be up, wouldn't it?

Mr. Peacock: I object to the presumption.

A. I would not say whether it was or not.

The Court: Well, it was June. We have cool nights.

Q. We do. We have all kinds of weather, but did you notice whether the windows were up in the store?

A. The store front was closed.

10 Q. They were all closed?

A. Yes, sir.

Q. The windows in the sitting room and the kitchen closed as well?

A. I believe they were.

Q. All closed?

A. I believe they were, yes, sir.

Q. All windows were closed, leaving the room where the body was found in an uncertain state, whether they were closed or not?

20 A. That is right, I am not certain about that.

Q. No, I do not think you are and this you say was the nightgown with which this body was clothed?

A. Yes, sir.

Q. This was the only garment the lady had on?

A. That was the only garment.

Q. And this you describe (indicating) as the entrance of the bullet hole, don't you?

A. Yes, sir.

30 Q. What is that mark in the vicinity of that bullet hole?

A. Around the vicinity is a powder burn and blood-stain.

Q. Is that what you call a smudge?

A. Powder burn?

Q. Yes.

A. It could be classed as a smudge, yes, sir.

Q. And what is that due to?

A. That was due to the powder from the fired bullet.

Q. What is that? You are a person who has had ex-

perience with firearms, revolvers and pistols? A powder burn is indicative as to what, as to the position where the revolver was exploded at the time?

The Court: If you know.

Mr. Ware: Sure, if he knows.

A. Will you read that?

10

(Question repeated.)

Mr. Peacock: I object. That is an answer to a question. You are answering it for him.

Mr. Ware: I said what——

The Court: I understand what Judge Ware wants to know but I did not follow the question.

20

Mr. Peacock: I know what he wants to know but he does not ask it.

Mr. Ware: I will reframe it.

The Court: I think it ought to be reframed.

Q. How far would you say, witness, the revolver was held at the time it was exploded, the discharge of which is represented by that hole?

30

The Court: If he can tell as represented by that hole and powder mark.

A. That would be rather hard to tell with that type of bullet. I should say it would be rather close, with a .32 calibre bullet.

Q. A .32 bullet exploded would indicate to your mind that it was held rather close to the object which it hit?

A. Under those conditions there, yes, sir.

Q. And when you say rather close, when you express it rather close, could you give me some idea in feet or inches?

A. Possibly five or six inches, not right against it.

Q. Possibly five or six inches away?

A. I would say so, yes, sir.

Q. At the time of the explosion? And what about the body itself, did you notice any marks on the bosom
10 of the dead woman?

A. There was some bloodstains, also a slight amount of powder burn.

Q. And a slight amount of powder burn?

A. That's it.

By the Court:

Q. At the same place?

A. Yes, sir, right directly underneath that.
20

By Mr. Ware:

Q. Those burns upon the body, powder burns upon the body, in the vicinity of the hole, I guess that wound was produced by the bullet?

A. Yes, sir.

Q. Would they indicate how far away the weapon was held at the time of its discharge?

A. It would all represent that it was rather close.
30

The Court: They indicate the same thing, I take it.

Mr. Ware: I am grouping it.

Q. The empty shells——

The Court: They are in one of those envelopes.

Q. I think they are marked Exhibit S-14. You might look at them. They were found where?

A. These shells were in that gun.

Q. Pardon me. They were in the gun?

A. These shells were in that gun.

Q. And not on the floor?

A. No, sir.

Q. Naturally the two shells that are produced here were taken from out of the gun as well?

A. Yes, sir, that's a five-shot gun.

Q. As a matter of fact, the revolver found on the floor was a revolver which is described with three of its 10 chambers exploded?

A. Yes, sir.

Q. And two full?

A. Yes, sir.

Q. The empty shells remaining in the chamber of the gun?

A. Yes, sir.

Q. Picked up that way?

By the Court:

20

Q. From this photograph that would be at her left hand, wouldn't it, that gun?

A. That is right, the barrel towards the head, the butt towards the feet.

Q. But it would be at her left hand?

A. Left hand.

By Mr. Ware:

30

Q. That is the posture of the gun on the floor?

A. That is right.

Q. This revolver was sent to your expert?

A. Yes, sir.

Q. Your fingerprint expert?

A. Fingerprint and ballistics.

Q. What?

A. Fingerprint and ballistics.

Q. You are not a ballistic expert, are you?

A. No, sir, that deals with something else.

Q. Well, that deals with firearms, doesn't it?

A. Yes, sir.

Q. And shots?

A. I mean the shootings and markings of a bullet.

Q. Didn't you say you made some study on it? Didn't you attempt to qualify a while ago?

A. To the extent that I am familiar with firearms, yes, sir.

10 Q. Did you ever read a book on the subject?

A. Some, yes, sir.

Q. What work did you read?

A. I don't recall. It was given to us in the course of our——

Q. You do not know the name?

A. No, sir.

Q. And you took this garment and you sort of experimented with it, didn't you?

A. No, sir, I did not.

20 Q. Did someone else?

A. I believe they did, yes, sir.

Q. Was that shipped away the same as the others?

A. All the articles were turned over to our headquarters at Hammonton.

Q. Taken from there or sent?

A. I beg pardon?

Q. Taken from there or sent?

A. They were turned over to Detective Ruggiero and after that I know no further.

30 Q. Turned over to Detective Ruggiero?

A. And after that I had no further dealings with them.

Q. Now, you had an inquest that night, didn't you?

A. Yes, sir.

Q. And the first witness called that night was Mr. Danser, wasn't he?

A. Well, I don't remember.

Q. You were present, were you not?

A. Yes, sir, I was present.

Q. Did he make any objection to testifying?

A. No, sir, he did not. I recall he testified and he made no objection to testifying.

Q. And who conducted the examination?

A. Prosecutor Grier was present and also the Coroner was present with questioning.

Q. Questioned by the Prosecutor, wasn't he?

A. Some, yes.

Q. The Prosecutor in fact conducted the whole examination, didn't he, the whole inquest?

10

A. Decided by the Coroner.

Q. Did this man have counsel at the hearing?

A. No, sir.

Mr. Peacock: Objected to.

Mr. Ware: I will withdraw it.

By the Court:

20

Q. What time did this take place?

A. The inquest?

Q. Yes.

A. I believe it was held at seven-thirty the same evening, June 5th.

Q. Seven-thirty that evening?

A. Yes.

Q. That's about eighteen hours had elapsed?

A. Yes.

Q. Whereabouts did it take place?

30

A. At Woodstown, Woodstown Borough Hall.

By Mr. Ware:

Q. Do you know whether or not Mr. Danser was in custody at that time, had he been placed under arrest?

A. No, sir.

Q. He was not under arrest?

A. No, sir.

Q. Was he subpoenaed?

A. Beg pardon?

Q. Was he subpoenaed to attend the inquest?

A. He was being held under suspicion at the time, but he was there.

Q. You know he wasn't under arrest, but he was held under suspicion?

A. That's right, for investigation.

Q. Won't you differentiate between the meaning of
10 the two?

The Court: If he can.

Mr. Ware: Yes, I don't know myself.

The Court: I don't believe he knows.

A. By that I mean to say he was held for investigation.

20

By the Court:

Q. He was under surveillance, not under arrest?

A. No, he was not under arrest.

By Mr. Ware:

Q. Wasn't he under arrest?

A. He wasn't, no, you say under arrest?

Q. He wasn't, you say, but he was physically restrained,
30 ed, you had him in charge, didn't you?

A. Detective Ruggiero and myself, yes, sir.

Q. You had him in charge?

A. Yes.

Q. Then he was under arrest?

A. No, I would not say so.

By the Court:

Q. Technically, if a man is deprived of his liberty, if

he can't go away of his own free will, by that we mean he was under arrest?

A. Yes.

By Mr. Ware:

Q. You would not let him get away, would you?

A. No, sir.

Q. Did you notice a chifforobe in the bedroom that morning? 10

A. Yes, there was one in the corner of the bedroom.

Q. Had it the ordinary drawers of a chifforobe?

A. There were a number of drawers in it.

Q. Were any of them open?

A. No, sir, I don't recall seeing any open.

Q. You don't recall any of them being open?

A. No, sir.

Q. You said this body was turned over to Trooper Camp for fingerprints, is that right?

A. The body was turned over? 20

Q. Yes.

A. No, sir.

Q. What purpose was it turned over for?

A. Nobody was turned over, the body was turned over in the examination by Coroner Cole and Dr. Dunn. When it was turned over on its right side they were just examining the body.

Q. Was Camp there?

A. Trooper Camp was there, yes, sir.

Q. You say in a conversation had with Danser he described the revolver as their property? 30

A. That's right.

Q. Their property, and given to him by Borden Danser?

A. That's right.

Q. Are you positive he used the word "their"?

A. No, he may have said "us", I am not sure, but it was given to them by their father, that is, Mr. Danser's father.

Q. Your understanding was that the revolver was the property of himself and his wife?

A. Yes.

Q. That's what you took it to mean?

A. That's right.

Q. Two persons, he didn't undertake to say that it was exclusively his property, did he?

A. No, sir.

Q. Did he say it was turned over by Borden Danser?

10 A. He stated it was given to them by Mr. Danser for protection in the event of holdup, or——

Q. Did he say when it was given?

A. Six or seven years previous.

Q. Did you examine the revolver as to its condition?

A. The revolver at the time was well oiled.

Q. Well oiled?

A. Yes, sir.

Q. Was there anything else noticeable about it?

A. Nothing else that I can recall.

20 Q. It's a 32?

A. 32 calibre.

Q. And an Ivor-Johnson make?

A. Yes.

Q. Is that make, or do they make those kind of revolvers now?

A. Yes, sir.

Q. Ivor-Johnson?

A. Yes, sir.

30 By Mr. Peacock:

Q. Officer, will you take the gun and show the jury exactly how it laid, which way the barrel was pointed, and everything?

A. The gun laid in this corner.

Q. Is that correct, so that the Court can see it?

A. As near as it can be placed, yes.

Q. Did you investigate, or in your investigation find out whether Mrs. Danser was right or left handed?

A. I believe Mrs. Danser was right handed.

Mr. Peacock: That's all.

By Mr. Ware:

Q. You say you believe she was right handed?

A. Yes, sir.

Q. What is the source of your belief?

A. I have seen her write several times, and as I recall 10
she——

Q. You are giving your recollection?

A. I recall seeing her write.

Q. You are giving your recollection as to seeing her
write?

A. Yes, sir.

Q. As a basis for your answer that you believe she
was right handed?

A. Yes, sir.

20

By the Court:

Q. Judge Ware wants to know whether it's your
recollection, or are you merely hazarding a guess?

A. No, I really believe she was right handed, I recall
seeing her write.

By Mr. Ware:

Q. An order was given to you to make an ascertain-
ment as to whether she was right or left handed, you 30
heard that question?

A. Yes, sir.

Q. And did you, as a matter of fact, make such an
ascertainment?

A. The only thing I can say I believe she was right
handed.

By the Court:

Q. The question now is from Judge Ware whether or

not you checked up, or were you requested to make a check-up to find out whether she was right or left handed?

A. No, sir.

By Mr. Ware:

Q. Why not?

A. Well——

10 Q. Pardon me?

A. I just didn't.

Q. You know such an order was given to you, don't you, to make a check?

A. To make what check?

Mr. Peacock: I object to that, there is no such evidence in this case.

Mr. Ware: Your question presupposes that.

20

The Court: The question is whether or not you were ordered to check up and ascertain whether this woman was left handed. Your objection is overruled, I will allow the question to be answered.

Mr. Ware: May I have the last question of Mr. Peacock's read to me?

30 The Court: I am allowing your question to be answered, and overruled the objection. Will you repeat the question?

(Question repeated.)

A. No, I was not given any order.

Mr. Ware: May I now have the question of Mr. Peacock read to me?

(Question repeated.)

By Mr. Ware :

Q. You didn't make any investigation?

A. As to what?

Q. To find out whether the dead woman was right handed or left handed?

A. No, sir.

Q. And the reason you didn't make an investigation, you say you already relied on your memory that she was right handed?

10

A. That's right.

The Court: And further he wasn't given any order to.

Mr. Ware: That's all.

Mr. Peacock: That's all.

20

HARRY P. DAVIS, sworn.

By Mr. Peacock :

Q. Where do you live?

A. Swedesboro.

Q. Is Ada Danser your sister?

A. Yes.

Q. How old was she?

30

A. She's 52.

Q. Was she right handed or left handed?

A. Right.

Mr. Peacock: Cross-examine.

Mr. Ware: No questions.

The Court: That's all, Mr. Davis.

(At this point a recess was taken for luncheon until two o'clock P. M.)

Trial of the case resumed at 2 o'clock P. M., pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.

JOSEPH A. CAMP, sworn.

10

By Mr. Peacock:

Q. You are a member of the New Jersey State Police, Trooper?

A. Yes, sir.

Q. And were you detailed in the investigation of the Danser case?

A. Yes, sir.

Q. And when did you arrive there?

20

A. About 9:10 A. M.

Q. And who was present at the time you arrived there?

A. Detective Ruggiero, Trooper Ditzel and a couple of township officers.

Q. Was anything delivered to you by Detective Ruggiero?

A. He gave me a gun, a .32 calibre Iver Johnson gun, and a flashlight.

Q. Exhibit S-5A, was that delivered to you?

A. Yes, sir.

30

Q. And Exhibit S-15, the flashlight?

A. Yes, sir.

Q. What else did he deliver to you?

A. This gun contained three empty shells and two unfired cartridges.

Q. And Exhibit S-11 and 14 containing three empties?

A. These are the two bullets taken from the walls.

Q. And S-14, the three that had been fired?

A. Yes, sir.

Q. Taking the gun and the empty cartridges and the bullets, what did you do with them?

A. I brought them down to headquarters in Hammon-ton. That was on the morning of the fifth. I locked them in the identification cabinet and I took them to Tren-ton on the 8th, I believe it was, on Saturday, and I took them to Mr. Mathews, of the State Bureau.

Q. Were they delivered to Captain Jones, the ballistic expert?

A. By Mr. Mathews.

10

Q. What did you do with the flashlight?

A. The flashlight I checked over for fingerprints and the gun also I checked over for fingerprints.

Q. You are the fingerprint man of the department?

A. Yes, sir.

Q. Did you or did you not find any fingerprints on the gun?

A. No, sir.

Q. Did you find any fingerprints on the flashlight?

A. No fingerprints of any value were on the flashlight. They were what we call smudges.

20

Q. Will you distinguish to the jury the difference between fingerprints and smudges?

A. A fingerprint is where you lay a finger on an object and by raising your finger up you leave distinct ridges and that is brought out by a certain powder. If you put your finger on an object and slide it, you will have what we call a smudge and one, two or three ridges and the rest would be a smudge.

Q. Where a finger moves along an object, you cannot get a distinct fingerprint?

30

A. You cannot. You could tell one has been there.

Q. It just shows a smudge?

A. Yes, sir.

Q. Did you see Exhibits S-7 and S-6, the oily rags?

A. I saw S-6.

Q. And what condition was it in at the time you saw it?

A. Practically the way it is now, only it had a little oil on it, it was oily.

Q. Damp with oil, wasn't it?

A. Yes, sir.

Q. When you made the examination of the gun, was there any oil on the gun?

A. Yes, sir, this gun was oily, with no prints whatsoever on it, no smudges.

Q. The same character of oil on the gun that was on
10 the rag?

A. I could not say it was the same character. It was a light oil that was a film of oil over the gun.

Q. Had there been fingerprints on that gun, could they have been removed by this oily rag?

A. Yes, sir.

Q. And had there been fingerprints on the flashlight, could they have been removed by the oily rag?

A. They could, yes, sir.

Q. Did you see this nightgown?

20 A. Yes, sir.

Q. Did you take that with you?

A. Yes, sir, that was given to me later on in the day by Detective Ruggiero.

Q. Was that delivered to Captain Jones of New York?

A. By Mr. Mathews.

Q. And what else did you take with you that day?

A. I took what we call the fatal bullet, the bullet removed from the body of Mrs. Danser.

Q. From whom did you get that bullet.

30 A. Detective Ruggiero.

Q. I show you bullet marked "removed from the body of Ada Danser by Dr. Dunn," and I ask you if that was the bullet taken from her body and delivered to you?

A. Yes, sir.

Q. To whom did you deliver that bullet?

A. Mr. Mathews, of the State Bureau.

Q. Did you do anything else that day, Trooper?

A. I photographed the scene in this bedroom, the position of the body, the bullet holes in the wall and also

the surrounding conditions outside.

Q. I call your attention to eight photographs which have been offered in evidence and ask you if they are photographs you took?

A. Yes, sir.

Q. They were enlargements, were they not?

A. Yes, sir.

Q. And they correctly depict the scene as you saw it there that day?

A. Yes, sir.

10

Q. And they are correct pictures, are they not?

A. Yes, sir.

Q. Did you do anything else?

A. Detective Ruggiero and myself, we placed an ice pick in the holes in the wall left by the bullets as we sighted——

Q. Now take those picks in the holes, why did you do that?

A. To get the angle from which the gun was fired.

Q. Now, you know there are two doors in that bedroom, do you not? 20

A. Yes, sir.

Q. One goes into the store part and one into the sitting room?

A. Yes, sir.

Q. How long have you been with the department?

A. Going on ten years.

Q. And studied firearms during that time?

A. Yes, sir.

Q. You studied also fingerprinting? 30

A. Yes, sir.

Q. From your examination of those two bullet holes, in what direction would you say the person stood that fired the shots?

A. The person that fired those two shots stood towards the door leading from the dining room into the bedroom. The shots were fired in that direction, into the walls at a downward angle.

Q. I call your attention to Exhibit S-5, the bed of Mrs.

Danser. Now, was this bed anywhere near the door that goes from the bedroom into the sitting room?

A. No, sir, it is on the opposite side of the wall.

Q. Could a person lying on this bed fire the two shots that entered at the place of S-8 and S-10?

A. No, sir.

Q. They could not?

A. Absolutely not.

10 Mr. Peacock: Cross-examine.

Cross-examination.

By Mr. Ware:

Q. What do you call the dining room, Trooper?

A. I call the dining room the one behind——

Q. Will you point it out?

A. Yes, sir, this room in here, that is what I call the dining room. This is the bed room and this is the
20 dining room back here (indicating on photograph).

Q. When you speak of bullet holes, you mean the bullet hole that appears in S-8?

A. That's one of them, yes, sir.

Q. What is the mark— There is nothing appears on the face of that exhibit?

Mr. Grier: I think some of the remarks are on the back.

The Court: Yes. I think at the first opportunity they
30 ought to be taken down and marked on the front in big enough letters.

A. Exhibit S-16.

Q. Well, the marks in Exhibit S-16 and Exhibit S-8 are the bullet holes that you referred to as having had to have been discharged by a weapon from the dining room into the bedroom?

A. No, I did not say in the dining room. I said in the direction of the dining room door.

Q. Well, in the direction of the dining room door?

A. Yes, sir.

Q. And the dining room door is on the opposite side of the bedroom, isn't it?

A. Yes, sir.

Q. What you are attempting to show is that they could not have been fired from the store, they could not have been fired from the bedroom because of the lack of that direction that you describe, don't you?

A. That is right, yes, sir.

10

Q. But the bedroom is on the line with the dining room, isn't it, it is in the same part of the house?

A. Direct line, yes, sir.

Q. And the size of those rooms is quite small, are they not?

A. I think the bedroom is eleven by ten. I will make sure of that.

Q. Yes, look at it and make sure.

A. It is eleven foot ten inches running parallel with the couch and it was nine feet nine inches running in the opposite direction.

20

Q. So that a person standing in the bedroom, with his arm extended, holding a revolver, would comprehend so far as the space is concerned there quite a considerable portion of it, wouldn't he?

A. If he stood in the doorway he could take up a certain section of it.

Q. Yes, he would be in the direction of that dining room, wouldn't he?

A. Well, according to where the person stood.

30

Q. Yes, exactly, but he could stand in the dining room or he could stand in the bedroom and somewhere in the vicinity of the door leading into the dining room, with his arm extended, and that would have the same effect, wouldn't it, as to where the shot was found, as though he had actually stood in the dining room, or don't I make myself plain to you?

A. I understand the first part of your question, Mr. Ware. I do not get the last part.

Q. I am assuming somebody is standing in the bedroom, and the bedroom, you describe that small area it has got, with his arm extended, holding a revolver, and if that was fired the marks or the lodging of those shots would be as much indicative as if the shot was discharged in the dining room, as though it had been done in the bedroom?

A. It would change the angle of the bullet.

Q. Pardon me?

10 A. It would change the angle of the bullet.

Q. How much change?

A. Well, if a man stood in the dining room and fired, the bullet would have a more gradual slope, for the closer to that wall he stood the more downward path it would take.

Q. How much in round numbers?

A. Well, it is according to the height of the person that fires the gun. If you move up a couple of feet, say two feet from the door, it would probably change that
20 gun maybe by three or four inches, the position of that bullet.

Q. There is no certainty, there is no such thing as absolute certainty in determining positions where a person stood and the lodgment of a shot discharged by a weapon, is there?

A. Well, it is not a certainty. I am not an expert on that certainty where the person stood. The height has something to do with the angle of the bullet, the height of the person.

30 Q. Right, as well as the position the gun was held in, wouldn't that have something to do with it?

A. That is correct, yes, sir.

Q. And there is apt to be all kinds of matter at the moment in the holding of it?

A. Yes, that is right.

Q. You have studied books on ballistics, haven't you?

A. No, sir, I have not.

Q. You have had experience, haven't you?

A. Yes, sir.

Q. And what you have been testifying to-day has been the result of those experiences you had?

A. Yes, sir.

Q. And you say you never checked them up with any books?

A. No, sir.

Q. Did you check them up with any authorities on the subject?

A. I have talked to different men who are authorities 10
on firearms.

Q. And as a result of your check-up and talking with these men, you found that your experiments were all right?

A. I did not check back against my own experiments. I have talked with them and tried to compare them together, to see if they were right.

Q. Your purpose in acquiring the various items there such as the gun itself and the bullets discharged and undischarged, shells and undischarged ones and the flash- 20
light, was for what purpose?

A. To bring out prints on the gun and flashlight, if possible.

Q. We will take the gun. So far as the gun is concerned, you were to determine that yourself, that was the end of that endeavor, wasn't it?

A. Yes, sir.

Q. Your report was final and your report on the gun was that it had no fingerprints on it?

A. That is correct, yes, sir.

30

Q. And what you said likewise about this rag could have wiped them off would apply to any rag, wouldn't it?

A. Yes, sir, that is right.

Q. And if the gun was held wrapped in a rag by the person who discharged it, you would not have any fingerprints, would you?

A. If it was handled before that, it would.

Q. Pardon?

A. If it was handled before the time of the shooting, it would have prints on it.

Q. I am aware of that but I am assuming a person picked up a gun that was partly wrapped in a rag, as the handle part and then discharged it, there would be no fingerprints made by that person?

A. Not by that person, no, sir.

Q. They would not show?

A. No, sir.

10 Q. So the result of the gun was nil, so far as fingerprints were concerned?

A. That is right.

Q. Now, you took the flashlight and you were to determine whether or not it contained fingerprints?

A. Yes, sir.

Q. If fingerprints had been made upon the flashlight, would they not or could they not be depicted or deciphered or whatever the term would be?

A. There were prints on there but they were smudged.

20 Q. Well, a smudge is—

A. Obliterated, the ridges were obliterated.

Q. A smudge can be an intentional smudge and an unintentional one?

A. That is right, yes, sir.

Q. A person grabbing the searchlight or any other object and holding it carelessly, he would make a smudge, wouldn't he?

A. If his fingers slip on this object, it would make a smudge.

30 Q. If a person should take up a flashlight or any other object and after making a fingerprint should deliberately smear the same by his hands or fingers, that in turn would be a smudge, wouldn't it?

A. That is right, yes, sir.

Q. Yes, that describes it. Now, that disposes of the gun and the flashlight. The bullets were sent or given to this gentleman Mathews?

A. Mr. Mathews, yes, sir.

Q. He is connected with your organization?

A. Yes, sir.

Q. What is his job or official position?

A. He is a firearm man in the State Bureau.

Q. Firearm?

A. Yes, sir.

Q. That is the extent of your testimony, is it, you have no knowledge yourself about these bullets, have you?

A. No, sir; other than I turned them over. 10

Mr. Ware: That is all.

ALFRED MATTHEWS, SWORN.

By Mr. Peacock:

Q. Mr. Matthews, what is your business? 20

A. I am employed in the firearm section of the State Bureau of Identification in Trenton.

Q. Do you know Trooper Camp?

A. Sir.

Q. Do you know Trooper Camp who was just on the stand?

A. Yes, sir.

Q. And did he deliver to you certain bullets and guns which have been presented and flashlights?

A. They delivered to me this gun and three bullets and 30 also three empty shells I believe but no flashlight.

Q. And did he deliver also to you the bullets that had been taken from Mrs. Danser's body?

A. He did.

Q. And these two loaded shells?

A. Yes, sir.

Q. And the three empties?

A. Yes, sir.

Q. And what did you do with them?

A. Upon orders from my superior officer, I took them to Captain Jones, in New York City, on the 10th of last June.

Q. Did you also have the nightgown?

A. Yes, sir.

Q. I show you the nightgown and ask you if that is the nightgown?

A. Yes, sir, it is.

Q. Did you deliver that also to Captain Jones?

10 A. Yes, sir.

Mr. Peacock: Cross-examine.

Mr. Ware: No questions.

No cross-examination.

20 CAPTAIN WILLIAM A. JONES, SWORN.

By Mr. Peacock:

Q. Your full name is Captain William A. Jones?

A. Yes, sir.

Q. Where do you live?

A. 329 East 201st Street, New York City.

Q. What is your business?

A. Firearms expert.

30 Q. How long have you been a firearms expert?

A. Since 1895.

Q. What other business have you been engaged in?

A. I was a member of the New York Police Department for thirty-two years.

Q. While you were connected with the New York Police Department did you specialize in any subject?

A. I did.

Q. Will you explain what your duties were in connection with the subject you specialized in?

A. When Theodore Roosevelt was police commissioner, he organized a school for pistol practice for the New York Police Department and I was picked as the instructor. In that work I reloaded the cartridges used in the school.

The Court: Keep your voice up.

Q. A little louder.

A. We swept up the lead and remolded it and we used the same shells over and over all the time. All we had to buy was the primers and the powder. 10

Q. How long were you in charge of that school?

A. From 1895 until 1911.

Q. During that time how many men did you instruct?

A. We had a force of over ten thousand to instruct.

Q. And during that time were you consulted by District Attorneys?

A. Yes, sir.

Q. In murder cases?

A. Yes, sir, soon after I was assigned the District Attorney began calling me to consult with me on firearms cases. 20

Q. And were you assigned to the Homicide Bureau of the New York Police Department?

A. Yes, sir.

Q. How long were you with them?

A. I went there in—I was assigned to it in 1908, along with my duties as instructor.

Q. And since that time you have been connected with that department? 30

A. Yes, sir.

Q. And did you investigate homicide cases, attend autopsies and things like that?

A. Yes, sir.

Q. How many do you suppose in your time?

A. Well, that would be a great many.

Q. Thousands?

A. Oh, yes, more than that.

Q. Did you make a special study of powder stains on

bodies and clothes and the markings of bullets on shells?

A. Yes, sir, when I went to the scene of a shooting, I got any evidence together and I generally made tests for results that I found, such as powder stains on the body or clothing or markings on the bullets or shells caused by some condition of the gun used.

Q. Now, Captain, what methods do you use in examining and comparing bullets or shells to determine whether they were in any way connected with any firearm used or suspected of being used in a shooting?

10 A. I use a comparison microscope. I fire test shots from the gun and then they are placed in the microscope. The microscope is two separate microscopes tied together with comparison eye-pieces. The images of the two bullets are set six and a quarter inches apart under the microscope. The comparison eye-piece is placed on the top and the image passes up through one microscope to the center eye-piece in it, from each side, so that you see the rear half of one and the front half of the other. There is a
20 gear machine that holds the bullet and they revolve independently. Just as soon as we fuse the rifling marks of the bullets it shows, the microscope instantly shows whether they are the same width and twist, and then by rotating them any marks left on them by any condition of the gun, such as rust or the condition of the barrel rifled by the machinery that cut it, those are matched and show on the microscope. It will show if they are there and it will show if they are not there, it will show.

Q. From your experience and from that work that you
30 have just related, can you or not tell whether a bullet has been fired from a certain gun or not?

A. I can. That is, I do not know in all cases. If a bullet is not injured too badly, if you have the true rifling marks, it will show.

Q. I show you Exhibit S-5A and ask if that was delivered to you by Mr. Mathews of the New Jersey Police Department?

A. Yes, sir.

Q. I show you two loaded bullets, S-13, and ask you if they were delivered to you by Mr. Mathews of the New

Jersey Police Department?

A. Yes, sir.

Q. I show you two slugs of bullets and ask you—they are marked Exhibit S-11, and I ask you if they were delivered to you by Mr. Mathews of the New Jersey State Police?

A. Yes, sir.

Q. I show you a bullet removed from the body of Ada Danser, and ask you if that was delivered to you by Mr. Mathews of the New Jersey State Police?

10

A. Yes, sir.

Q. I show you three empty shells, S-14, and ask you if they were delivered to you by Mr. Mathews, of the New Jersey State Police?

A. Yes, sir.

Q. I call your attention to the nightgown taken from the body of Ada Danser, and ask you if that was delivered to you by Mr. Mathews?

A. Yes, sir.

Q. Now, after you had received these various exhibits 20 that I have just questioned you concerning, did you make certain tests, Captain?

A. Yes, sir.

Q. Will you tell the Jury what tests you made?

A. I fired— I placed this garment over a plank.

By Mr. Ware:

Q. Over what?

A. A plank, and fired this shot at two inches, the muzzle 30 of the pistol held two inches from the cloth.

By Mr. Peacock:

Q. Why did you do that?

A. To show the spread of the smudge of the powder, and the grains of the powder on the cloth. The grains of powder radiate as they leave the muzzle of the gun, and to show the radiation of the grains of the powder.

By the Court:

Q. You used that gun there, did you?

A. Yes, sir.

Q. The very same gun?

A. The same gun, and the same make of cartridge.

By Mr. Peacock:

10 Q. Proceed, what other experiments did you make, and why did you make those experiments, and what did you find as a result of those experiments?

A. I did this for Mr. Mathews to show how far the powder stains would show on the cloth.

Q. You examined the bullet hole in that nightgown that has been there when you received it?

A. Yes, sir.

Q. What did your test show with regard to the test you made and the bullet that was already in the night-

20 gown?

A. That the one on the left side—

Q. I want to withdraw that question, and ask you whether or not you made any more tests on that nightgown than the one you have testified to?

A. Three.

Q. You made three?

A. Yes.

Q. Tell us about the other two tests first.

A. This one here was fired—

30 Q. Show the Jury.

A. (Continued) At two inches from it. The second one was fired at four inches. On the first one we have the smudge, a little bit of scorch and then the grains of powder around it. On the second one at four inches we have a very slight smudge and the grains of powder. On this one at three inches, I went inside of four to three, and it shows a little bit more smudge, and the grains still are there. I did that just to show the distance that you would get the smudge from the powder.

By the Court :

Q. At all times using the same gun and the same make of cartridge?

A. The same gun and the same make of cartridge, yes, sir.

By Mr. Peacock :

Q. Referring you to the bullet that was taken from the body of Ada Danser, and referring you to S-5A, the revolver, did you make any tests to determine whether or not the bullet taken from the body of Ada Danser was fired by that gun? 10

A. I did. I fired test shots from this gun, catching the bullets in cotton, and I placed them in the microscope with this bullet here, the fatal bullet, and the microscope showed positively that that bullet was fired from this revolver.

Q. Have you any way of demonstrating that here to the Jury? 20

A. I have, but I am shy the bullet. I can do it in two or three minutes, I can go out and get the cotton and shoot it.

Q. In your opinion, the bullet taken from the body of Ada Danser, was it fired from that revolver?

A. It was, yes, sir.

Q. Will you explain to the Jury how you come to that opinion?

A. I placed the fatal bullet under the right hand microscope, with my test under the left hand one. I fused the bullets together under them, and rotated them, and I found absolute marks of identification, and I can describe by looking at the bullets— 30

Q. How could you describe it to the Jury so you can show these marks?

Mr. Ware: Marks of what?

Mr. Peacock: The marks of the bullet, and also the marks from the test, with regard to the rifling in the gun.

A. Yes, sir, it showed from the marks of the rifling, the condition of the rifling of this gun barrel. I have got four land marks of this that are very, very good, and show true marks.

Q. Will you explain them?

10 A. These marks—Now, when a gun barrel is made it is rifled. The tool that cuts the rifling in it, it cuts it with a spiral effect in the barrel. If you have ever looked in a gun barrel you will notice it looks like there is a screw, that's to give the bullet a rotating motion when it leaves the gun. If the rifling were straight the bullet would go end over end, but the rotary motion carries it nose on, that's to stabilize the flight of it. The cutting tool that cuts this groove is a delicate piece of steel, and it is steel cutting steel, and almost every cut made by that, the cutting edge changes some, because it's steel cutting steel all the time. Now, these marks show very

20 plainly in the microscope, and on those four land, they show two marks, and will show all the way around.

Q. I show you two bullets, referring to S-12, the bullets that have been removed from the baseboard and wall of the Danser home. Did you make any test of those bullets?

A. These are in kind of bad shape to get any true marks.

Q. With regard to the gun in question?

30 A. Yes, sir, they are very, very weak in the microscope.

Q. Were you able to make any tests or get any results as to those two bullets?

A. They were fired from a revolver the same as this one, the same revolver, we could get the width of the rifling, but the markings were so weak that I would not want to qualify on them, as being absolutely from that gun, but still it's the same make of cartridge and it's the same rifling.

Q. And the same marking?

A. Yes, sir.

Q. Captain, referring to the nightgown, and referring to the hole in the nightgown, through which the bullet entered that killed Mrs. Danser, are you able to tell us what range or in what position the person stood that fired that shot?

A. I would say it was not less than two or more than four inches away from them, I will give that margin.

Q. Can you tell from your examination and tests and so forth what direction that bullet entered that nightgown, whether it was downward direction, upward direction, or right or left direction? 10

A. I couldn't tell by looking at the nightgown, but I tell you what I could tell that by, that the gun was held straight this way (indicating), not this way (indicating), because of the recoil, if a person has a gun in their hand, it's generally towards the side of the burn, the scorch of the burn is above the bullet hole, and the weight of the burn, smudge and burn around this hole showed the weight of it was above. 20

Q. You find that condition in that nightgown?

A. Yes, sir.

Q. You say the person that fired that had to fire it straight?

A. Have the gun straight up.

Q. Straight up?

A. Yes.

Q. You do it.

The Court: He didn't say they had to, they say they did. 30

Q. You say the person that fired that turned up?

A. Yes.

Q. It couldn't be turned right or left?

A. No, sir.

Q. Explain to the Jury how you know that to be true.

A. By the weight of the smudge of the powder and the bullet hole, it was above it.

Q. Is there anything I have omitted you desire to say?

A. No, sir.

Mr. Peacock: You may cross examine.

Cross-examination.

By Mr. Ware:

Q. The smudge, Captain, from the explosion of a cartridge fired from a revolver is dependent upon the distance away the gun is held, is that right?

A. Let me have that first part, please.

10

(Question repeated.)

A. Yes, the smudge is dependent on the distance the rifle is from the object.

Q. The nearer it is to the object the larger will be the smudge?

A. The more dense.

Q. The more dense?

A. Yes.

20

Q. Density and largeness to a layman, to a non-ballistic man, are somewhat similar, and therefore you say that this marking, the density of this smudge, it could have been held at a distance from two to four inches?

A. Yes, sir.

Q. You gave that answer?

A. I gave that margin.

Q. And you say this one was at a distance of two inches?

A. Two, yes, sir.

30

Q. And this one at four?

A. Yes, sir.

Q. That left practically no, or there was no particular density of smudge upon the four inch one?

A. No, sir.

Q. And what is the mark up there I direct your attention to?

The Court: That's not a mark, it's a hole.

A. That's a hole.

Q. It's a circular hole?

A. Yes.

Q. But it's not made by a cartridge?

A. No, sir.

Q. And the two bullets that were extracted from out of the wall, you think they were discharged from an Ivor-Johnson revolver?

A. Yes, sir.

Q. Although you will not say the same Ivor-Johnson?

A. No, sir.

10

Q. What is the difference between the markings on a cartridge shot from a Harrington and Richardson, of 32 calibre, and an Ivor-Johnson?

A. There are several things that pick that up. There's the width of them, and the twist of it. The Harrington and Richardson has a twelve-inch twist, whereas this is thirty-three. That makes one rifling in thirty-three inches, where a Harrington and Richardson is twelve.

Q. Do all firearms, do each particular make of firearms have their distinctive markings?

20

A. They are all different.

Q. All different?

A. Yes, sir.

Q. There is a distinction with a Colt?

A. Yes, sir, that has six, with a left hand twist to the rifling.

Q. And Smith and Weston?

A. Smith and Weston is five, with a right hand twist.

Q. There is some distinction, is there not, too, in the composition of the cartridge, as to the smudge?

30

A. Yes, sir.

Q. The cartridge that was employed in this case, what is its composition so far as powder is concerned, what form of powder?

A. It's a smokeless powder.

Q. Smokeless powder, does that have any of the concomitants of black powder?

A. It's a different form.

Q. It's a form of black powder, isn't it?

A. No.

Q. There are some powders contained in cartridges, if employed, will leave no smudge, are there not?

A. Oh, no, they will all leave a smudge close up.

Q. But isn't the density due to the particular kind, don't they vary at all?

A. Not so very much on the smokeless powder. When a smokeless batch of powder is brought into the factory, they test it for volume, and they load according to volume, because smokeless powder is very powerful, and they have got to keep inside of the safety on cheap fire-arms like this.

10

Q. That is true of all forms of smokeless powder, smokeless powder considered as an entity by itself?

A. It's the strength of it, yes, sir.

Q. But ordinary black powder there would be a difference?

A. That was made with charcoal, sulphur and salt-peter, and the smudge from that will be very, very dense.

20

It would make, at two inches it would make a black spot as large as that, and burn.

By Mr. Peacock:

Q. As large as that, tell the stenographer how large you mean.

A. About five inches in diameter.

By Mr. Ware:

30

Q. There is no question in your mind that the cartridges which you have examined are of the smokeless powder variety?

A. Yes, sir.

Q. And that the smudge caused by the discharge of a cartridge containing smokeless powder, if fired at a distance of two inches, would leave a much larger stain as to density than one at four inches?

A. Yes, sir.

Q. There would be a difference?

A. Yes, sir.

Mr. Ware: That's all.

By Mr. Peacock:

Q. I show you the gun, Captain, take that gun in question, how many pounds pressure is necessary to pull that trigger, straight on? 10

A. I have got to guess at this, now, well, about five and a half or six pounds, that way, by cocking it By pulling the trigger it will run around eight or ten pounds.

Q. Now, if the hand is turned, that relaxes the muscles, does it not?

A. If you flex the wrist it destroys the power of the trigger finger, I couldn't——

Q. Destroys the power of the trigger finger?

A. Yes.

Q. And if you turn around straight you can't pull with the trigger finger? 20

A. No, sir.

Q. That's correct, is it?

A. Yes, sir.

Mr. Peacock: That's all, thank you.

JAMES S. DUNN, SWORN.

30

By Mr. Peacock:

Q. You are a practicing physician of the State of New Jersey, are you not?

A. I am.

Q. And how long have you been in practice in this State, doctor?

A. Four and a half years.

Q. You are a graduate of what institution?

A. Hahnemann Medical College, Philadelphia.

Q. You are connected with any institutions in this State?

A. Salem County Memorial Hospital.

Q. You are a member of any societies?

A. I am a member of the County Medical Society and the State Medical Society.

Q. Also County Physician of this County?

A. That's right.

10 Q. How long have you been County Physician?

A. For three years.

Q. And testified in court in numerous cases?

A. I have.

Q. You knew Ada Danser, Doctor?

A. Yes.

Q. Were you called to her home on the night of this alleged homicide?

A. I was.

20 Q. Will you tell the Jury what you did upon your arrival at the house?

The Court: Tell what time he arrived.

Q. What time did you arrive there, Doctor?

A. I received the call, If I am not mistaken, at about ten minutes past five. It was still dark on a foggy morning, and it took me some time to get up there, possibly half an hour, and, therefore, I got there about five forty, I should judge.

30 Q. Who was there when you arrived there?

A. I saw Mr. Danser and this trooper over there (indicating), standing together, out in front of the station.

Q. Trooper Ditzer?

A. Yes.

Q. What did you do when you arrived there?

A. I asked Ditzer where the body was, and he said it was inside, so we went inside to see the body.

Q. Who went with you?

A. Ditzer, I don't think anybody else. Coroner Coles

may have been there at the time, I just can't remember. I think he came in shortly after I got there, if my memory is correct, because I didn't turn the body over until I asked the Coroner whether or not it would be all right if I turned the body, to see whether or not the bullet had completely penetrated the body; so I rolled the body over on its right side, and there was no hole in the back, I could find no exit for the bullet. We put the body back on its back and left it as it was.

Q. I call your attention to Exhibit S-4, and ask you 10 if that is the condition you found the body in?

A. That's just about the way I found the body, yes, sir.

Q. You say you rolled the body over?

A. Yes, sir.

Q. Did you find anything under the body?

A. When we pushed the body over we found under the flexed left knee a lighted flashlight.

Q. Did you see a gun there?

A. No, sir, I didn't see the gun.

20

Q. Did you examine the body?

A. Yes, sir.

Q. What did you find?

A. May I have my report that I mailed to the Prosecutor? I made an autopsy on the body of Ada Danser—

Mr. Ware: Are you reading from it?

The Witness: No, I am not. On June 5th. Now, if I may, I will read.

30

Q. You need that to refresh your memory?

A. No, not exactly.

By the Court:

Q. It is one thing to read from it, and it is another thing to use it to refresh your recollection. You ought not to read from it, but you can use it to refresh your

recollection. You can look at it, and then lay it aside and testify.

A. I don't believe I need it.

By Mr. Peacock:

Q. Proceed.

A. I found that the woman had a gun-shot wound in the chest on the left side about an inch or so inside the nipple line, and about the level of the tenth rib.

10 Q. Will you stand up and point to the Jury on your body just where that point would be?

A. About there (indicating), and there were a few slight powder marks on the skin around the area that the bullet had entered, and then on examination further I found that it had fractured I think the tenth rib, and passed into the body, and had gone directly through a lobe of the lung, first, by piercing the heart cavity and the heart, and then it passed through the lower portion
20 of the upper lobe of the left lung, and had exited there, either the ninth or tenth rib, posteriorly, about on the angle of the mid-scapular line, that's right just below the tip, the end of the shoulder blade, had pierced the ninth or tenth rib, fracturing that, and laid beneath the skin in that location, not breaking the skin in the back.

Q. With respect to the point of entry of the bullet, and where you found the bullet in the back, in what direction did the bullet go in the body?

A. The bullet traversed almost directly back and
30 slightly up.

Q. Right straight through?

A. Right straight through and slightly up.

Q. Did you remove the bullet?

A. I did.

Q. Will you look at that, Doctor, and tell me if that is the bullet you removed from Mrs. Danser's body?

A. Yes; sir, that's the bullet.

Q. Did you make a mark on it at that time?

A. Yes, I put an "D" on the back of the bullet.

Q. Doctor, what was the cause of death?

A. The cause of death was hemorrhage, internal hemorrhage as the result of perforation of the heart.

Q. After the examination of Mrs. Danser's body, and the autopsy, did you make numerous tests with this revolver, or this pistol, being S-5, the one used at her death?

A. I was asked about a week ago whether or not, judging from the direction of the bullet, and the point of entry, whether or not Mrs. Danser could have possibly shot herself, and— 10

Q. As a result of that request by the Prosecutor's office, did you make investigation and tests?

A. Yes, I tried it with a service gun the police use in town, and I couldn't do it with that, because the barrel was very long. I said that I had never seen the gun, which was used in the shooting—

Mr. Ware: I object to this.

The Court: You cannot tell what you said. 20

Q. Was that revolver that was used in the killing of Mrs. Danser submitted to you for the test?

A. Yes.

Q. And you made tests, is that right?

A. Yes.

Q. The direction of that bullet, as you found in Mrs. Danser's body, from the location of the entry of the bullet and the point where you found the bullet, and as a result of your tests, could Mrs. Danser have committed suicide with that gun? 30

A. Only under one condition.

Q. What do you mean by that?

A. I mean unless, only unless she held the gun and pulled the trigger with her thumb.

Q. If she had held the gun in her hand the natural way—

A. I couldn't pull the trigger.

Q. Can you pull the trigger?

A. No, sir.

Q. Could she have committed suicide, holding it with her trigger finger?

A. I do not think so.

Q. Could you have pulled it with your finger?

A. No, sir.

By the Court:

10 Q. Did you try?

A. Yes, sir.

Mr. Peacock: Cross-examine.

Cross-examination.

The Court: Has the nightgown been offered in evidence?

20 Mr. Peacock: I make the offer now.

(Received and marked Exhibit S-19.)

By Mr. Ware:

Q. You are not an expert?

A. No, sir.

Q. Are you a student of medical jurisprudence?

A. I have made some study of it.

Q. Are you acquainted with the works of Taylor?

30 A. No, sir.

Q. Or Whitehaus and Becker?

A. No, sir.

Q. Or the book by Reese, edited by Dr. Daniel J. McCarthy, of the University of Pennsylvania?

A. No, I know that I have a couple of books that I have read.

Q. Ever read Dr. Wadsworth's works on post-mortems??

A. No, sir.

Q. You know Dr. Wadsworth?

A. Yes, sir.

Q. Don't you know, as a matter of fact, both Wadsworth and McCarthy are in agreement that the location of the wound in this woman's body is a favorite spot for suicide?

A. No, I am not aware of that.

Q. Do you agree with this proposition, that the question of the homicidal, suicidal or accidental character of the gun-shot wounds must generally be settled by the appearance of the wounds, and also by the particular circumstances, you agree with that? 10

A. Surely.

Q. You further agree with this: "Thus, if it be on the forehead, or temple, behind the ears, in the mouth, or over the heart, and if it be blackened or lacerated, indicating the close proximity of the weapon, it may be regarded as almost certainly a suicidal act?"

A. No, I would not undertake to repudiate anything that he ever said. I am not an expert at all on that. 20

Q. What was the region of this wound on the body?

A. The region was right over the tenth rib, about that, but two inches inside the nipple line.

Q. Yes, well, that is the region that is commonly designated as the chest, isn't it?

A. Yes, that's the chest.

Q. And the chest includes the heart?

A. And lungs.

Q. Don't you know, as a matter of fact, that suicides often shoot themselves in the heart? 30

A. Yes, indeed.

Q. And yet you say that you do not feel that the shooting of this woman by a bullet discharged in her heart was a suicidal act?

A. Will you say that again?

(Question repeated.)

A. I said to the effect that being unable to pull the trigger of the gun at the location which the bullet pierced

her, that I doubted very much whether she could pull the trigger.

Q. And that is based on the fact that you took this gun and held it against that position in your chest and failed to pull the trigger discharging it?

A. That is right.

Q. In other words, that would render it impossible to commit suicide?

A. No, I did not say. I said I doubted very much.

10 Q. Well, I say isn't doubt very much akin impossible?

The Court: Well, that is a play to words. He should not be compelled to answer that question.

Q. How many times did you try, doctor?

A. Twice.

Q. What does a blackened appearance of the skin, from powder burns, indicate as to the proximity of the weapon employed?

20 A. It indicates a close range.

Q. A close range? As a rule, in the case of suicides, the surface surrounding the entrance of the bullet is invariably blackened?

A. That is correct.

Q. Did you attend any cases of suicide caused by a deadly weapon?

A. Have I ever what?

Q. Attended, performed an autopsy or post-mortem?

A. Yes, sir.

30 Q. Originated by a gunshot wound on the body itself?

A. Yes, sir.

Q. And in that portion of the body similar to the wound on the chest of Mrs. Danser?

A. I have done autopsies in cases of wounds on the chest. I do not know exactly whether it was in that location.

Q. And they were gunshot wounds?

A. Yes, sir.

Q. And the weapon employed was a revolver?

A. Yes, sir.

Q. Self-inflicted wounds?

A. Yes, I presume.

Q. You were satisfied about that?

A. I don't know about that.

Q. Pardon?

A. I am not sure about that. I don't know the outcome of the case.

Q. Well, you made an investigation, didn't you?

A. Yes, sir.

Q. Isn't it part of the duties of the medical officer performing a post-mortem to ascertain whether or not the wound was a suicidal, accidental or homicidal one? 10

A. Yes, sir, but in this case I was only assisting another man.

Q. Yes, I see, he did the actual work of making the report, is that right?

A. Yes, sir.

Q. You say you belong to the school of homeopathy?

A. Yes, I belong to both, homeopathy and allopathy.

Q. Having graduated at Hahnemann?

20

A. Yes, sir.

Mr. Ware: That is all.

By Mr. Peacock:

Q. Doctor, was Mrs. Danser a large woman?

A. She was quite a good-sized woman, yes, sir.

Q. About how much did she weigh, do you suppose?

A. I should judge 170 or 180 pounds.

Q. Woman of large bust?

30

A. Yes.

The Court: How about her height?

Q. And height?

A. She was five feet seven or eight, I should say.

Q. A woman of her height and weight and proportions, that would still interfere more with her getting a gun around to shoot her heart on the left side?

A. Somewhat, yes, but this shot was not through the breast.

Q. Would you say that death was instantaneous from that gun?

A. Death was instantaneous?

Q. Yes.

A. Yes, sir.

Q. Referring to Exhibit S-4, showing the position that woman is now in, the position she was found in immediately after the murder, where would you say that she stood when she was shot and death was instantaneous
10 and she fell immediately? Could you answer that?

A. No, I could not.

Q. Could you say the minute that bullet pierced her body that she fell?

A. Within a very few seconds.

Q. Within a few seconds? And the Judge asked you the question of the blackened shirt as indicating suicide. If Mrs. Danser stood in front of her husband and he pulled this gun on her, within two to four or six inches, you would still find the surface blackened.

20 A. Yes, sir.

Q. And you would still find the surface blackened from the wound, wouldn't you, Doctor?

A. Yes, sir.

Mr. Peacock: That is all, Doctor.

By Mr. Ware:

Q. A body falling or coming in contact with some external object, its course of fall would be more or less controlled by it. wouldn't it?
30

A. I should imagine so.

Q. Carpet or an object of furniture?

A. Surely.

Mr. Ware: Well, that is what Dr. Wadsworth says.

By Mr. Peacock:

Q. You did not find any object there to prevent her from falling straight back?

A. No, I did not find any object there to prevent her from falling straight back.

Q. There is nothing on which her body could strike?

A. I beg pardon?

Q. You did not see anything there if she stood at this point where her feet are, there is nothing there to prevent her from falling straight back, there is nothing there?

A. No, that is, where she fell.

10

Mr. Peacock: That is all.

By Mr. Ware:

Q. How about the cross position of her limbs—

Mr. Peacock: I was not through yet.

By Mr. Peacock:

Q. Taking that position of her limb and her right hand, if she had shot herself would you find the gun over down by her knee with the barrel pointing up toward her hand, in that direction as the trooper found it, with the butt part of it away from her body, in your opinion? 20

A. I would think that would be possible, yes.

Q. You think it would be possible?

A. Yes.

Q. Will you describe what you mean by that?

A. I merely mean if a person is hit as fully as that woman was, to tear such a large rent in the heart, it is natural that the person would fall and I have no doubt might even spin around once or twice in the fall. 30

Q. You mean the force of the bullet could have turned the body around?

A. Somewhat but in trying to catch themselves as they fall, it is a subconscious affair.

Q. Would she immediately become unconscious upon that bullet entering her body?

A. You say immediately. No, I do not think so, although—

Q. I mean upon entering her heart or lung?

The Court: It depends upon what you mean by instantaneous.

A. That all depends.

Q. Can you tell me, Doctor, for the Jury's benefit, in seconds or parts of seconds, how soon she would become unconscious?

10

A. Why, if a person is shot in the brain, he dies instantaneously, as it strikes the vital parts, but here there has to be time enough for loss of blood and interference with the heart muscle, for that brain to become unconscious.

Q. That is what I am trying to find out. Can you give us an opinion as to the time needed? I do not want to press you, Doctor, but just say so if you do not know.

20 The Court: If you can, say so, and if you cannot, do not say so.

A. I do not think I can.

By Mr. Ware:

Q. There is no hard or fast rule for it?

A. No.

Mr. Ware: That is all.

30

Mr. Peacock: I want to recall Captain Jones.

CAPTAIN WILLIAM A. JONES, recalled.

By Mr. Peacock:

Q. Captain Jones, you have listened to the testimony of Dr. Dunn who made the post-mortem and the examination of this woman's body?

A. Yes, sir, some of it, not all of it.

Q. And you have listened to the course of the bullet in the woman's body?

A. Yes, sir.

Q. As described by Dr. Dunn?

A. Yes, sir.

Q. After hearing that testimony, would you say that Ada Danser, with Exhibit No. S-5A, could have committed suicide or shot herself?

10

Mr. Ware: That is objected to.

Q. That course of the bullet as described by Dr. Dunn?

The Court: What is your objection, Judge Ware?

Mr. Ware: The objection is that anything like such testimony as that is purely unfair at this stage of the proceeding. If you had a witness on the stand to give certain testimony, then you supply another witness—

20

The Court: It is a hypothetical question.

Mr. Peacock: From an expert, after hearing the doctor's testimony.

Mr. Ware: It is an invasion of the province of the jury.

30

The Court: Is it your thought that the question ought to be asked in the form of a hypothetical question rather than based on somebody else's testimony?

Mr. Ware: It might be a hypothetical question but he put one witness on the stand and called another witness afterwards.

The Court: I can see your point but if it is a hypo-

thetical question then I think it could be answered. I am inclined to think that Judge Ware is right.

10 Q. You have heard the testimony of Dr. Dunn that the bullet having entered the body on the left side, gone in straight and as it neared the heart there was a gradual raising of the bullet, and you having examined this gun and examined the bullet that they found in her body and you having made certain tests, and knowing the course of the bullet in her body, would you say that she could have used this gun and shot herself?

A. By holding it in the hand as you are holding it there now?

Q. Yes.

A. No, sir.

Mr. Peacock: That is all.

Mr. Ware: No questions.

20

No cross-examination.

CORONER ROBERT C. COLE, SWORN.

By Mr. Peacock:

30 Q. Mr. Cole, you are Coroner of this county?

A. I am.

Q. How long have you been Coroner?

A. Since November 1933.

Q. And were you called on the Danser case?

A. I was.

Q. Who called you, if you know?

A. Corporal Johnson.

Q. And what time did you receive that call?

A. Well, I would say it was around quarter or ten minutes of five in the morning, Daylight Saving Time.

Q. Did you go to the Danser home at once?

A. I did.

Q. What time did you arrive there?

A. Around ten minutes after five.

Q. Who was there when you arrived?

A. Trooper Ditzel, Sheriff Layton and Mr. Danser.

Q. Did you make an examination of the premises and an investigation of what had taken place there?

A. I did.

Q. What did you see?

10

A. Mr. Ditzel was out front when I drove up and I asked him what the trouble was and he said Mrs. Danser had been shot and I asked him where the body was and he took me in through the store and the dining room and the sitting room, whatever you might call it, and into the bedroom, showed me where the gun was picked up and I saw the position of the body.

Q. I call your attention to Exhibit S-4, and I ask if that was the position of the body when you arrived there?

A. It is.

20

Q. You say you saw a gun there?

A. No, Mr. Ditzel had picked the gun up. I asked him where it was and he had it wrapped in paper and turned over to headquarters, for fingerprints.

Q. Will you indicate on that picture where the gun was as it was shown to you by Ditzel?

A. Yes.

Q. Where?

A. Lying right here (indicating on photograph).

30

The Court: Pointing to the plate.

Q. Pointing to the plate in the picture?

A. Yes.

Q. Now, proceed and tell us what else you did while there.

A. Well, I ased if they had notified a physician and they told me Dr. Dunn was on his way, the County Physician, and I did not move the body. I saw where the

bullet had pierced her chest and she was dead according to my examination, and we waited for Dr. Dunn. When Dr. Dunn came in, I walked in the room back of him and Trooper Ditzel and we slightly moved the body and turned it over a little bit and discovered a flashlight lying there lit.

Q. I call your attention to Exhibit S-15 and ask you if that was the flashlight that was lighted under the body of Mrs. Danser?

10 A. It is.

Q. Now, was Mr. Danser there?

A. He was.

Q. Was he present during all the time you were there?

A. Yes.

Q. After you discovered this lighted flashlight under the body, what did you then do?

A. Well, Trooper Ditzel had said that he had called headquarters, for the detective to come and investigate, and asked me if I would mind leaving the body lie there, and I asked Mr. Danser who he wanted to take care of her, if he wanted me to take care of her or did he want to get someone else, and he said, "You are here and you take care of her," and I told him what we were going to do, we were going to leave her there until the detective came, and he said that was perfectly all right.

Q. Who was that officer that came?

A. Ruggiero.

Q. Were the photographs taken while you were there?

30 A. They were. Mr. Ruggiero came and he investigated and he said, "Will you leave the body lay there while we take some pictures?" and I told him, "Yes, go ahead."

Q. Were you present at the autopsy?

A. I was.

Q. While you were there did Mr. Danser, the defendant, make any statement concerning the ownership of that gun?

A. Not to me.

Q. Was his father there at that time?

A. His father came in there at six o'clock.

Q. Did he make any statement to Danser, in your presence, concerning that gun?

A. Yes.

Q. What did his father say to him?

A. He said, "Ed, what did you do with the gun I gave you five or six years ago?"

Q. What did he say to him?

A. He said, "Daddy, you never gave me any gun."

Q. What did the father say?

10

A. He said, "Yes, I did."

Q. Give the entire conversation.

A. That's practically all there was to it. Ed did not answer him any more and the father did not say any more in regards to it.

Q. Did he say anything else while you were there, that is the defendant, Danser?

A. Well, he said quite a little that I just don't remember. He was talking off and on all the time.

Q. You held the Coroner's Inquest, did you not, on 20 June 5, 1935?

A. I did.

Q. And you filed a copy of that testimony of the witnesses with your report, in the County Clerk's Office?

A. I did.

Q. I show you a report as given to me by the County Clerk and ask you if that is a transcript of the testimony taken at the Coroner's Inquest?

A. That is it.

30

Mr. Peacock: I want to have this marked for identification, if it please the Court.

The Court: It may be marked for identification.

(Said transcript marked Exhibit S-20 for identification.)

Mr. Peacock: Cross-examine.

Cross-examination.

By Mr. Ware:

Q. How many years ago did you hear the father say to the defendant that he gave him a gun?

The Court: Is that question accurately put, Judge?

- 10 Mr. Ware: I am asking him what is his recollection of the length of time he heard the father say he gave the gun to the defendant. I think that is the way he testified.

The Court: Yes, but you started off by asking how many years ago. The question was probably inaccurate. The number of years the father said the gun was given, Judge Ware wants you to recall.

- 20 A. That is a different question, Judge. Five or six years ago.

Q. Which I understand you to say the defendant denied receiving?

A. He did.

Q. And the father again reaffirmed it or reiterated it?

A. Yes.

Mr. Ware: I guess that is all.

30

EMELIA HOELIN, affirmed.

By Mr. Peacock:

Q. Mrs. Hoelin, where do you live?

A. I live in Jasper, Minnesota.

Q. And are you married?

A. Yes, sir.

Q. What is your husband's name?

A. His name is Theodore Hoelin.

Q. Have you any children?

A. Seven.

Q. How old are those children?

A. Well, the youngest is ten and the oldest is twenty-five.

Q. Now, you were in New Jersey or Salem on June 5th, were you not?

A. Not in Salem.

10

Q. Near Salem, in Salem County, at the Danser property?

A. Yes.

Q. And what were you doing there at that time?

A. We were touring through, stopping at the Danser Tourist Camp on the night of June—is it the fourth or the third?

Q. The fourth?

A. Yes.

Q. And about what time did you arrive at the camp? 20

A. I do not know. I am not able to say. You might ask some of the others. It was late.

Q. It was in the evening, I suppose, wasn't it?

A. Yes, it was late in the evening.

Q. And whom did you see when you first arrived there?

A. I did not see anybody because I am not the one to look for the place. Mr. Hoelin went out and I think he found Mr. Danser and found out we could come there. I did not see anybody.

30

Q. Did you set up a tent there?

A. We did after we had gotten permission.

Q. How close to the Danser house was your tent?

A. I heard somebody say it must have been four or five feet. Maybe it was more.

Q. Will you refer to the picture right back of you, over that door, with regard to the Danser house, on the left hand side of the picture, and can you tell me if that is where your tent was located right back of that house?

A. Yes, it was right there.

Q. Did you see Mr. Danser or Mrs. Danser any time that night?

A. I saw Mr. Danser only once that night and at that time he was sitting by the table, eating his supper, and Mrs. Danser was standing over him or over the table, with both hands on the table, and they were arguing.

Q. And approximately what time was that?

A. If I can have somebody tell me just what time we
10 came there, I can tell you.

Q. How soon after you arrived?

A. Not more than half an hour.

A. About a half hour after you arrived there?

A. Yes.

Q. Who was doing the arguing or talking?

A. She was. She seemed to be the upper one at that time.

Q. Later on did you hear Mr. Danser arguing?

A. Yes.

20 Q. How soon was that after you arrived?

A. Well, I suppose this was all—all the attention I paid to that could have been put in fifteen minutes.

Q. And were his tones loud?

A. No, not extraordinarily.

Q. You could hear him from where you were and they were inside the house?

A. Yes.

Q. Did anyone come there that night, in an automobile or have any trouble getting out of a ditch with a car?

30 A. Yes, I was awakened—I don't know—between twelve and one, by a terrific noise.

Q. Did you see Mr. Danser at that time?

A. Did not see him but heard him.

Q. What did you hear him do or say?

A. Well, the man that was in the ditch came roving around up towards the house and called for somebody and I heard Mr. Danser come out and ask him what he

wanted and he said he was in the ditch and wished to have some help to get out.

Q. And you say that was between twelve and one o'clock?

A. It must have been.

Q. And then did you hear Mr. Danser after that had happened?

A. After Mr. Danser dismissed the man, I heard him say, "You better leave this until to-morrow and we cannot do anything to-night." Then everything quieted 10 down and then there was a pause—I could not say just how long but not very long—then I heard Mr. Danser go to the door.

Q. The door of his house?

A. Of the house, yes, and rap and asked to be let in and he talked some more but the important thing he said that I remember, he said. "We might as well have this out right away."

Q. Did you hear Mrs. Danser at that time?

A. No.

20

Q. He said. "We might as well have this out right away?"

A. Yes.

Q. Then did he go into the house?

A. Undoubtedly he did.

Q. Did you hear him arguing after he got in the house?

A. Yes.

Q. For how long a time did you hear him?

A. That I could not say but it was continued for some 30 time and finally I went to sleep.

Q. Later on did you hear any shots?

A. Yes.

Q. How many shots did you hear?

A. I heard two shots.

Q. And then when you heard those shots, in which direction were they from your camp, in the Danser house were they?

A. In the Danser house and I was just thinking, I was wondering if I was mixed on directions. It was toward the Danser house but it would be northwest to me at that time. I might be mixed up.

Q. After the shots, did you hear any voices right away?

A. Yes.

Q. Did you hear Mr. Danser's voice?

A. Yes.

10 Q. What did you hear him say?

A. I heard him say, "Die, God damn you, die!"

Q. Did he say that more than once?

A. No.

Q. Was there any silence after that?

A. Yes.

Q. How long a silence?

A. Well, it is hard to say but it was long enough for me to lie there and wonder what would be the next thing if he was coming out. I suppose probably ten minutes.

20 Q. Would you say in minutes how long there was a silence?

A. Not any more than ten minutes.

Q. At least ten minutes of silence?

A. Yes.

Q. Then did he come out?

A. Yes. he came out and I heard him—

Q. What did he say when he came out of the house, after that ten minutes?

A. He seemed to be walking down the place where his
30 girl Nancy, he called her, he called for Nancy.

Q. When he called for Nancy, did he say anything to Nancy?

A. He said, "Nancy, come on, Ada has shot herself, poor girl, she is dead. Call the Sheriff."

Q. That was about what time, Mrs. Hoelin?

A. Well, it must have been about fifteen minutes after I heard the shots.

Q. Now, before he shot her you heard considerable

argument and quarreling on his part, you say. Could you tell how long that lasted, approximately?

A. Well, I woke up and went to sleep again several times during the night but I don't think I lay awake more than fifteen minutes or so at the time and I heard his arguments and I never heard hers and I did not try to listen.

Q. You heard him but you did not hear her?

A. Yes.

Q. Could you distinguish anything you heard him 10 say?

A. No. I did not.

Q. When you heard him say "Die, God damn you, die!" was that in an angry tone of voice?

A. Yes.

Q. After he had called Nancy, your family awakened then?

A. No.

Q. Was your husband awake at that time?

A. Immediately after I heard the shots, I lie still for 20 a while and I noticed nobody else made any commotion and I said, "Did you hear? Did you hear that? Just what I expected."

Q. Who did you say that to?

A. I said it in the tent. My husband heard me, in a doze, and he said, "Oh, it wasn't anything." And I did not say any more. I knew it was something but I did not feel like making a disturbance to anybody.

Q. Did the officers later come there?

A. Yes.

30

Q. Did you go to sleep again that night?

A. No.

Q. You were there until the officers were there?

A. Yes, we laid there a while until we realized the officers were coming in and we got dressed and it was just dawning and I opened the tent and got out. I was the first one ready and I met this tall man, the police.

Q. Trooper Ditzel?

A. Yes.

The Court: You could not forget him, the tall one she said.

Q. Mrs. Hoelin, could you tell me whether the shots you heard were in rapid succession or whether there was a pause between the two shots?

A. Well, they were just as rapid as they generally
10 go when fired.

Q. What did you say?

A. Just as rapid as I imagine it could have been.

Q. As rapid as a person could shoot?

A. Yes.

Q. And you say you heard two shots?

A. Yes, I heard two.

Q. You also testified at the Coroner's Inquest?

A. Yes.

Q. And in response to the Prosecutor you came from
20 Minnesota at this time to attend this trial?

A. Yes, sir, I did.

Mr. Peacock: Cross-examine.

Cross-examination.

By Mr. Ware:

Q. You live at a place called Jasper?
30 A. Yes.

Q. How long have you lived at Jasper?

A. We have lived in Jasper, or around Jasper, ever since I was born, 55 years.

Q. Your husband is in the employ of the telephone company, is he not?

A. He is the main shareholder of the Independent Telephone Company.

Q. Is he employed regularly there?

A. Yes.

Q. How many years has he been there?

A. It's— Ask him, will you?

By Mr. Peacock:

Q. What did you say?

A. Ask him, he always knows the number of years.

Q. Do you know how long he has been there?

A. Just as long as I have.

10

By Mr. Ware:

Q. Do you know how long that it?

A. Right in Jasper, it's in 1910 we moved to Jasper the last time.

The Court: It is not important, but I think the question was how long he had worked for the telephone company.

20

The Witness: What did you want to know?

Q. If you don't know particularly——

A. You can find it out, because he always keeps track of numbers more easily than I do.

Q. You were travelling around the country as tourists?

A. Yes.

Q. You carried a tent around with you?

30

A. Yes, we did.

Q. You came there that night and secured the privilege from this man to pitch your tent, is that right?

A. Yes, we did.

Q. Your tent was pitched how far from the house?

A. Did I say four or five feet, I am not sure, but not very far.

Q. And the windows of the Danser house, were they open or were they closed?

A. Open.

Q. They were open?

A. Yes.

Q. All of them?

A. One window in the kitchen.

Q. And the window through which you saw Mr. Danser eating his supper, was that open?

A. Yes.

Q. And his wife sat at the table, is that right?

10 A. No, she stood up.

Q. She stood?

A. Yes.

Q. How far from him?

A. With her hands on the same table.

Q. She stood with her hands on the same table, from which he was eating?

A. Yes.

Q. And they seemed to be angry, is that right?

A. Yes.

20 Q. And you weren't particularly interested whether they were, or not?

A. No.

Q. In the tent where you were at the time was your husband?

A. Yes.

Q. And the two children?

A. Well, we had at that time, we had another boy with us, so there were three of the children, and another girl from California visiting us.

30 Q. Who was the girl from California?

A. Her name is Elvina Nelson.

Q. A relative of yours?

A. No, just a friend.

Q. And did you all have separate beds?

A. No, we carried two cots, and we slept two beds in the tent, and the two girls, who are here, slept in the car.

Q. Slept in the car?

A. Yes.

Q. Outside the tent?

A. Yes.

Q. And so that in the tent proper was your husband?

A. And I, and the boy, and Miss Nelson, and one of the girls slept, one of the girls and I slept in one bed, and my husband and the boy in another bed.

Q. There were four of you?

A. Yes.

Q. You don't know what time of night it was when you retired, do you?

10

A. Well, it must have been around ten.

Q. You come from a part of the country where they have what they call Central Time, don't you?

A. What?

Q. Central Time.

A. Central Time, but, of course, we change our clocks.

Q. They have all over the country at that time also Daylight Saving Time?

A. Yes.

Q. Which is one hour ahead of your ordinary standard time?

20

A. Yes.

Q. In this part of the world it is what they call Standard Eastern Time and your part of the world it is Standard Central Time?

A. Yes.

Q. Do you carry watches or clocks?

A. Yes.

Q. Were they running?

A. Yes.

30

Q. Did you consult them any part of that evening?

A. Yes.

Q. When was the first time you looked at your watch or your clock?

A. I never carried it, I always asked the rest of them what time it was.

Q. Was a watch or clock consulted in your presence that night?

A. I don't remember.

Q. You don't remember?

A. No.

Q. When you said some time in your direct examination, about one o'clock, you mean that is guesswork?

A. No.

Q. What is it?

A. I said between twelve and one.

Q. Between twelve and one, that is guesswork, it is not?

10 A. No, that isn't guesswork.

Q. What is it based on then?

A. Between twelve and one, that's not guessing.

Q. How do you know it was between twelve and one?

By the Court:

Q. Judge Ware wants to know how you are able to tell that if you didn't have a watch?

A. I heard others telling about it.

20

By Mr. Ware:

Q. You heard others say it was twelve o'clock some time before that?

A. Do you mean I looked at the clock?

Q. The basis of your knowledge is that sometime before that you heard somebody say it was twelve o'clock, is that right, and you assumed that their having said it was twelve o'clock sometime before, now it must be be-

30 tween twelve and one?

A. Yes.

Q. What was that occurrence that happened at that time by which you fixed between twelve and one?

A. That was a car that came, either went into the ditch or got in trouble, right out there in the road.

Q. Near where you were camping?

A. Yes.

Q. With the result that it brought Mr. Danser out of the cabin?

A. Yes.

Q. He came out and he went over to these people?

A. I couldn't tell you, but I heard him talking, and say that he had better let it go until to-morrow.

Q. His remarks were directed to the man who was in the ditch?

A. Yes.

Q. Then you saw him?

A. I didn't see him at all.

Q. You heard the rapping on the door after that? 10

A. Yes.

Q. And a request to be let in, is that right?

A. Yes, before that though I can tell you something more.

Q. You answer the questions I am asking you.

A. Do you want me to?

Q. You answer the questions put to you, madam.

A. All right.

Q. And you heard a voice asking to be let in?

A. Yes. 20

Q. Do you know who went in, or the person who went in?

A. I didn't see him go in, but it sounded like he went in.

Q. Then you went to sleep?

A. Yes.

Q. You were awakened later?

A. Yes, I was awakened, probably, I don't know, I couldn't say how many times, but I never sleep long at a time. 30

Q. Do you know what awakened you?

A. I don't know what awakened me.

Q. What did you hear?

A. After I lay awake for a while and listened to some more arguments I heard two shots.

Q. And do you know how many hours, have you any idea what time had passed between the time when you said it was between twelve and one o'clock when the car got in the ditch, and the time you heard the shots?

A. How long a time between?

Q. How long, yes, how much time had gone by, any way you can determine that?

A. Well, we have had it said it was about three thirty.

Q. When you say it was three thirty, that was the consensus of opinion in your family?

A. Yes.

Q. You talked to your husband and talked to the children?

10 A. Yes.

Q. You thought it was about three thirty o'clock?

A. Yes.

Q. And did the report of the shots awaken you?

A. No.

Q. You had awakened naturally?

A. I was awake before the shots.

Q. While awake at three thirty o'clock you heard two shots in rapid succession?

A. Yes.

20 Q. Is that right?

A. Yes.

Q. Did you hear any other shots?

A. No, I didn't.

Q. No more that night at any time?

A. No more shots.

Q. You sleep light, do you not, Mrs. Hoelin?

A. Yes, I do.

Q. A shot would have awakened you, would the sound of a shot have awakened you?

30 A. I don't know, they were very light to me.

Q. You are accustomed to the sound of pistol shots?

A. No.

Q. You said they were very light to you, you heard pistol shots before, hadn't you?

A. Yes, I have, but this would hardly awaken me.

Q. And the ones that you have heard before were much louder, is that right?

A. Yes.

Q. And as compared with them, these were very light, that's right?

A. Yes.

Q. And you heard two pistol shots, were you awake after that?

A. Yes, all the time.

Q. All the time after that, you didn't sleep after that?

A. No.

Q. And after these two pistol shots were fired, or you heard the report of two pistol shots, and they seemed to be in the cottage, the sound came from the cottage? 10

A. They came from the direction of the cottage.

Q. Which you say was about four or five feet?

A. The kitchen window was there, but I couldn't tell you how far the bedroom was.

Q. And then you heard someone say: "Die, God damn you, die!"

A. Yes.

Q. You say you only heard it once, is that right?

A. That's right. 20

Q. You testified at the Coroner's inquest, madam, didn't you?

A. I did not.

Q. Pardon?

A. I did not, repeat that.

Q. I don't think you got my question.

By the Court:

Q. Did you testify at the Coroner's inquest, I think you already said you did? 30

A. Yes, I did.

By Mr. Ware:

Q. Didn't you say there that you heard the expression "Die, God damn you, die," twice?

A. I said it only once, but I know it was reported twice, and that was not my fault.

Q. It was not your fault?

A. No.

Q. It is wrong in that respect, is it?

A. I heard it only once and I testified to that.

Q. If you heard it only once, then this report must be wrong?

A. It must be.

Q. How long did that seem to be after the sound of the two pistol shots?

A. Probably right away after the pistol shots, as fast so I could easily distinguish between the two.

10 Q. First came the two rapid pistol shots, then immediately after that came the profane language, "Die, God damn you, die," is that right?

A. Yes.

Q. That came all together. When did you hear the same voice say "Ada, Ada, why did you do this?"

A. A short time afterwards, probably not more than ten minutes.

Q. Possibly ten minutes later you heard the same voice say, "Ada, Ada, why did you do this?"

20 A. Yes.

Q. And they said that a number of times, didn't they?

A. Several times.

Q. All of which carried the thought to your mind that something had happened?

A. Yes.

Mr. Peacock: I object to that, what was carried to her mind.:

30 Q. Did you look on the remark "Ada, Ada, why did you do this?" as a mere play on words, a travesty?

Mr. Peacock: Objected to.

The Court: Sustained, it is not her opinion, the Jury has to form the opinion.

Q. Was the tone of voice of "Ada, Ada, why did you do this?" as loud as "Die, God damn you, die?"

A. No, it was not.

Q. What?

A. No, it was very calm.

Q. Is there any distinction in your mind between calmness and sadness?

A. Yes.

Q. It was repeated time after time in a calm voice?

A. Yes.

Q. And you remained awake?

A. Yes.

Q. Were the other persons in the tent awake at the time? 10

A. My boy was awake, my husband was awake, but they did not hear these words, that is, my husband didn't, my boy heard them.

Q. But your husband didn't?

A. No.

Q. How about the other persons?

A. They didn't hear anything until we awakened them in the morning. 20

Q. The only persons that heard these words were yourself and your boy?

A. Yes.

Q. Did you converse with your husband about it, did you talk to your husband about it?

A. No.

Q. Didn't you tell him what you had heard?

A. Yes.

Q. Did that arouse him?

A. No.

Q. He was indifferent to it? 30

A. Well—do you want me to say anything other than yes or no?

Q. You can answer yes or no, and you said no, didn't you?

A. He wasn't indifferent.

Mr. Peacock: I don't see what materiality it has, whether her husband was indifferent to it.

The Court: You can find that out from the husband when he takes the stand.

Q. Were you subpoenaed in this case?

A. Yes.

Q. How were you served with a subpoena?

A. It was handed to me by an officer.

Q. In the State of Minnesota?

A. After we came here.

10 Q. You mean you came back in this State to be subpoenaed, came by automobile?

A. Yes.

Q. All the way from Minnesota?

A. Yes.

Mr. Ware: That's all.

By Mr. Peacock:

20 Q. The Judge asked you if your son heard those words "Die, God damn you, die," and you said yes?

A. Yes.

Q. Your son's name is Marvin Hoelin?

A. Yes.

Q. He testified at the Coroner's inquest here, didn't he?

A. Yes.

Q. He testified that he heard Mr. Danser say—

30 Mr. Ware: I object to that.

Mr. Peacock: I asked her if her son heard the statement also.

The Court: Hadn't we better let the question be finished, don't answer, Mrs. Hoelin, until counsel has a chance to object.

Mr. Peacock: Will you repeat the question as far as I got?

(Question repeated.)

Q. (Continued)—“Die, God damn you, die,” he testified to that at the coroner’s inquest, did he not?

Mr. Ware: The only purpose of examining the witness on the testimony at the Coroner’s inquest was for the purpose of contradiction. Clearly so, because it is not admissible what the witness said there, that is, the witness’ testimony.

10

The Court: What is the purpose of this?

Mr. Peacock: Counsel opened the door, and asked her if anyone else had heard anything. She answered “Yes, my son.” I am proving now he heard it and he so testified.

The Court: I see no objection to this question.

20

Mr. Ware: That has nothing to do with the Coroner’s inquest.

The Court: I see no objection to this question being answered.

Mr. Peacock: Will you repeat the question?

(Question repeated.)

Mr. Ware: That is objectionable.

30

The Court: Why is it objectionable?

Mr. Ware: How can what was testified at the Coroner’s inquest be evidential in this case, except as contradictory to some statements made by the person, who is now a witness, as a comparison between their two statements. She cannot impute or impeach someone else.

The Court: I think that is true. I don't know what Mr. Peacock's—

Mr. Peacock: I withdraw that for the moment.

By Mr. Peacock:

Q. Was Mr. Danser present at the Coroner's inquest?

A. Yes.

10 Q. He testified there?

A. He was not present when I testified, but he was there.

Q. He was there when your son testified, was he not?

A. Yes.

Q. And did your son make a statement as to what he heard Mr. Danser say, in Mr. Danser's presence at the Coroner's inquest?

A. Yes.

20 Q. Did your son at that time say in Mr. Danser's presence at the Coroner's inquest that he had heard Mr. Danser say "Die, God damn you, die"?

The Court. You may answer.

Mr. Ware: Exception.

(Said exception noted for the defendant and hereby sealed by the Court.)

30 Q. Did you hear your son say that?

A. Yes, I heard him say that.

Q. Where is your son now?

A. He is at Dunwoody Institute, at Minneapolis.

Q. How old is he?

A. Nineteen.

Q. What course is he pursuing in college?

A. Electrical engineering.

Q. He could not come east for this trial?

A. No.

Mr. Peacock: That's all, thank you. Just a moment.

Q. Elvina Nelson, 481 North Sixth Street, San Jose, California, she was with you at that time?

A. Yes.

Q. She testified at the Coroner's inquest?

A. Yes.

Q. But she is not here today?

A. No.

Q. Do you know where she is?

10

A. She's at home.

Q. In California?

A. Yes.

Mr. Peacock: That's all, thank you.

Mr. Ware: I think I would add to my objection to the question, on cross-examination I think this is objectionable if the purpose is merely to ascertain from a witness what another witness testified to, in another proceeding not admissible at all.

20

The Court: Do you have any questions of this witness?

Mr. Ware: No, I have no questions.

(After recess.)

The Court: You may proceed.

30

THEODORE HOELIN, sworn.

By Mr. Peacock:

Q. Mr. Hoelin, you are the husband of the previous witness, Mrs. Hoelin?

A. Yes, sir.

Q. And you live at Jasper, Minnesota?

A. Yes, sir.

Q. What is your business?

A. I operate and manage a small telephone service.

Q. How long have you operated that?

A. I started in 1902 and have been at it continuously since.

Q. You have been operating it ever since 1902?

A. Yes, sir.

10 Q. In June of this year you were touring this part of the country with your family and this young lady from California?

A. Yes, sir.

Q. And you stopped at the Danser property did you?

A. Yes, sir.

Q. About what time did you arrive there?

A. Between nine and ten o'clock.

Q. By automobile?

A. Yes, sir.

20 Q. Did you have a trailer with you?

A. Yes, sir.

Q. And a camping outfit?

A. Yes, sir.

Q. Who did you see when you arrived at the Danser place first?

30 A. We drove up to the place. It was nicely lighted. It looked like a pleasant place to stop. The reason was, we were sent out there by one of the filling station-men over at Pennsgrove. The reason for us carrying a camping tent outfit was that was the best we could afford and we enjoyed pitching tent.

Q. Enjoyed outdoors?

A. And we were referred to there, to go to either of those two places and Mr. Danser's was the first we came to.

Q. Did you see Mr. Danser when you arrived there?

A. There was a gentleman sitting on the porch and I told him what we wanted. I told him we wanted a place where we could pitch a tent.

Q. This gentleman here, Mr. Danser, is the same gentleman (indicating the defendant)?

A. Yes, sir, Mr. Danser, and he told me the back part of their residence or place of business.

Q. I show you a picture of the Danser property outside.

A. Yes, sir, that's the place right there.

Q. And is that where you pitched your tent, back of the house?

A. Yes, he told us it was a little crowded and I told him it would be all right and I asked him the price and he said fifty cents and I gave him that.

Q. And you pitched your tent for the night?

A. I motioned for the family to go on and the car was set close to the window of the house and the tent back of that again. Three of the girls slept in the back of the car and the wife and I in the tent.

Q. What were the names of the girls in the car next to the Danser window?

A. Lillian and Eunice. They are here now.

20

Q. How old is Lillian?

A. She is twenty-one.

Q. How old is Eunice?

A. She will be sixteen, I guess.

Q. Did they occupy the car for the evening and sleep in the car?

A. Yes, sir.

Q. And who was in the tent with you?

A. My son, Marvin and I on one cot and my wife and the little baby—she is not here—she was along, a ten-year-old girl, slept in the other cot.

30

Q. How close was your tent to the back of the Danser house?

A. The width of the car and a little room between, probably eight foot to be exact.

Q. How close was the side of the car with reference to the Danser window?

A. That would be about three foot.

Q. After you had made arrangements to stay for the night, did you see Mr. Danser go to the cabin to go to bed?

A. Yes, sir.

Q. And about what time was that?

A. Approximately ten o'clock.

Q. Standard or Daylight time, do you suppose?

A. Well, traveling as we were, we came out of the Central time into the Eastern time and Daylight time.

10 On account of that, it kind of balled us up on the time.

Q. I suppose you changed your watch each position you came to where the time was changed?

A. Well, coming as we did and stopping to eat when we got hungry and trying to find a place—

Q. You had no difficulty in talking to Mr. Danser?

A. No, sir.

Q. He talked coherently and made all arrangements with you?

A. Yes, sir.

20 Q. Do you know about what time he went to bed?

A. It was shortly after ten o'clock we had our tent set up and I kind of walked around about and I met him out there and he was going over to his cabin.

Q. Did he talk to you anything about the accident that he had?

A. Yes, sir.

Q. What did he tell you about it?

30 A. He was quite ruffled up about something. I could not tell just what was wrong but he told me he had broken up a new—I think he said a Chevrolet car. I figured that was enough to ruffle anybody up.

Q. And he told you that before he went to his cabin, did he, the first time?

A. Yes.

Q. Did anything else attract your attention after he had gone to his cabin?

Mr. Peacock: I will withdraw that question.

Q. Did you go to bed after he had gone to bed?

A. Yes, sir.

Q. About what time did you go to bed?

A. Shortly after, about 10:15, somewhere along in there.

Q. Somewhere between 12 and 1 o'clock were you awakened by anyone coming there?

A. I heard someone fussing with a car out in the roadway somewheres. We were tired and I got drowsy and I just heard somebody fussing around in the yard there and I heard Danser's voice during that time, telling this party that he had better leave the car there and I believe get it in the morning or something like that. 10

Q. Where was Danser at that time?

A. He might have been out around the yard there somewheres east of the house, as I recall the directions.

Q. Going back to the time before he first went to his cabin, did you see him eating at any time?

A. Yes, sir.

Q. Where was he at that time?

A. He was in the kitchen, he and his wife. He was having a lunch and they were arguing about a few things. 20

Q. Who was doing the arguing at that time?

A. Well, it was about fifty-fifty, I should say.

Q. How close was Mrs. Danser to him?

A. It was just a small kitchen table and she was standing at the side of him or at the end of the table.

Q. After the car had this accident about twelve or one o'clock, the person you refer to, and you saw Danser talking, did you see Danser go to the back door of his house? 30

A. Did not see him, no, I was in the tent.

Q. Did you hear him?

A. Yes, sir.

Q. Did you hear him talking to Mrs. Danser at that time?

A. I heard him rap on the door and ask her to open the door.

Q. Did someone come to the door?

A. I don't know. He went in. He must have gone in because I heard them discussing things in the house.

Q. Did you hear him say anything to her when he went to the back door?

A. He says, when he rapped, "Ada, open up. We might as well have this out tonight as some other time, and settle this tonight," some words to that effect.

Q. And then he went in the house and after he went in the house did you hear arguments?

10 A. I heard some mumbling and discussion, something about money and a car. I thought it was none of my business and I went to sleep.

Q. How long did he keep that up?

A. I don't know.

Q. He was outside the house when he said, "We might as well have this out tonight as some other time and settle this tonight"?

A. Yes. just as he went in.

Q. Could you approximate how long these arguments
20 took place after he had gone into the house?

A. I don't know. I went to sleep.

Q. Do you know how long you kept awake, how long before you went to sleep, after the arguments started?

A. No. I could not say.

Q. Can you approximate the time?

A. I imagine I laid awake ten or fifteen minutes probably and finally rolled around and went to sleep.

Q. Were you awakaned again that night?

A. Yes, sir.

30 Q. What awakened you?

A. I heard—well, I was bothered. The missus was not sleeping well, she was kind of fussy about something there because she had heard the arguments and one thing or another they were discussing but we went to sleep again and then what woke me up, I heard the two shots fired, that is, I heard them one after the other. Naturally it woke me up but I was kind of dozy and at the time I did not get alarmed over it.

Q. After you heard the shots, did you hear Mr. Dan-ser again or see him again?

A. I heard him after while, yes.

Q. What did you hear?

A. I heard him saying something "Ada, why did you want to do that for?"

Q. How long was that after you heard the shots?

A. Oh, I don't know, probably ten minutes, eight minutes, something like that.

Q. Did he come out of the house at that time?

10

A. No, he sat in there mumbling this for quite a little while before he came out. I would not say just how soon.

Q. You say at least ten minutes?

A. Well, altogether ten minutes, that is.

Q. Then he came out of the house?

A. Yes.

Q. Did you see him?

A. No, sir.

Q. Did you hear him?

20

A. Yes sir.

Q. What did you hear?

A. He walked over and woke up the maid—Nancy, I think her name was—he said, "Nancy, wake up, come in, Ada has shot herself."

Q. When you heard him say, "We might as well settle this once and for all tonight," was that in an angry tone and a loud tone?

A. Quite so.

Q. Quite so?

30

A. Yes, sir.

Q. Were the tones angry and loud after he had gone in the house, that you heard?

A. Yes and no. They followed. I did not hear anything of the missus.

Q. Did you hear her arguing at any time?

A. No, not in the house.

Q. The only voice you heard was his voice?

A. Well, his voice.

Q. After he had called Nancy, what did you do, if anything. Did you go to sleep any more that night?

A. No, sir, there was no rest there. My boy lying next to me woke up or was awake before I was.

Q. Did you hear the officers come there?

A. As I remember, the missus and the boy rose up on their elbows and they said, "We might as well be getting
10 ready to go," and I said, "No, we will stay here until they tell us to go," and the first man that opened up our tent was the identical witness here this morning.

Q. Trooper Ditzel?

A. Yes, sir, that gentleman there (indicating).

Q. And you testified at the Coroner's Inquest, did you?

A. Yes, sir.

Q. Practically the same thing you testified to here?

A. Pretty near it, yes, sir.

Q. And you came from Minnesota, at the request of
20 the Prosecutor, to testify in this proceeding, did you?

A. Yes, sir.

Mr. Peacock: Cross-examine.

Cross-examination.

By Mr. Ware:

Q. You say you were about eight feet from the cottage?

30 A. The tent would be approximately that. The car was between the tent and the house.

Q. And the windows of the cottage were raised?

A. The kitchen window I believe was open in the evening, yes, sir.

Q. The kitchen window?

A. Sir?

Q. The windows of the kitchen is where you saw Danser eating?

A. Yes, sir.

Q. And talking to his wife?

A. Yes, sir.

Q. Now, you say that he said to her, "We might as well have this thing settled tonight?"

A. Yes, sir.

Q. Did he say what that thing was?

A. No, sir.

Q. You heard nothing to distinguish what he meant?

A. No, sir.

Q. To indicate whatever?

10

A. No, sir.

Q. Was that all you heard? Was that all you heard at that time?

A. Yes.

Q. But they did exchange words, didn't they?

A. After he got in the house.

Q. Well, why was it you could not hear her? You could hear him saying, "We might as well get this thing settled tonight?"

A. He was then out on the doorstep, as far as I could figure out. Of course, I wasn't on the step.

Q. And eight feet away?

A. Sir?

Q. And eight feet away?

A. Well, it would be a little farther than that from the tent, over to the east side of the house where he went in.

Q. Where you heard him say, "We might as well get this thing settled tonight" was eight feet away?

A. No, sir, that was farther.

30

Q. What?

A. No, that was on the east side of the house, where the entrance to the house was.

Q. How far away was he when you heard that?

A. Well, probably maybe twenty feet away from the tent.

Q. Twenty feet away you heard that?

A. Yes, sir.

Q. And then he went into the house and where he went

into the house would be about eight feet.

A. No, when I said eight feet away, I meant the kitchen window.

Q. That is where he was eating and arguing with his wife, wasn't it?

A. That's when earlier in the evening, when he made the statement you are referring to that was about twelve or one o'clock at night.

Q. Do you know what had taken place before-hand?

10 A. I don't know, I had been sleeping.

Q. You were sleeping off and on, you say you were sleeping off and on?

A. We went to bed about 10 o'clock and about 12 o'clock we were awakened by this tourist or this transient.

Q. This car getting into the ditch?

A. Yes, sir.

Q. And Danser went out to that?

A. They must have woke him up.

20 Q. And you heard him say something about coming around in the morning?

A. Yes, sir.

Q. And then he went over to the house, did he?

A. Yes, sir.

Q. Did you follow it up as a consequence and that is when he said, "We might as well get this thing settled tonight?"

A. That is it.

Q. That was in the neighborhood of one o'clock?

30 A. Yes.

Q. And after he got into the house you could not hear anything distinctly, could you, in fact, you were not desirous of hearing anything, were you?

A. No, I was not.

Q. You were not paying any attention?

A. I was not interested in their discussion.

Q. You wanted to get to sleep, didn't you?

A. Yes, sir.

Q. And the next thing was you heard two shots fired?

A. Yes, sir.

Q. Now, can you fix the approximate time when you heard those?

A. It would be between about—between 3:30 and 4 o'clock.

Q. Between 3:30 and 4 o'clock and you were wide awake, were you not, when you heard the shots fired?

A. No, sir.

Q. You mean you were partly asleep when you heard that? 10

A. I heard the noise.

Q. You heard the noise of the shots?

A. I heard the shots, yes.

Q. Well, you heard enough of it to distinguish there were two?

A. Yes, sir.

Q. And you heard no more?

A. No, I was just dozing away.

Q. Didn't you say at the Coroner's inquest that you thought you heard a muffled shot? 20

A. No, sir.

Q. Are you sure of that? Remember the question being asked you?

A. I suppose it was referred to, yes, because the defendant made a statement there were three shots fired.

Q. But you were positive then and you have not changed your mind since you did not hear but the two.

A. I heard the two shots distinct enough to know that they were shots.

Q. Yes, I know but you did not hear but the two, you are positive about that? 30

A. Yes, sir.

Q. And you were still sleepy after the second shot, were you not?

A. It did not rouse me much, no.

Q. And you heard somebody mumbling in there?

A. After while, yes.

Q. And you fixed the time about ten minutes later after the time of the second shot you heard a voice say,

"Ada, why did you do this?"

A. Yes.

Q. Did he say it more than once?

A. They said it several times.

Q. Anything said after that that you heard?

A. No.

Q. You saw him after that though, didn't you?

A. Not until in the morning or after the officers had come.

10 Q. Well, you heard him after making that remark, didn't you?

A. Yes, I heard him out in the yard.

Q. Heard him go over to the cabin and awaken a girl called Nancy?

A. Yes, sir.

Q. To deliver a message that "Ada has shot herself"?

A. Yes, sir.

Q. Do you know what Nancy said to that?

A. I did not hear her say anything.

20 Q. Hear anything following that until the officers came?

A. No, sir.

Q. You say they were rapid shots?

A. Quite so.

Q. One followed quickly after the other? No sound of screams?

A. No, sir.

Q. Any sound of a fall?

A. Did not hear a thing.

30 Q. Were the other members of your party awake at that moment, that is, referring to the shooting?

A. My son was. He was awake before I was.

Q. He was the one lying in the same cot with you?

A. Same cot by me, yes, sir.

Mr. Ware: That is all.

By Mr. Peacock:

Q. The Judge asked if you testified at the Coroner's Inquest about three shots. I am reading your testimony

given on the night of June 5, 1935, and ask you if this is correct, at the Coroner's Inquest: "The Mrs. was quite uneasy because of the noise, since she wasn't feeling very well, and I went to sleep and she made some commotion and awakened me and I heard two shots very distinctly and it sounded like a .32 and the Mrs. made the remark that she thought it would come to that. I imagine this was around 3:30." That is what you said at the Coroner's Inquest?

A. Yes, sir.

10

Q. And this question was asked you, "He didn't come out for some time?" and your answer, "No, he didn't come out of the house for probably twenty minutes or longer, and he called Nancy and said, 'Ada shot herself.'" That is what you said?

A. Yes, sir.

Q. And the question was asked by the Prosecutor, "You only heard two shots?" and your answer was "yes"? "Were they rapid fire?" "Quite so." That is what you testified to at the inquest, the same as you testified here to-day?

20

A. Yes, sir.

Q. And that is correct, isn't it?

A. Yes, sir.

Mr. Peacock: That is all.

LILLIAN HOELIN, sworn.

By Mr. Peacock:

30

Q. Lillian, you are the daughter of Theodore Hoelin?

A. Yes, sir.

Q. And how old are you?

A. 21.

Q. You attend school?

A. No.

Q. Through school?

A. Yes.

Q. You were on this touring trip with your father?

A. Yes.

Q. And you were in the car close to the window, were you not?

A. Yes.

Q. And you and Elvina were in the car together?

A. Yes.

Q. Did you hear these arguments that night?

A. I did before the automobile had gone in the ditch.

Q. Did you see the defendant?

10 A. Yes.

The Court: Let me find out from you how close was your car to the window?

The Witness: Well, I would say the car was about six or seven feet from the window.

Q. You and Elvina got close to the window to hear the argument, didn't you?

A. We did.

20 Q. Not naturally like a woman, no?

A. Naturally.

Q. Now, you heard the argument on the part of Danser, didn't you?

A. Yes.

Q. Did you hear him accuse his wife of taking money?

Mr. Ware: I object to that as leading.

The Court: It is a leading question.

30 Mr. Peacock: I will withdraw it.

Q. What did you hear him say?

A. I cannot say his exact words nor her exact words.

Q. Well, as near as you can remember.

A. Exact, they argued about money. It seemed he accused her of taking some of his money and she returned about the same, then they spoke of the accident, that was the most important, then they spent most of their time calling each other names, one would say something, the other would be quiet and come back with something else,

she would leave the room—I don't know what room it would be except the dining room—and he would say, "Ada, come back here," and she would stop, come back and stop and talk to him and he would say something and it was a fight without accomplishing anything.

Q. Did he or not accuse her of having men there when he was away?

A. He accused her of it.

Q. What did he say regarding that?

A. I cannot say for sure.

10

Q. Give us the substance of it.

A. It seems as though he would say someone was there and she would deny it, that's all there was to it. He did not say who or what.

Q. Was he cursing her at any time?

A. Yes.

Q. How long did that keep up that you remember, approximately?

A. As long as it took him to eat. I could not say how long that was.

20

Q. Did you hear him again when the car went in the ditch at 12 o'clock?

A. I slept up until that time. I heard steps coming almost up to our cot, then I heard Mr. Danser call him back, because we were only tourists and he should not have awakened us, because we were only tourists and could not help him.

Q. Did you hear the shots?

A. I did not hear anything until the next morning about 4 o'clock.

30

Q. You sleep sound?

A. I do.

Mr. Peacock: Cross-examine.

Cross-examination.

By Mr. Ware:

Q. Your testimony is all about the fore part of the evening?

A. Yes.

Q. And you say he accused her of having men there while he was away?

A. Not the plural.

Q. What?

A. Not the plural.

Q. You mean a man?

A. He spoke of the person as "he." I did not get an idea there was more than one.

10 Q. Did he name the "he?"

A. No, he did not.

Q. What did you understand by his accusations that she had a man there?

Mr. Peacock: I object to that. She can give the testimony as to what she heard.

Mr. Ware: I would rather she give it.

20 The Court: Wait just a minute. I sustain the objection.

Q. Give the language as near as you can of what he said concerning her having a man there.

A. I cannot say that definitely but I think it would be something like these particular words and not complete sentences. He would say "He was here," and she would answer, "No, he was not." That's as far as I heard.

Q. And how long did that last?

A. Why, I suppose it was around ten minutes or more.

30 Q. Was the telephone used during that time?

A. I did not see or hear a telephone.

Q. I mean did you hear a telephone being used?

A. No.

By the Court:

Q. What time of the evening was this?

A. Nine and after.

Q. Immediately after you had gone to bed?

A. As soon as Mr. Danser gave us permission to camp, he went in the house and he probably went right in and sat down at the table.

Q. And then this argument began?

A. And before we started putting up the tent, we noticed them in the window and so we went to listen.

By Mr. Ware:

Q. Well, it was not bright in the neighborhood, not 10
around 9 o'clock?

A. It was dark. The sun had just gone down.

Q. And you got permission to camp there?

A. Yes, sir.

Q. And the tent was erected and some of you got into the car to sleep, is that right?

A. What was the last of it?

Q. Some of you got into the car to sleep?

A. Yes.

Q. And that car was placed or stationed near the 20
kitchen windows?

A. Yes, sir.

Q. They were open?

A. I think the kitchen window was open.

Q. And at that time Danser was seated at the table, eating, is that right?

A. Yes.

Q. And his wife was standing up with her hands resting on the table?

A. She was facing us.

Q. She was what?

30

A. She was facing the window.

Q. She was facing you?

A. He was on the right of her.

Q. And while he was eating he was also engaged in a rather acrimonious argument with his wife?

A. Yes.

Q. And she would answer him except on occasions when she would leave the room and he would call her

back and then it would be shortly resumed, is that right?

A. Yes, sir.

Q. And that lasted for how long, do you suppose?

A. Ten or fifteen minutes. I am not sure.

Q. Then you went to sleep?

A. Yes.

Q. And that would bring it not more than half past nine, would it?

A. We had to make the bed up in the car first.

10 Q. Well, would you say a quarter to ten?

A. It took about fifteen or twenty minutes. We were in bed by ten o'clock.

Q. And you knew no more until the next morning?

A. No.

Mr. Ware: That is all.

By Mr. Peacock:

20 Q. The argument was on from nine until ten, all the time you were there?

A. Yes.

Q. And on again at 12 o'clock?

A. After we started making the beds, we did not pay any attention to them.

Mr. Peacock: That is all.

30 EUNICE HOELIN, sworn.

By Mr. Peacock:

Q. You were at the Danser home with your father and the family, were you not?

A. Yes.

Q. Did you hear this quarrel of Mr. Danser and his wife between nine and ten o'clock?

A. Yes.

Q. What, if anything, did you hear him accuse his wife of?

A. It was mostly about the accident, and I remember him saying something about this man being there while he was at this hospital.

The Court: Will you read the answer so that the Jury may hear it?

(Answer repeated.)

Q. What else did you hear, any argument about money?

10

A. I think he accused her, I can't remember distinctly what it was, I can't remember it.

Q. You can't?

A. I can't remember it.

Q. You talk louder than that when you are at home?

A. I can't remember the rest of the argument.

Q. How long did he keep this up?

A. Until we went to bed.

20

Q. That would be at least an hour?

A. Yes.

Q. Did you hear him again between twelve and one?

A. Yes.

Q. Was he still arguing with his wife at that time?

A. Yes, sir.

Q. When next did you see him or hear him?

A. Next morning.

Q. What was he doing at that time?

A. He was outside, with the rest of the officers there. 30

Q. You didn't hear the shots, did you?

A. No.

Mr. Peacock: Cross-examine.

Cross-examination.

By Mr. Ware:

Q. Didn't you say at the Coroner's Inquest that you

didn't hear anything more until your mother came in the morning?

A. After I heard them arguing about twelve to one o'clock, I didn't hear anything more from them until my mother called me.

Q. How do you know about an argument at twelve o'clock, how do you fix the time at twelve o'clock?

A. Well, it was the same argument.

Q. How do you fix the time at twelve or one o'clock,
10 as you say, what makes you say twelve or one o'clock?

By the Court:

Q. What Judge Ware wants to know is how do you fix the time?

A. I merely guessed at the time.

By Mr. Ware:

20 Q. It may have been eleven?

A. Yes.

Q. May have been two o'clock?

A. It might have been.

Mr. Ware: That's all.

By Mr. Peacock:

30 Q. Judge Ware asked you whether you testified at the Coroner's Inquest. I am asking you if this question was asked you: "Tell the Coroner and the Jury what you heard and saw over there last night?" This is the night afterwards. You said, "When we first came in, the first thing I noticed was the argument, and we remarked about it and said what a peaceful family, and we put up the tent and after we went to bed I awakened and heard them arguing again and it seemed as though they would never stop. I didn't hear anything more then until my mother woke me in the morning to tell me

about it." That was your answer, and that is what you have just testified to, isn't it?

A. Yes, sir.

By Mr. Ware:

Q. A sort of fifty-fifty argument?

A. When I woke up in the night it seemed more on his side.

Q. What?

10

A. He seemed to be saying more than his wife.

Q. He seemed to be saying more than his wife?

A. Yes, sir.

Q. Mrs. Danser then appeared to be a rather silent woman, didn't she?

A. At that argument she did.

Q. He had the whole argument—we won't waste time on it.

By Mr. Peacock:

20

Q. She didn't have much chance with him, did she, with that argument?

A. No.

Mr. Peacock: That's all.

FRANCES MATTSON, SWORN.

30

By Mr. Peacock:

Q. Where do you live?

A. Auburn.

Q. Where is that with regard to Salem County?

A. Near Swedesboro.

Q. You knew Mrs. Danser, didn't you?

A. Yes.

Q. Did you know Mr. Danser?

- A. Yes.
Q. How long have you known them?
A. Around five or six years, I guess.
Q. You were employed at their place of business, were you not?
A. Yes.
Q. You were living there the night Mrs. Danser was killed?
A. Yes.
10 Q. Did you see Mr. and Mrs. Danser in the house that night?
A. Yes.
Q. Did you hear any argument between them?
A. Yes, but I didn't pay any attention to it.
Q. How long did that argument or quarrel keep up that you know of?
A. I don't remember.
Q. Was it quite a while?
A. Well, they were still arguing when I went to bed.
20 Q. What time did they start?
A. They were arguing all the evening.
Q. You went to bed about what time?
A. Eleven o'clock.
Q. That picture back of you there, Miss Mattson, can you point to us—the one at the top of the door,—which one of the cabins you went to sleep in?
A. The second one.
Q. The second one from this end?
A. From the house.
30 Q. What number cabin is that?
A. What number?

The Court: If it had a number, Mr. Peacock wants you to tell him the number.

- A. They always called it number one.
Q. When you went to bed at eleven o'clock did you go to sleep right away?
A. Yes.
Q. Did you see Mr. Danser outside any time before

you went to bed?

A. No, I didn't.

Q. Was he in the house during that time?

A. No.

Q. Did you see him go to bed?

A. Yes.

Q. What cabin did he go to?

A. Two, number two.

Q. How close is that to the cabin you occupied?

A. About two feet.

10

Q. Were you awakened any time after you had gone to bed?

A. Yes, at one o'clock.

Q. What awakened you at that time?

A. Mr. Danser.

Q. What did he want with you at that time?

A. A car was in a ditch.

Q. Whose car was that?

A. Mr. Coles'.

Q. What is his first name?

20

A. Lester.

Q. That was one o'clock.

A. Yes.

Q. What did Mr. Danser say to you at that time?

A. He told me to get up and see what I could do with him.

Q. To try to get the car out of the ditch?

A. No, I guess not.

Q. What did you do?

A. I went out and told him to call up the garage.

30

Q. Who did you call?

A. Mrs. Danser.

Q. Did anyone telephone to a garage?

A. Yes.

Q. Who telephoned?

A. Lester.

Q. Where did he telephone from?

A. Mrs. Danser's.

Q. Did Danser talk to Coles at any time?

A. Yes, he did.

Q. Can you tell us how you approximated that as one o'clock.

A. Well, Mr. Danser was out talking to him, and when I went out I went over and called Mrs. Danser, and asked her if Lester could use the telephone. She said he could, and he went in and called, and he came out and went on over to the car, and Mr. Danser went on into the house.

10 Q. He went into the Danser house?

A. Yes.

Q. That was one o'clock?

A. Yes.

Q. Did you go back to your cabin again?

A. Yes, about half an hour.

Q. What time did you go to your cabin?

A. About one-thirty.

Q. Was Danser in the house during that time?

A. Yes.

20 Q. Did you hear any argument in there then?

A. Yes.

Q. All the time, from the time you got up until you went back to bed you heard the argument?

A. Yes.

Q. Did you hear Danser cursing Mrs. Danser?

A. No, I didn't pay any attention to it.

Q. You could hear it from where you were?

A. Yes.

30 Q. You have seen this gun in the Danser house, haven't you?

A. No.

Q. You know where the money was kept?

A. Yes.

Q. Where?

A. In the wardrobe, or whatever you might call it, in the top drawer.

Q. That wardrobe was in the bedroom, wasn't it?

A. Yes.

Q. How close to the davenport was the wardrobe?

A. About a foot.

Q. Wasn't there a gun kept in that drawer where the money was kept?

A. I never saw it.

Q. You have seen Mr. Danser have a gun?

A. No.

Q. You say you haven't seen him have a gun at any time?

A. No.

Q. Did you make a statement in this case? 10

A. About three years ago I didn't see him with a gun, but I was working there, and it was my night off, or my day off, I was coming back to work that night and Mr. Danser had been drinking, they said he was out on the porch with a gun, but I didn't see it.

Mr. Ware: I object to that.

The Court: Strike out that part as hearsay, the Jury will ignore that part as hearsay. 20

Q. Did you say you saw him with a gun at that time?

A. No, I didn't.

Q. After you had gone to bed about half past one you were awakened again, weren't you?

A. Yes.

Q. About what time was that?

A. At four, I would say.

Q. Who awakened you?

A. Mr. Danser. 30

Q. Were you in the same cabin when he awakened you?

A. Yes.

Q. He came over to the cabin, didn't he?

A. Yes.

Q. What did he say to you?

A. He hollered, or he called me, and I heard him call once, and he said that Mrs. Danser had shot herself.

Q. Then he came over to you and said something to you. didn't he?

A. To me?

Q. Yes.

A. Just told me she had shot herself, and went on in the house.

Q. What else did he say to you?

A. Nothing at that time.

Q. You went over to the house, didn't you?

10 A. Yes.

Q. And saw Mrs. Danser in her bedroom?

A. Yes.

Q. And she was lying on the floor?

A. Yes.

Q. You knew she had been shot?

A. Yes, after he told me.

Q. When you got there Danser made a statement to you, didn't he?

20 A. Yes, he told me to call the police, and then he said, "I guess they have got me now."

Q. Where were you when he said "I guess they got me now"?

A. In the middle room.

Q. Where was he?

A. Right in back of me.

Q. How close were you to Mrs. Danser's body?

A. About five or six feet, I was.

Q. Did you ask him what he meant when he said "I guess they got me now"?

30 A. No.

Q. Did he say anything further?

A. That's all.

Q. He said, "I guess they got me now," and then he asked you to call for the State Police, didn't he?

A. Yes.

Q. Did you see the gun in the room at any time where Mrs. Danser's body was?

A. No, I didn't.

Q. You have heard many arguments between Mr. and Mrs. Danser during the time you were there?

A. Yes.

Q. Drunk many times, was he?

A. Yes.

Q. Have you ever seen him strike her?

A. No.

Q. Have you heard him threaten her?

A. Yes.

Q. On how many occasions?

10

A. Oh, several.

The Court: What were the nature of the threats, what he did, or what you saw? A threat doesn't convey a specific meaning, we want to know just what he said or did.

The Witness: He was just going to hit her, or something like that, that's all I ever heard.

20

Q. How often have you heard that?

A. Just once or twice.

Q. How long did you work there?

A. This last time about ten or twelve weeks.

Q. When you saw Danser go into the house, what door did he use?

A. The back door.

Q. Is that door usually locked?

A. Yes.

Q. Was it locked this night?

30

A. Yes.

Q. Do you know who let him in?

A. Mrs. Danser.

Q. Did you hear her doing any arguing that night?

A. They were both arguing, but I didn't pay any attention to it.

Q. Did you hear him make any threats that night, the night she was killed?

A. No.

Q. Who was present when he said to you "I guess they got me now"?

A. Not anyone.

Q. No one?

A. No.

Q. The troopers had not arrived yet?

A. No, I had not called them.

Mr. Peacock: That's all, cross-examine.

10

Cross-examination.

By Mr. Ware:

Q. Somewhere about four o'clock, or shortly after that time, he awakened you by telling you that his wife had shot herself, is that right?

A. Yes.

20 Q. And following that you came to the cottage, and you saw what you expected to see, and then you heard Danser say to call the State Police?

A. Yes.

Q. And "I guess they got me now"?

A. Yes.

Q. That was all?

A. Yes.

Mr. Ware: That's all.

30

HAROLD W. TAYLOR, SWORN.

By Mr. Peacock:

Q. You are a police officer?

A. Yes.

Q. Where?

A. Upper Penns Neck.

Q. How long have you been a member of the Police Department?

A. 12 years.

Q. Do you know Edwin Danser?

A. I do.

Q. Do you know Ada Danser?

A. I do.

Q. Do you know Edwin Danser, the defendant here?

A. I do.

Q. Do you know whether Mr. Danser had a gun, or not?

A. Yes.

10

Q. Did he tell you that?

A. He told me that.

Q. Have you ever heard threats on his part to kill his wife?

A. Not to kill her, no.

Q. Have you ever heard his wife state that to you in his presence?

A. Yes, on this once.

Q. What did she say?

A. She was scared of him, and was in fear that he would do her harm.

Q. On how many occasions did you have to arrest him?

A. Two, anyhow, I know of.

Q. Before what Recorder was he?

A. Harry Guyder.

Q. Was he the Recorder?

A. The Recorder, yes.

Q. Is he living or dead?

A. Dead.

30

Q. Mrs. Danser, you say, in the presence of her husband and in your presence, said she was afraid he might do her harm?

A. Yes.

Q. And had him arrested on two occasions?

A. On warrants.

Q. Did he sign a bond at that time?

A. I think the Recorder let him sign his own bond.

Q. On the second occasion did or did not you hear her

say he had threatened to kill her and wreck the place?

A. The place was wrecked when I went out there.

Q. Did she say that to you in his presence?

A. Yes.

Q. Did you then go to his place?

A. I did.

Q. Was or was not the place wrecked?

A. It was.

Q. What did you find there?

10 A. I found bottles and things tore all up.

Q. What was the condition of the furniture?

A. Some of that was broken up.

Q. Did he ever come to you for a permit to carry a gun?

A. No, not for a permit.

Q. What did he come to you for?

A. I was stopped out there one day, and he asked me how about him to have a gun there. I said that I didn't see why he couldn't, so he says, "Can you get me one?"

20 I said, "I don't know, you had better see the Sheriff, he may get you one." So, later I was out there, maybe six months after, I don't know, and he told me he had a gun.

Mr. Peacock: Cross-examine.

Cross-examination.

By Mr. Ware:

30 Q. When he asked you how he could have a gun there, it was what time?

A. What?

Q. It was what time?

A. What time?

Q. Yes, when he asked you could he have a gun there?

A. It was daytime I was out there.

Q. What time, this year or the year before?

A. No, I should say it's been five or six years ago, he had not had the place open long.

Q. Then he asked you if he could have a gun there?

A. Yes.

Q. Six months after that he told you he had a gun?

A. That's right.

Q. Did he say what he wanted the gun for?

A. At that first time he did.

Q. What did he say he wanted it for?

A. There were prowlers around, he was afraid they might break in, there was a lot of robberies at that time.

Q. When were these happenings, which resulted in his being brought before the Recorder? 10

A. It was in 1933.

Q. What other time?

A. I think both the same year.

Q. Both in 1933?

A. I think so.

Q. And in one instance the Recorder permitted him to sign his own peace bond?

A. That's right.

Q. And he paid the costs, didn't he? 20

A. Yes.

Q. And included in that was the execution of this bond, wasn't it?

A. I don't know.

Q. A fee for that?

A. I don't know.

Q. What was the result of the second proceeding?

A. He would make a plea, and next morning he would be sober, and she would be willing to let him go then, see.

Q. Was that the result of that? 30

A. Of that peace bond it was.

Q. How about this second time you said he was before this Recorder Guyder, you said he was before this Recorder Guyder twice?

A. Yes.

Q. You described them as happening in 1933, and in referring to one of them you said the Recorder permitted him to sign his own peace bond?

A. That's right.

Q. How about the second proceeding?

A. I don't remember whether he signed his own peace bond, or somebody else signed it.

Q. It never went further than a peace bond, did it?

A. No.

Q. Although this woman had said that this man wanted to take her life?

A. She feared he would do her bodily harm.

10 Q. And wreck the place?

A. He did wreck the place.

Q. The judiciary was satisfied when he signed a peace bond?

A. Yes.

Q. And then following that there was the granting of a liquor license there?

A. Yes, sir.

Q. To this lady?

A. To Ada Danser.

20 Q. And her husband lived with her?

A. Yes.

Q. And liquor was one of the things that she complained of, wasn't it?

A. What's that?

Q. Regarding the abuse of liquor, that was one of the things she had by way of complaint against her husband?

A. Not particularly about that.

Q. Drink was the cause of it?

A. Yes.

30 Q. Yet she had a liquor license there?

A. Yes.

Mr. Ware: That's all.

FLORENCE HAWN, SWORN.

By Mr. Peacock:

Q. Where do you live?

A. Pennsville.

Q. You knew the Dansers, both Mr. and Mrs. Danser, didn't you?

A. Yes.

Q. How long have you known them?

A. About two years.

Q. You have worked for them?

A. Yes.

Q. When did you work for them?

A. From last March until the latter part of August, I think it was. 10

Q. You are acquainted with the bedroom of Mrs. Danser, are you not?

A. Yes.

Q. You know where the davenport was located?

A. Yes.

Q. Where her bed was located?

A. Yes.

Q. With regard to the davenport, was there a piece of furniture near the davenport where money was kept? 20

A. Yes.

Q. What kind of a piece of furniture was that?

A. It was a chest, or chifforobe, it had two glass doors, if I recall right, in the top of it, glass panels.

Q. I show you picture, S-17, and on that photograph will you show me where the piece of furniture is that contained the money?

A. Here (indicating).

Q. You are pointing on the extreme left of the furniture? 30

A. Yes.

Q. Where was the davenport with regard to that chest of drawers?

A. Along this wall (indicating).

Q. To the left of that?

A. Yes.

Q. That is correct?

A. Yes.

Q. And did Mrs. Danser keep her money in this drawer?

A. Yes, on the other side.

Q. Is that where she kept the change and all the money that she used in the business?

A. Yes.

Q. Did she keep a gun in there also?

A. Yes.

Q. Have you seen Mr. Danser go to that drawer that contained the money and the gun for change?

A. Yes.

10 Q. On how many different times?

A. Well, he had a key to it.

Q. He had a key to it.

A. Yes.

Q. How many times, during the time you worked there, have you seen him go to that drawer to take out money?

A. Quite a number of times.

Q. Would you say how many, ten, twelve, twenty, twenty-five?

A. He used to go there every day.

20 Q. And all the time you worked there the gun was in the same drawer where the money was?

A. I don't know for sure about that, but that's where it was when she showed it to me.

Q. Mrs. Danser showed it to you, didn't she?

A. Yes.

Q. On how many different times did she show it to you?

A. Just on one occasion.

30 Q. In March, 1935, did she show you the gun in that place?

A. No.

Q. Do you know the occasion when Mr. Danser wanted to go to Philadelphia?

A. Yes.

Q. When was that?

A. That was the last week I was there, I went out to visit Mrs. Danser, and he was drunk.

Q. What was he doing that day?

A. He was lying on the sofa.

By the Court:

Q. How long was this before the date in June when she was killed?

A. About the 15th or 16th of March.

By Mr. Peacock:

10

Q. You saw the gun that day, did you not?

A. No.

Q. On that day did you see the gun again in that drawer?

A. No.

Q. Can you tell us what date it was she showed it to you?

A. Not exactly the date, it was there when I first went there.

Q. How did she happen to show it to you?

20

A. We were talking after I first went there, she says "Florence, if anything ever happens in front, we have this for protection." It was all wrapped in oily rags, and it was in a candy box.

Q. Did both of them have a key to this money drawer?

A. I don't know if both of them had a key, but either one could get it off the other.

Q. Have you seen Mr. Danser with the key?

A. Yes.

Mr. Peacock: Cross-examine.

30

Cross-examination.

By Mr. Ware:

Q. You had a key to the money box?

A. No.

Q. Who else had a key?

A. I don't know as there was over one key, but I know any time Mr. Danser wanted it he could get it.

Q. Do you know whether he had the key regularly?

A. When Mrs. Danser wasn't there he had it, or if Mrs. Danser was there and he wanted money, or anything, he could get it.

Q. And there were others that had a key, were there not?

A. Not that I know of.

Q. You were there when Frances Mattson was there, weren't you?

10 A. Only once I seen her when she come there on a visit.

Q. She stayed there and worked, didn't she?

A. Not while I was there.

Q. Did you ever see her go and make change?

A. No, I didn't, because when they were there they always made the change.

Q. You heard her testify, didn't you to that?

A. Yes, that I was in there when she was.

Q. When were you there?

20 A. I was there from March, in the latter part of March until the last part of August, in 1934.

Q. You are not speaking of this year?

A. No.

Q. In August, 1934, was when you left?

A. Yes.

Q. From August 1934, to the present time, you have not been in the place?

A. Yes, I was there this last March.

Q. You were there for how long?

30 A. For a couple of days.

Q. For how many?

A. For two days with Mrs. Danser.

By the Court:

Q. Is that when she spoke about the revolver?

A. No, that was in 1934 when she told me about the revolver.

By Mr. Ware:

Q. Who else was working there?

A. There was no one there when I was.

Q. Do you know who you succeeded?

A. Edna Barrett, and Marie something, I don't know her last name.

Q. You say at the time when you worked there regularly—

A. When I worked there regularly?

10

Q. Which ended in August of 1934, Mrs. Danser showed you this gun?

A. Yes.

Q. And it was kept wrapped in oily rags, in a candy box, is that right?

A. Yes.

Mr. Ware: That's all.

20

HUBERT P. LAYTON, SWORN.

By the Prosecutor:

Q. Sheriff, were you called by the defendant on the telephone on the morning of June 5th of last year or this present year?

A. I was.

Q. And about how far is your home from the home of the defendant?

30

A. About a half a mile, probably a little more.

Q. Do you know about what time in the morning it was that he called you?

A. Oh, just a little before three o'clock.

Q. You had known him for quite a long time, had you not?

A. Yes, sir.

Q. You know his voice when he speaks over the phone?

A. Yes, sir.

Q. Did he tell you who it was calling?

A. Yes, sir.

Q. What did he tell you he wanted to know?

A. He wanted to know who was the head man of the State Police, Schwarzkopf or Captain Carter.

Q. He called you up around three o'clock in the morning to ask you that question, did he?

A. Yes, sir.

10 Q. Did he tell you why he wanted that information?

A. He said he wanted to make a report.

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

A. No, he said—— I said, "What do you want to report?" He said, "I want to report to the State Police."

Q. Anything further he said to you?

A. Well, he said "I am tired of them being around here."

20 The Court: Tired of what?

The Witness: "I am tired of the State Police being around here."

Q. Now, some time later that morning did you get another call from him?

A. I did.

Q. What time did you get the second telephone call?

A. Just before four o'clock.

30 Q. Was he again on the phone or was somebody else speaking for him?

A. No, it was Mr. Danser.

Q. What did he tell you on that occasion?

A. He said, "Is that you, Sheriff?" I said, "Yes." He said, "I wish you would come down right away."

Q. Did he say why he wanted you to come down right away?

A. He said, "Ada shot herself." I said, "What do you mean, shot herself?" He said, "I mean, she has

committed suicide." I said, "Is she dead?" He said, "She is dead."

Q. What did you do after that?

A. I got dressed and went down there.

Q. When you got to the Danser home, who did you find there?

A. Trooper Ditzel.

Q. Was the defendant there?

A. Beg pardon?

Q. Danser was there, was he not?

10

A. Danser was and Miss Mattson.

Q. Did you go in the house, in the bedroom?

A. I did.

Q. Did you find Mrs. Danser lying on the floor there?

A. I did.

Q. You have seen this picture, S-5, I think it is lying there alongside of you. Is that the position that her body was in when you got there?

A. It is.

20

The Prosecutor: Cross-examine.

Mr. Ware: There are no questions.

The Court: No questions, Sheriff; that is all.

No cross-examination.

The Prosecutor: Will Sheriff Layton come back and take the stand a moment?

30

HUBERT P. LAYTON, recalled.

By the Prosecutor:

Q. Sheriff, were you at the Danser place the evening of June fourth, the night before the shooting?

A. I was.

Q. And did you have a talk with Danser at that time?

A. I did.

Q. What was the conversation about that evening?

A He talked about being to the State Hospital.

Q. What did he say about that?

A. Why, he said that he thought he was a lot better and he thought probably they had cured him of drink, of the drink habit.

Q. Did he express any sentiment as to about going back there again or what they had done to him?

A. He did.

Q. What did he tell you about that?

10 A. He said that he felt that a month up there each year would do him a lot of good.

Q. Did he tell you anything else about the treatment up there?

A. Yes, he said they done nearly everything to him.

Q. Well, is that all he said to you?

A. I just don't remember all he said.

Q. Did Mrs. Danser come out of the store while that conversation was going on?

A. She did.

20 Q. What did she say about this accident if anything?

A. She said Ed had mashed the car up.

The Court: In his presence, was this?

Mr. Ware: When was this?

The Prosecutor: On the evening of June fourth.

The Witness: Well, I don't know; he was there, I
30 think.

Mr. Ware: That couldn't be so.

Q. Did she say anything in his presence about going to have him sent back to the hospital again?

A. I believe she did.

Q. As I understand, he told you that they had done most everything to him up at the hospital?

A. That is right.

Q. Did he express any fear about that, going back to the hospital?

Mr. Ware: I object to that; that is leading.

A. I don't remember about that.

The Court: There has no harm been done; it was leading.

10

The Prosecutor: All right; cross-examine.

Cross-examination.

By Mr. Ware:

Q. You said something about him mashing up a car?

A. Yes.

Q. On the night of June fourth?

20

The Court: That was the night of the conversation, June fourth.

Q. Yes; but it had reference to mashing up a car, didn't it?

The Court: Yes, it did.

A. That is right.

Q. You mean by that that he had mashed up a car belonging to his wife? 30

A. I don't know who it belonged to; he was driving it.

Q. And his wife said something to the effect that she was going to send him up to the State Hospital again, is that right, for mashing up this car?

A. I don't just remember. She said she thought he was starting to drink again.

Q. Yes, and he said he didn't know but what it would

be a good thing to go up to the State Hospital for a month every year?

A. That is right.

Mr. Ware: That is all.

By the Prosecutor:

Q. Did he say anything about he could get out at any
10 time if he committed himself and went there voluntarily?

A. He said something about that.

Q. Did he make any statement to the effect that if somebody else committed him, he couldn't get out whenever he wanted to?

Mr. Ware: Isn't that a matter of law or a matter of regulations?

The Court: Well, if he said that it may go in, but I
20 wouldn't lead him, Prosecutor.

The Prosecutor: All right.

A. I don't remember what he said about that.

The Prosecutor: You don't remember what was said about that; all right.

30 LESLIE COLES, SWORN.

By the Prosecutor:

Q. Where do you live, Mr. Coles?

A. Mullica Hill.

Q. Where are you employed?

A. Harold G. Cline.

Q. At his garage, do you mean?

A. Yes.

Q. And where is that garage located?

A. On the Harding Highway, south of Pennsgrove.

Q. And what is your employment there, what do you do?

A. Mechanic.

Q. How far is Mr. Cline's garage from Danser's Corner?

A. Oh, I should judge a mile, mile and a quarter, maybe.

Q. On the evening of June fourth of this year, did 10 you start from Cline's to go to your home?

A. That is right.

Q. And what kind of a vehicle were you in?

A. Chevrolet.

Q. What route did you take from Cline's to get to your home, what road did you drive over?

A. Over the Harding Highway.

Q. Did you turn there at Danser's Corner?

A. Yes, I went to turn and go to Auburn.

Q. And what happened?

20

A. My steering gear went out of order.

Q. Did the car go over in a ditch or somewhere?

A. Yes, sort of.

Q. What time of night was that?

A. I should judge it was around quarter past twelve, somewhere along there.

Q. After your car got in the ditch, what, if anything, did you do?

A. I worked there a while and tried to get it out.

Q. Were you successful in getting it out?

30

A. No.

Q. Did you call Mr. Danser?

A. No.

Q. Did he come out to where your car was?

A. Just as I got out of the car, why, he started to walk around, out toward the back of the house.

Q. Did you have any conversation with him?

A. No. He started over there and I got back in the

car and he come over there and says, "I can't do anything."

The Court: Keep your voice up.

The Witness: He says, "I can't do anything," and that is all and walked back.

Q. Did you see Nancy Mattson there that night?

A. Yes, later on.

10 Q. Later on; how much later on?

A. Oh, about ten minutes later, I guess, something like that.

Q. When you first saw Danser, did you notice where he came from?

A. Why, from back of the house. I couldn't say whether he come out of the house or not.

Q. There are some cottages in back of the house, are there not?

A. Yes.

20 Q. When he came out into the yard, did you see any light in the house proper?

A. No.

Q. Did you go in the house?

A. I did later on, yes, made a phone call.

Q. When you started into the house, was the door locked or not?

A. No, Mrs. Danser let me in.

Q. Well, did you have to call her in order to get in?

A. No, no, she was there at the door there to let me in.

30 Q. But there was no light in the house?

A. No.

Q. What did you do when you went in?

A. Why, as soon as she let me in she lit the light and I went in and phoned then.

Q. How long were you in there?

A. Oh, I judge three or four minutes, just long enough to make a phone call.

Q. Did Danser follow you in the house?

A. No, I didn't see Mr. Danser in the house?

Q. After you had completed your phone call, you came on out, did you?

A. Yes.

Q. And did you see Danser outside of the house then?

A. No.

Q. Did you see him go into the house at any time while you were there?

A. I thought he went in the house ahead of me, but I didn't see him in the house while I was in there?

Q. Where were you when you saw this Nancy Matt- 10 son?

A. There at my car.

Q. Was that after the telephone call or before?

A. Before.

Q. Was Danser there at that time, too?

A. No, I think he had gone on in somewheres.

Q. After you had completed telephoning and you went out of the house, did you see Mrs. Danser put the lights out again?

A. No. I didn't pay a whole lot of attention to it, 20 to that.

Q. Didn't you notice the lights were turned off after you got outside?

A. I don't think they were for a few minutes; I wouldn't say for sure.

Q. Did you see Danser at any time in the house while you were there?

A. No.

The Prosecutor: Cross-examine.

30

Mr. Ware: No questions.

No cross-examination.

HARRY DAVIS, recalled.

By Mr. Peacock:

Q. Mr. Davis, you testified this morning that Ada Danser was your sister?

A. Yes, sir.

Q. You have visited her home many times?

A. Well, I used to visit quite a little, but I haven't for the—maybe for the last two years.

Q. Now, do you know where the money was kept in her house?

A. Yes, sir.

Q. And where is it kept?

A. In a—

10

Mr. Ware: I object to this; this witness is speaking of a period of two years ago.

Mr. Peacock: We are bringing threats and money and things from 1932 right on down to date by other witnesses.

The Court: I think it is rather remote, Prosecutor.

20 Mr. Ware: Very much so.

Mr. Peacock: I intend to bring it right on down to his knowledge of where this gun was kept. Counsel stated in his opening—

The Court: I think you ought to show something more recent; I think it is too remote, back in 1930 or even 1931.

30 Q. When is the last time you were there?

A. I guess maybe two or three weeks, a month before she met her death.

Q. Two or three weeks before she met her death?

A. Yes.

Q. Before that time, when was the last time?

A. What I meant, from then on back two years ago; see, I been going there pretty regular.

Q. You mean you have been going there regularly from two years ago up until she met her death?

A. Yes.

Mr. Peacock: Does that clear it up?

The Court: Yes.

Q. From two or three years ago on up until she met her death, do you know where she kept the money?

A. Only by seeing her going and getting change.

Q. And where was that?

10

A. In the sitting room, in the bedroom, they would call it.

Q. Does it show on this picture, referring to S-17?

A. Yes.

Q. Is this the piece of furniture that you refer to, over to the left of the picture?

A. I would say it was, yes.

Q. How close is that to the davenport in the room?

A. The head of the davenport, I suppose, would be a foot from it.

20

Q. Do you know whether she kept a gun in that same drawer where she kept the money?

A. Well, she showed it to me once.

Q. Now, have you seen your sister on any occasions with a black eye?

A. I never saw her with a black eye; I saw her with the black side of her face here, bruised up.

Q. And do you know what caused it?

A. No, I couldn't swear what caused it.

Q. Did she tell you what caused it?

30

A. Yes.

Mr. Ware: Who told him?

Mr. Peacock: The deceased woman.

Mr. Ware: I object to it.

The Court: Sustained, unless it was in his presence.

Q. Now, when was the last time you saw her just before her death?

A. Why, it was the Monday before she met her death.

Q. Beg pardon?

A. The Monday before she met her death, on the third.

Q. On June third?

A. June third.

Q. I see; and you had a conversation with her at that
10 time?

A. I did; she was at my place for dinner.

Q. Was she in the best of spirits?

A. She was.

Q. Did she show any depressed mind or any melancholy condition at any time during these two years that you have known her down to the Monday before her death?

A. Maybe at times, yes, she would have a little trouble, she would be.

20 Q. And did she appear nervous on June third, or anything?

A. Oh, no.

Q. She was at your home?

A. My home.

Q. Now, did you know her husband was on probation
from a hospital?

A. Yes.

Q. Did you talk to her about that?

A. Yes.

30 Mr. Ware: I object to that.

Q. Did you ever talk to him about it?

A. No.

The Court: Just a minute.

Mr. Peacock: Withdraw the question.

The Court: All right. Did you ever talk to him about it?

The Witness: No.

Q. Did you ever talk to Danser about it?

A. No, sir.

Q. Now, have you heard Danser at any time make threats against your sister?

A. No, I have not.

Mr. Peacock: Cross-examine.

10

Mr. Ware: No questions.

No Cross-examination.

The Court: I think it well to take another recess at this time. Before actually recessing, let the jury be taken out in the custody of the constables.

(At this point, the jury left the Court room.)

(At this point, a recess was taken for ten minutes.)

20

Mr. Peacock: May it please the Court, there are six other State's witnesses who could not be here today. One witness, who had to go to work at DuPont's, we thought we would not reach until tomorrow and we excused him. The State has these six witnesses which we cannot produce today, as I say. I desire at this time, on behalf of the Prosecutor, to make a motion to allow the jury to 30 visit the scene of this crime.

The Court: I think the jury would rather do that in the day time than night time.

Mr. Peacock: Yes, I think it would be better for them.

The Court: There is no objection to that, is there, Judge Ware?

Mr. Ware: I don't see any objection.

The Court: I had expected, ladies and gentlemen of the jury, to sit much later than this, but Mr. Peacock, the Attorney-General, informs me that a few witnesses that he had scheduled to go on today either have been here and gone, expecting they would not be reached, or they have not arrived, but he assures me he will have them tomorrow morning, so we have reached the hour
10 where we can adjourn for the day. We cannot take up anything more. Now, as to this visit tomorrow morning, the jury will be taken to the house. I would think about three-quarters of an hour, from a half an hour to three-quarters of an hour, around there, ought to be enough. I understand it will take about twenty minutes to go there and it may be twenty minutes to return, so I would suggest that you leave and be ready to leave tomorrow morning about half-past eight. That will get you back here at ten. If you are a few minutes late, all well and good,
20 but I told the Sheriff I don't want you to be very late, because I will be here to open Court at ten o'clock. You are going to be taken to the scene of the shooting in the custody of the Sheriff and the constables. You are not to talk to them and they are not to talk to you; they cannot answer any questions. However, you can talk among yourselves, but you are not to talk to any outsiders or ask any question. We were discussing in chambers there the question might come up as to whether or not you would want some of these exhibits. I don't know
30 whether you will or not. I didn't have in mind so much the photographs as I had in mind the plan of the lay-out of the property itself, but I am informed you will find that lay-out there tomorrow morning exactly as it was the night of the shooting. You may want to compare this plan or the photographs with the bullet holes that no doubt are still there in the wall or in the baseboard or wherever they might be. Of course, if there are any exhibits, I would want to know so I could have the Clerk deliver them to the Sheriff to take along. If you mem-

bers of the jury decide that you want to take any exhibits along, you may give word to your foreman and he in turn will notify the Sheriff and the Sheriff will obtain the exhibits from the Clerk. That ought to be done right soon, because the Clerk would want to know this afternoon or within the next half hour or so. Is there anything else counsel has to say at this time?

The Prosecutor: Not that I know of.

The Court: Don't forget that you are not to talk to anyone except among yourselves at the home of Mr. Danser tomorrow morning. I will be here ready to open Court and resume again at ten o'clock. We will adjourn, and before anybody leaves, let the jury be taken out in the care of the constables. 10

(At this point, the jury left the Court room.)

The Court: We will now adjourn and resume tomorrow morning at ten o'clock. 20

(At this point, the further trial of the case was adjourned until Wednesday, December fourth, 1935, at 10:00 o'clock A. M.)

DAMON P. HUMPHREYS, SWORN.

By Mr. Peacock:

Q. Where do you live, Mayor? 30

A. Woodstown.

Q. What is your business?

A. I am Mayor up there.

Q. How long have you been Mayor?

A. 19 years.

Q. Do you know Edwin Danser?

A. Yes, sir, I have met him.

Q. Do you have any complaints from his wife regarding threats made against her?

Mr. Ware: Objected to, the objection is that it is purely hearsay, only hearsay, no binding connection between the present complaint, and that in itself is a separate entity, and identity of the subject matter has not been shown.

10 Mr. Peacock: This is a course of treatment, as we have shown, for the last three or four years, of threats and abuse. This is only preliminary, the written complaints and the appearances of the defendant.

The Court: I think it ought to show some connection in point of time. If it goes too far back it might be remote.

Q. How many times has he been before you?

A. Once.

Q. When was that?

A. May I refer to my docket here?

20 The Court: To refresh your recollection, you may.

The Witness: The complaint was made on August 22nd, 1930.

By Mr. Ware:

Q. 1930?

A. Yes.

Mr. Ware: I think it is clearly too remote.

30 The Court: I think it is too remote, it may be stricken out.

Mr. Peacock: That's all.

HELEN S. SPARKS, sworn.

By Mr. Peacock:

Q. Where do you live?

A. 3403 North 19th Street, Philadelphia.

Q. You knew Mr. and Mrs. Danser, did you not?

A. Yes, I did.

Q. You formerly worked for them, didn't you?

A. I did.

Q. When was the last time you were at their home?

A. The Sunday night before she died.

Q. You visited her quite frequently after working there?

A. I did.

By the Court:

10

Q. You were there the Sunday night before she died?

A. The Sunday night before Mrs. Danser died.

By Mr. Peacock:

Q. That was June 3rd?

A. Yes.

Q. How long had you been there with her at that time?

A. From Saturday afternoon about three-thirty until Sunday night, I think it was the nine-thirty boat.

20

Q. Do you know whether there was a gun in the Danser home at the time you were there?

A. Yes.

Q. Where was that kept?

A. In the chifforobe in the bedroom.

Q. It was in the bedroom, that's off of the dining room, is it not?

A. Yes, sir.

Q. There's two doors to that bedroom, where do they go to?

30

A. One leads out in the store, and the other leads into the small dining room in back of the store.

Q. The gun was kept in that chifforobe?

A. Yes, sir.

Q. In what drawer did they keep the gun?

A. When I was there it was the second drawer to the right.

Q. Mr. Danser knew that gun was there?

A. Yes.

Q. He talked to you about it?

A. He did at one time.

Q. Do you know whether there were peepholes in the door there or not?

A. It wasn't in the door, it was in the back of the wall, one was in the bedroom, the other was in the small dining room.

Q. Where were those peepholes?

10 A. One right behind the cash register, the other was behind, it was on the side of the Kelvinator in the store part.

Q. Did Mr. Danser talk to you about that, why he had those peepholes?

A. They told me why they were——

Q. You talked to him about them?

A. He told me it was in case of someone holding up the store, we had a chance in back with the gun we could use through the holes.

20 Q. Did he talk to you at any time about using the gun?

A. Yes, sir.

Q. What did he say to you?

A. He told me in case anybody held up the store I could use it, that was when she went to New York on her trip.

Q. How many other times did he talk to you about using the gun?

A. None other.

Q. Where did she keep the money?

A. In the left hand top closet, right in the chifforobe.

30 Q. How many times have you seen Mrs. Danser at that drawer?

A. Numerous times.

Q. Have you ever seen Mr. Danser beat his wife?

A. I saw him strike her.

Mr. Ware: I object to that.

The Court: It is leading, strike the question out, and the answer. Reframe the question, and the Jury will ignore the question and the answer.

Q. What have you seen Mr. Danser do to his wife?

A. Strike her.

Mr. Ware: I object to that unless some point of time is shown.

Q. During the time you worked there?

A. Yes.

The Court: The answer may stay in for the moment, 10 but let us fix the time.

Q. When did you first start working there?

A. In March, 1932.

By the Court:

Q. When was it you saw Mr. Danser beating his wife?

By Mr. Peacock:

20

Q. You worked there up until 1934?

A. I did.

Q. You visited her numerous times in 1934, down to the two days before she died?

A. Yes.

Q. When was it you had seen him strike her?

A. One day we were sitting——

Mr. Ware: I object to that.

30

Q. Was it 1932, 1933, 1934 or 1935?

The Court: Fix the time as near as you can.

A. 1933.

Q. What part of the year?

Mr. Ware: I object to that as too remote.

Q. What time of the year was it?

A. In the summer, late summer.

Mr. Peacock: I submit that is not too remote.

Mr. Ware: I object to it on that ground.

Mr. Peacock: I will show a course of abuse from that time on down to the time of the murder. I submit that it
10 is not too remote.

Mr. Ware: I am objecting to it again on that ground.

The Court: I think it may stay in for the moment, in view of what the Attorney-General says, he is going to connect it up. I will allow it to remain in, but later on, if we find it is not connected up, you may renew your motion, and I will strike it and instruct the Jury to ignore it, but at this time I apprehend it is proper.
20

Mr. Ware: Exception.

(Said exception noted for the defendant and hereby sealed by the Court.)

[L. S.]

F. F. NEUTZE,
Judge.

Q. From that time on down to June 3rd, have you heard numerous quarrels between Mr. Danser and his
30 wife?

A. I have.

Mr. Ware: I object to that as too remote, and too general.

The Court: Overruled, but watch your leading questions, Mr. Peacock. It suggests an answer, and it is leading when it suggests an answer.

Mr. Ware: It is objected to on the ground that it is too general.

The Court: Overruled.

Mr. Ware: Exception.

(Said exception noted for the defendant and hereby sealed by the Court.)

[L. S.]

F. F. NEUTZE,

10

Judge.

Q. On how many occasions from the summer of 1934 to two days before she died, have you heard these quarrels between Mr. and Mrs. Danser, could you approximate the number of times?

A. Six times, anyway.

Q. When was the last time?

A. Christmas time, 1934.

Q. Christmas, 1934?

20

By the Court:

Q. That is just about a year ago?

A. Yes, sir.

By Mr. Peacock:

Q. Then she was killed in June, is that correct?

A. Yes, sir.

Q. What else have you seen happen between Mr. and Mrs. Danser in 1934, up to the time, the last visit you were there, as far as abuse or threats on the part of Mr. Danser against his wife?

Mr. Ware: That is objected to as partly too general, too remote, as well as hearsay.

The Court: Overruled.

Mr. Ware: Exception.

(Said exception noted for the defendant and hereby sealed by the Court.)

[L. S.]

F. F. NEUTZE,
Judge.

The Court: Repeat the question.

(Question repeated.)

10 A. I heard him order her out numerous times.

Mr. Ware: I move to strike that out as not being connected with the subject matter of the question.

The Court: Overruled.

Mr. Ware: Exception.

(Said exception noted for defendant and hereby sealed
20 by the Court.)

[L. S.]

F. F. NEUTZE,
Judge.

Q. What did he say to her at the time you heard him order her out of the house?

Mr. Ware: Objected to as hearsay.

The Court: Overruled.

30

Mr. Ware: Exception.

(Said exception noted for defendant and hereby sealed
by the Court.)

[L. S.]

F. F. NEUTZE,
Judge.

Mr. Ware: It is a conversation somebody overheard,
and——

The Court: The question may be answered.

A. He just told her to get out.

By the Court:

Q. The defendant said this to his wife?

A. Yes.

By Mr. Peacock:

10

Q. Did he use profanity towards her as that time?

A. He always did.

Q. Were those orders in angry tones?

A. Yes, sir.

Q. How many times have you heard that between the times stated?

A. I can't keep track of the times.

Q. Was it so many times you couldn't keep track of them?

20

A. Yes, sir.

Q. You knew he was in the hospital, didn't you?

A. I did.

Q. You went with Mrs. Danser to visit him in the hospital, didn't you?

A. Yes, sir.

The Court: May it not be well to fix the date, so the Jury will have some idea when he was in the hospital?

Q. When was that?

30

A. That was the Sunday before he returned home.

By the Court:

Q. This is the time you visited him?

A. Yes, in Trenton.

By Mr. Peacock:

Q. Do you know when he returned home?

A. He returned home on Wednesday.

Q. How long before Mrs. Danser died?

A. Just one week.

Q. He was there how long?

A. He was there about five weeks.

By the Court:

Q. So we can presume from that he was in the hospital practically the whole month of May, and went home along about the first of June, is that about right?

A. Yes.

By Mr. Peacock:

Q. Then a week before he returned home you were with Mrs. Danser at the hospital at Trenton talking to Mr. Danser, is that correct?

A. I was there three days before he returned home, 20 I was there Sunday, he returned Wednesday.

Q. Did he make any statement as to his stay at the hospital, what he thought of it, or what would happen to him or Mrs. Danser if he returned to that hospital?

Mr. Ware: Objected to on the ground as being hearsay and unconnected with this subject matter.

The Court: Overruled.

30 Mr. Ware: Exception.

(Said exception noted for the defendant and hereby sealed by the Court.)

[L. S.]

F. F. NEUTZE,
Judge.

A. We were on the lawn talking, and Mrs. Danser asked him if he was going to drink any more when he came home. He said, "No," it wasn't the idea of the

drinking, it was the fear of going back there.

Q. Back where?

A. To the hospital, to Trenton.

Q. What did she tell him if he did drink any more?

A. She told him she would send him back.

Q. Did he say anything else as to the fear of being in that hospital?

A. No.

Q. When he came home did you hear him say anything about it? 10

A. I didn't see him.

Q. You didn't see him on June 3rd, did you see him that day?

A. No.

Q. Or June 2nd, the last two days you visited Mrs. Danser, that was a Sunday you said you visited him?

A. I was there Sunday evening, I saw him then.

Q. On June 3rd you were with Mrs. Danser both days, were you not?

A. Saturday and Sunday. 20

Q. Was she in good spirits at that time?

A. Very good spirits.

Mr. Peacock: I see, cross-examine.

Cross-examination.

By Mr. Ware:

Q. Your name is Helen Oliver, is it not? 30

A. I don't go by that name.

Q. Isn't that your name?

A. Yes, sir.

Q. And you live at 3403 North Nineteenth Street, Philadelphia?

A. Yes, sir.

Q. You live there at the present time?

A. Yes, sir.

Q. You started to work for the Dansers in 1931, didn't you?

A. I went there in March, 1932.

Q. Didn't you tell me that you went to work for the Dansers in 1931?

A. I was there two years and a half all together.

Q. You didn't tell me that?

A. I don't think I did.

Q. And that you left Easter, 1933?

10 A. Easter, 1934.

Q. You left at Easter, 1934, you are positive of that? What is your answer?

A. Yes.

Q. You are equally positive you didn't tell me that?

A. Yes.

Q. You didn't tell it to the stenographer who took your statement, is that right?

A. I don't remember.

Q. You don't remember, then there is a possibility you
20 did say it, is there not? What is the answer?

A. I don't remember that.

Q. Speaking of this gun that you referred to in your direct examination, you saw the gun?

A. I did.

Q. How many occasions?

A. I saw it numerous times when I was cleaning out the drawer.

Q. Where was it kept?

A. In the second drawer, right hand side.

30 Q. What is the second drawer?

A. The drawer where clothes were kept.

Q. Where Mrs. Danser's clothes were kept, that is, it is not a money drawer, is it?

A. No.

Q. And if Mrs. Danser kept her clothes there, it must have been Mrs. Danser's drawer?

A. It was open, anyone who wanted to go in there.

Q. She kept her clothes in there?

A. Yes.

Q. She kept this revolver in there, didn't she?

A. Yes, sir.

Q. And this revolver was wrapped up, wasn't it?

A. When I seen it, yes.

Q. In an oily rag?

A. Yes, sir.

Q. And while you were working there this revolver was sent out to be cleaned, wasn't it?

A. Yes.

10

Q. Do you know the man who cleaned it?

A. No.

Q. Do you know where he lived?

A. No.

Q. How do you know it was cleaned?

A. I know it was.

Q. Well, how, what was the source of your information?

A. I was there when Mrs. Danser, when the gentleman said he would clean it for her, it was in no condition to be used. 20

Q. Mrs. Danser had it cleaned, and let some fellow have it for that purpose. You never saw Mr. Danser with a revolver, did you?

A. No.

Q. You never saw Mrs. Danser with it?

A. She showed it to me, that's all, she didn't take it in her hand.

Q. She showed it to you for what purpose?

A. We were cleaning out the drawer, and we came across it, and she showed it to me there. 30

Q. Did she say what it was?

A. No.

Q. Or for what purpose it was kept there?

A. No.

Q. You didn't inquire?

A. No, I didn't consider that any of my business.

Q. Did you tell me that you saw Mr. Danser strike his wife?

A. I did.

Q. You did, and did you tell me how many times he did strike his wife?

A. I don't remember that.

Q. You don't remember that?

A. No.

Q. But you said that he had struck his wife?

A. Yes.

Q. You remember telling me that?

10 A. Yes.

Q. This was prior to his return from the State Hospital?

A. Before his return, yes.

Q. And you said also that he treated his wife in a conversation resplendent with profanity?

A. Yes, sir.

Q. In fact, he was a very profane man, is that true?

A. When he was drinking.

Q. And you said he was drinking most of the time, 20 didn't you?

A. Usually.

Q. So that is most of the time, and yet you saw fit to go visit the hospital, despite the fact he was a very profane man, and struck his wife, and he in your estimation was sort of a human brute?

A. The reason I went is because Mrs. Danser asked me to chauffeur her to Trenton.

By the Court:

30

Q. Could she drive a car?

A. Yes, but she never drove a long distance, and she asked me to take her on Sunday.

By Mr. Ware:

Q. This was her automobile?

A. Yes, and she had a license for it.

Q. Did you drive it?

A. Yes, sir.

Q. You knew where the State Hospital was?

A. No.

Q. You got there, anyway, didn't you?

A. She told me how to get there.

Q. She told you how to get there?

A. Yes.

Q. Did you go inside?

A. I did.

Q. You talked to Mr. Danser, didn't you?

10

A. Yes.

Q. You did not advise her to keep him in there, did you?

A. That wasn't any of my affairs.

Q. He complained to you, didn't he, up there, that he didn't like the treatments, that he didn't like the treatment?

A. I didn't hear him say that.

Q. He said what they did to him, didn't he?

A. I didn't hear that, I wasn't listening to them, he was talking to his wife. 20

Q. I know, but did you hear him tell his wife that?

A. I heard him tell his wife it wasn't the idea of drinking, it was the fear of coming back there.

Q. You heard him say that to his wife?

A. Yes.

Q. That he didn't like the place. Did that seem unusual that a man who was in an asylum or hospital for treatment, showed objection to the place?

30

The Court: That would not make any difference, Judge Ware.

Mr. Ware: I know it would not make a difference, but it is put down as an extraordinary thing, but it possibly only is a matter of argument.

Q. When Mr. Danser was not drinking, he was a very nice man, wasn't he?

A. Yes, sir.

Q. And Mrs. Danser was a very lovely woman?

A. All the time.

Q. You used to sleep in the same bed with her while you were there?

A. I did.

Q. You looked on her as a mother to you, didn't you?

A. Yes, sir.

Q. And she considered you as her daughter?

10 A. I don't know about that.

Q. Didn't you tell me that? She treated you like a daughter?

A. Yes.

Q. Did she drink?

A. She may have taken a drink for indigestion, something like that, she never drank to excess.

Q. What did she take, whiskey for indigestion?

A. Yes, sir, it was always diluted.

Q. Did she have indigestion much?

20 A. No.

Q. Only seldom, and you were opposed to liquor being around?

A. I can't say that.

Q. And it was a licensed place, was it not?

A. Yes, sir.

Q. You worked in there?

A. I did.

Q. Served the customers?

A. Yes, sir.

30 Q. And the principal thing you know about this gun—was the gun was kept there by Mrs. Danser, and Mr. Danser told you that in the case of a holdup this gun would be employed in defense of the place?

A. Yes.

Mr. Ware: That's all, Mrs. Oliver.

By Mr. Peacock:

Q. You said your name was Oliver, your name is Helen Sparks Oliver?

A. Yes.

Q. You are not living with your husband?

A. No.

Q. You use your maiden name of Helen Sparks?

A. I do.

Mr. Peacock: That's all, thank you.

FRANK RUGGIERO, sworn.

10

By Mr. Peacock:

Q. You are one of the detectives in the State Police Department of New Jersey?

A. Yes, sir.

Q. How long have you been connected with the State Police?

A. Twelve years.

Q. Do you know Edwin Danser?

A. Yes, sir.

Q. Were you at his home on the night of this alleged homicide? 20

A. That morning.

Q. What time were you there?

A. I arrived there about a quarter after seven in the morning.

Q. Who was at the home when you arrived there?

A. The defendant, Trooper Ditzel, Coroner Cole and Miss Mattson.

Q. Did you examine the room in which the body was? 30

A. I did.

Q. Did you make an examination of the bullet holes that were in the baseboard, as well as in the side wall near the table?

A. I did.

Q. Did you talk to Mr. Danser about his wife, concerning the shooting?

A. I did.

Q. Did Mr. Danser make any statement to you as to where his wife was when the shots were fired?

A. He did.

Q. What did he say?

A. He said when the shots were fired his wife was in bed.

Q. In her bed?

A. Yes.

Q. Did he say anything to you about seeing the flashes of the gun?

A. He did.

10 Q. What did he say?

A. He said he seen two flashes, but he thought he heard three shots.

Q. You made an examination of these bullets that were imbedded in the wall? You studied marksmanship in the State Police, have you not?

A. Yes, sir.

Q. Do you have any rating in marksmanship in the State Police?

A. Yes, sir.

20 Q. How long have you studied marksmanship, besides the effect of guns, and so forth?

A. I have been handling guns since 1917, while I was in the service in the war.

Q. From your study of marksmanship, rifles and guns, are you in a position to state, in your opinion, where a person had to stand to fire the two bullets that entered into this board and wall near that table, can you state that?

A. Yes, sir.

30 Q. Where did a person have to stand to fire his shots to place those two bullets in the baseboard and in the wall back of the table?

A. He would have to be standing, and in the region of the dining room door leading into the bedroom.

Q. I call your attention to Exhibit S-5, is that the bed that was occupied by Mrs. Danser?

A. That's the bed that the defendant told me his wife occupied.

Q. I call your attention to Exhibit S-8, the chair, and to S-12, were they all on the same line as the bed?

A. They were.

Q. Could a person lying in the bed, which was occupied by Mrs. Danser, fire a gun and cause the bullet to enter into this table on S-12 and into this board on S-10?

A. It was impossible.

Mr. Peacock: Cross-examine.

Cross-examination.

10

By Mr. Ware:

Q. You say it was impossible?

A. To fire a gun from that bed.

Q. There's no possibility it could be done?

A. Absolutely not.

Q. How many years have you studied marksmanship?

A. I have been in the service, in the Army, 1917, during the war.

20

Q. Yes. Did you ever study any textbooks on the subject?

A. Just in the service.

Q. You understand the matter of angles and dimensions?

A. Angles and dimensions, yes.

Q. What did you ever take that up in?

A. I went through the Army school at Rock Island, Illinois.

Q. Under what text heading is the subject of angles and dimensions taken up? 30

A. We had instructors and lecturers at the school.

Q. Under what general heading was it called?

A. Firearms, powder.

Q. You mean to say they studied dimensions and measurements under the subject of fire-arms?

A. We had to.

Q. Pardon me?

A. We had to.

Q. You had to, but was that not a separate study in itself?

A. No, it was a general study, we had a class there in Rock Island, Illinois.

Q. It's all under the heading of fire-arms?

A. Fire-arms and powder.

Q. Fire-arms and powder, and in that regard you studied shotguns?

10 A. No, we didn't study that there, automatic revolvers at that time.

Q. Automatic revolvers?

A. And automatic machine guns, and—

Q. Automatic machine guns, and everything concerning musketry and cannonry?

A. Yes, we took in all that.

Q. And under the headings of musketry and gun fire in general?

A. Yes, sir.

20 Q. And shots and shells, and the composition of powder?

A. Yes, sir.

Q. Is that right?

A. Yes, sir; and also the angles that they were fired.

Q. That was all under the heading of gun shots and cannonry?

A. That's an arsenal there.

Q. You didn't study geometry, did you, there?

A. Just in school.

Q. What?

30 A. In school.

Q. Did you, at this military academy, the place where you got this instruction, did you take up geometry?

A. No, sir.

Q. Or trigonometry?

A. No, sir.

Q. You didn't go into them?

A. No sir.

Q. They were not separate subjects?

A. It wasn't, it was during the War this was taken up.

Q. Going into the subject of angles and measurements there, don't they properly come within the domain of geometry?

A. They did, they didn't teach us geometry, they assumed we knew enough about geometry when they gave us these lessons, so that we could figure out——

Q. That was their presumption?

A. Yes.

Q. And you say based upon that study you made in 10 the school that a bullet discharged from a fire-arm, and which lodged in the wall surface of the wall, and in the leg of that stand, could not have been shot by anyone discharging the fire-arm in the room where the bed of Mrs. Danser was?

A. I didn't say that.

Q. You say there's no possibility of that?

A. I say there's no possibility of a person——

Q. Now, you have laid down the proposition that a 20 bullet discharged from a revolver by one lying on that bed or sitting on that bed or in any position on that bed, sitting, lying or standing, the discharge could not land in the leg of that table or the surbase of the wall, in fact, you put it down as impossible, don't you?

A. I do, from the region of the bed itself.

Q. And you say that without regard to the fact that 30 a person sitting on the bed, with an extended arm away from the bed, could not hold that revolver in the position where the discharge would find lodgment in that or that table?

A. It is possible but it would not be at that angle.

Q. Now you say it is possible?

A. It is impossible at the angle the bullets or projectiles show in the wall now.

Q. Haven't you ever encountered anything in your experiments with gunfire and the discharge of revolvers that are an exception to the accepted rule?

A. I have not.

Q. You have not?

A. No sir.

Q. Everything has been absolutely up to measurement and perfect?

A. I have. I have never seen anything as you explain this.

Q. And how many experiments have you made?

A. I have experimented numerous times in this department.

Q. What do you call numerous times?

10 A. Well, I have tested guns in this department, test shots.

Q. How many is comprehended under the term "numerous?"

A. A dozen times, fifteen times.

Q. And in a dozen instances you have found this, all in the dozen instances, they have all measured up to the same point, there has been no variation?

A. Slight variation, yes.

Q. There has been slight variations then?

20 A. Slight.

Q. And there has been no two alike?

A. Do you mean the projectiles?

Q. Yes, anything you made experiments in.

A. I do not know. I have shot a gun in a wad of cotton six times and the whole six shots would be the same, if that is what you mean.

Q. Do you lay it down as matter of exact science that there can be more than one thing of the same kind that will measure up in every particular?

30 A. In this particular instance they did.

Q. There is such a thing then?

A. Yes, sir.

Q. Well, then, your find is an exception to the general rule?

A. No, I do not believe so.

Q. You believe there are more than one thing alike of its kind in the world?

A. Yes, sir.

Q. You do, eh?

A. Yes, sir.

By Mr. Peacock:

Q. Mr. Ruggiero, I want to show you these three photographs and I call your attention to Exhibit S-5. You testified that that was the bed Mrs. Danser was sleeping on as told to you by her husband. Is that correct?

A. Yes, sir.

10

Q. At the foot of that bed is a table, isn't there?

A. Yes, sir.

Q. And is the bottom of that table shown on Exhibit S-12?

A. Yes, sir.

Q. Place that in this position which would be the bottom of that table, wouldn't it?

A. Top.

Q. This would be the top of the table and the table is right at the foot of the bed, is it?

20

A. Yes, sir.

Q. Is that correct?

A. About eight or nine inches away from the cot.

Q. This is the other end of the table (indicating on photograph)?

A. Yes, sir.

Q. Referring to Exhibit S-9?

A. Yes, sir.

Q. And this, referring to Exhibit S-9, is the table outside of the door, that is correct, isn't it?

30

A. That is a sort of chair outside.

Q. Then a woman lying in bed here to fire a shot would have to fire it down that way? (indicating on photograph).

A. Would have to fire it at a straight angle.

Q. And these bullets went in this way (indicating)?

A. By reason of the dining room door.

Q. Is that the reason you say it was impossible to fire from the bed?

A. Yes, sir.

Mr. Peacock: That is all.

By Mr. Ware:

10 Q. Now, Mr. Ruggiero, you said in your direct examination that the defendant said to you that his wife was lying—was in the bed when she fired the two shots. Are you positive of that?

A. Yes, sir, the defendant told me that himself just immediately or, rather, prior to the shot, as he took one step from this—

Q. Prior to the shots?

A. As he took one step from this cot that he was lying on.

Q. Hadn't you better look at your notes?

20 Mr. Peacock: He has not asked for any notes.

A. I do not have to.

Mr. Ware: I know, but you are suggesting that he do not.

Mr. Peacock: Yes.

Q. That places you in relying upon your memory?

A. Yes, sir.

30 Q. You subjected this man to an examination at 7:15 in the morning, didn't you?

A. Not at that time of the morning, no, sir.

Q. You said you arrived at 7:15.

A. I talked to him slightly at that time.

Q. You talked to him slightly?

A. Yes.

Q. You talked to him slightly on that day and that is when he told you she was lying on the bed?

A. No, sir, it was when he was at the station.

Q. What do you mean, station?

A. Sub-station of ours.

Q. At the New Jersey Police Sub-station?

A. Yes, sir.

Q. At Woodstown?

A. Yes, sir.

Q. You had taken him there?

A. Two other Troopers had brought him there.

Q. He was under arrest at that time?

A. No, sir.

Q. You said you had taken him to the sub-station?

A. He was informed that the shooting had some aspects that had to be investigated and he was under investigation.

Q. How do you get a man to the sub-station without arresting him?

A. He volunteered to go there.

Q. You kept him there?

A. No, sir; when I arrived at the station, he was sitting out there on the porch by himself and he could have walked away if he wanted to.

Q. He surrendered?

A. I would not say surrendered.

Q. What was he doing there, just a casual visitor there?

A. He was just sitting out on the porch, enjoying himself there, I guess.

Q. You told him to come there, didn't you?

A. I told him we would like to talk to him.

Q. And he was brought there by some of your colleagues?

A. Yes, sir.

Q. Well, he was in their custody at the time, wasn't he?

A. For investigation?

Q. And technically under arrest?

A. I would not say so.

Q. You would not say so?

10

20

30

A. No, sir.

Q. Oh, you draw a distinction?

A. Because I had not talked to the defendant at the time.

Q. It is known as a distinction without a difference?

The Court: Well, let us go on with the case.

Q. Well, this man was under arrest, wasn't he, Mr. Ruggiero?

A. No, he was not under arrest.

Q. I will give in to you. You can have the last word, like a woman. He was in the sub-station, under investigation which is all you own up to?

A. Correct.

Q. And you told him there were some aspects of this case that warranted investigation?

A. Yes, sir.

Q. And you wanted to ask him questions?

20 A. Yes.

Q. Did you also tell him that he did not have to answer these questions?

A. Yes, sir.

Q. But that if he did answer them his answers could be used against him?

A. That is correct.

Q. That is right, you cautioned him?

A. Yes, sir.

Q. And he showed no objection to answering them, 30 did he?

A. He did not.

Q. What was the first question you asked him?

A. The first question I asked him was that any statement he made had to be voluntary on his own part, without any fear, threats, or promises of reward.

Q. What was the question you asked him about the affair?

A. I told him in his own words to tell me what occurred.

Q. You are going into a repetition of this, not me. What is the first question?

A. That is the first question I asked the defendant, to tell me in his own words what occurred on the morning of the homicide.

Mr. Peacock: If your Honor please, I object. It is not proper cross-examination. There were two questions the witness testified he asked Mr. Danser.

10

The Court: The objection is overruled, Mr. Peacock. I apprehend that it is cross-examination.

Mr. Peacock: May I have an exception?

(Exception so noted and sealed by the Court.)

[L. S.]

F. F. NEUTZE,

Judge.

Q. What did he say?

A. He told me his story of what occurred.

20

Q. Well, what was it, let us have it if you can give it.

A. He said he went to bed about 10 o'clock the night previously on June 4th, that he had had an accident that day around Billingsport, where he had been fined, and his wife came up there with a Mr. Bevis and that he had argued with his wife concerning this accident, that he had been drinking in a taproom prior to this accident, that he had something to eat and then went to bed in the cabin, and about 1 o'clock, twelve to one, somebody woke him up, that when he got out he found out it was this man Lester that had an accident with his car, ran into a ditch, that he was seeking help, that after he left, he knocked at the door and wanted to talk with his wife, to go inside into the cottage, he went in there and he laid down in this daybed.

30

Q. On what?

A. Daybed.

Q. Table?

A. No, daybed.

Q. What do you call the daybed, won't you show me? We haven't had a daybed yet.

A. Well, it is in one of these photographs.

The Court: There is one down here on the side (indicating photograph).

The Witness: This here (indicating photograph).

10 Q. Is that the daybed?

A. Yes, sir.

Q. How long do you suppose that was?

A. This is a bed that will open up.

Q. In the shape it is there it is not a daybed?

A. It is not.

Q. Isn't it a couch, isn't it?

A. A couch it is too, it will open out as a double bed, and he was arguing with his wife concerning the accident mostly; that he had taken one big good drink of whiskey
20 just before that and that he argued for about twenty minutes and then he stepped from this cot or daybed or couch that he was lying on, facing her. In other words if this is the cot he was lying down on, his wife was directly opposite him, facing him, and he stepped from this cot that he was lying down on, just similar to this, and started into this kitchen or out to the store door.

Q. Will you indicate where that is?

A. Yes, sir; he was lying here with his head toward the chest of drawers, facing his wife, over in this direc-
30 tion here, his wife had her head up on this end and as he brought his feet down and stepped out from there is when he heard these two shots.

Q. Where do you say, from over here to there?

A. This doorway.

Q. This doorway?

A. Yes, sir.

Q. That comes out here?

A. That goes out to the store there.

Q. No, but it comes out into the room here?

A. Yes, sir.

Q. This end of the couch shuts it off?

A. It does, this part here.

Q. If he was lying here, when he arose he wouldn't have but one step from where he was lying to the doorway?

A. Approximately I would say two steps close over and two to the doorway, approximately fourteen inches.

Q. That is from two to three feet?

A. Thirty-six inches.

Q. Well, fourteen inches, that would have brought him right there?

A. Just right there at the door.

Q. And if he were in the act of going out, did he say what he was going out for?

A. Something about for a drink of water.

Q. He was going to get a drink of water, his back would be towards this room?

A. Yes, sir.

Q. How would he know his wife was lying on the bed? 20

A. Well, that is what he said.

Q. Well, I am asking you.

Mr. Peacock: I object to that as going into the mind of the defendant. The witness has only testified to what the defendant told the witness.

Mr. Ware: Well, all right.

Q. Did you say to him how he knew his wife was on the bed? 30

A. That is the question that was put to him and he says, "That she was lying on the bed when I got started up to get the drink of water."

Q. When he got started up to get the drink of water?

A. Yes.

Q. Did you take that to refer to the fact that when he was going to get the drink of water his wife was on the bed?

A. Yes, sir.

Q. Without regard to where she was when he had reached the door, with his back to her?

A. Well, there was a question put to him about "How do you know your wife was on the bed? There was no light lit, there were no lights in the place," He said, "There was enough light from the windows, I could see her form."

10 Q. Was the question also put to him did he see his wife in the act of pointing a revolver at him?

A. There was.

Q. What did he say?

A. He did not see his wife.

Q. He could not see?

A. He did not see his wife.

Q. Then he could not see, could he?

The Court: That is not a proper question.

20 Mr. Ware: All right, I will not press it.

Q. He did not see his wife?

A. Pointing the gun at him or anybody else.

Q. And he did tell you further that he saw, thought he saw two flashes or not, was it?

A. He saw two flashes and he thought he heard three shots.

Mr. Ware: All right, that is all, Mr. Ruggiero.

30

Mr. Peacock: That is all. The State rests.

The State Rests.

THE CASE FOR THE DEFENDANT

EDWIN DANSER, SWORN.

Mr. Ware: Just a minute. I think I will withdraw you and call Mr. Sparks.

(Witness withdrawn from the stand.)

10

WARREN T. SPARKS, SWORN.

By Mr. Ware:

Q. Mr. Sparks, where do you live?

A. Salem.

Q. What is your profession?

A. Photographer.

Q. Have you any others?

20

A. A few.

Q. At my request and in my employment did you do any work for me in the Danser case?

A. I did, I made photographs.

The Court: Speak up loud, Mr. Sparks. The jury want to hear you.

Q. When did you do that?

A. On June 11, 1935.

30

Q. And will you tell the Court and jury in what condition was the place and the rooms of the place and the ground of the place at the time that you took the pictures?

A. Well, I found the room where the shooting took place, I found shoes and various other things. The bed seemed to be in a mussed-up condition, it had not been made at that time.

Q. I show you—

Mr. Peacock: I object to the photographs unless it is shown they were the actual conditions on June 11th as they were on June 5th, at the time of the homicide.

The Court: Yes, Judge Ware understands he must show that before they are produced.

Q. I show you—

- 10 Mr. Peacock: I object. I submit he cannot testify to the photographs unless he shows the room was in the exact condition on June 11th as it was on June 5th.

The Court: I agree with you. I think you must let Judge Ware prove the point. I do not think we can shut him off at this stage but before he can testify to the photographs or before they can be offered it must be shown that the room was in the same condition on June 11th as it was on June 5th.

20

Q. Were you up there on June 5th, the day of the shooting?

A. No, the first day I was there after the shooting was the day after the funeral.

Q. Who accompanied you?

A. The Sheriff and Constable Albert Peacock and Mr. Danser.

Q. What did you do, ascertaining from them as to the condition of the room, at the time of the shooting?

- 30 A. I found where the bullets had—

Mr. Peacock: I ask that that be stricken as not responsive.

The Court: Strike it.

Q. What did you ascertain from them about the then condition of the room as compared to the time it was on the day of the shooting?

A. That is a very hard question to answer, because I do not know.

Q. Didn't you ask for anything about the topography of the place?

The Court: Judge Ware, might I suggest the defendant himself will be able to tell the condition of the room? Apparently this man did not get there until three or four days later and we can save time perhaps by having the defendant testify as to the position of the furniture and so on and you might get your photographs and plans in evidence in that manner. 10

Mr. Ware: I thought this would be quicker.

Mr. Peacock: It will save some time if he submits them to the detective who was there, to see if the photographs are the same as the others, submit them to Detective Ruggiero.

20

Mr. Ware: I do not know about the diagram.

The Court: Well, submit them to him and perhaps it will save time. The photographs that you want to get in, show him.

Mr. Ware: I will remove him temporarily and we can put him back again.

(Witness withdrawn from the stand.)

30

The Court: It would be a good idea if we recess at this time. Suppose we take a short recess while they are straightening out these photographs and plans. Before the jury rise, let the prisoner be taken from the room and in the care of the constables.

(The defendant and the jury leave the Court room.)

The Court: Now we will take a fifteen minute recess. The defendant is remanded to the custody of the Sheriff.

(At this point a recess was taken for fifteen minutes.)

(After recess.)

WARREN T. SPARKS, resumed.

10

The Court: Have you straightened out on the plans and photographs?

Mr. Peacock: Judge, it is agreed, as far as this picture is concerned, if he wants to use it for the door, the big chair is not in the position it was on the night of the crime, and with that condition he may use it.

20 The Court: The statement is made that the photograph Judge Ware has in his hand does not show the chair in the same place it was on the night of the shooting but it does show the position of the door and it is to be used for that purpose.

Mr. Ware: That is correct.

By Mr. Ware:

30 Q. Will you tell us as the person making the photograph does it or does it not show the position of the doorway?

A. It does.

Q. Leading from the room where Ada Danser is alleged to have died, into the storeroom?

A. It does.

Mr. Ware: I ask that that be marked.

The Court: It may be marked as an Exhibit, subject

to the limitations I just mentioned. It is to be used solely to show the position of the door. It does not show the real condition or the position of the chair. That will be defendant's Exhibit No. 1.

(Said photograph marked Exhibit D-1.)

Q. Now, I show you another photograph and ask you what that is.

10

Mr. Peacock: The same thing on that photograph.

A. That shows the same thing practically.

The Court: Is that the same?

The Witness: No, the curtain is pulled back.

The Court: Let us have it in the record that this photograph goes in for the purpose of showing the door only. 20

Mr. Ware: How about the couch, Mr. Peacock?

Mr. Peacock: The couch or davenport.

The Court: But the chair has been moved?

Mr. Ware: We do not care anything about the chair, couch or davenport. 30

Mr. Peacock: Or daybed.

Mr. Ware: Well, it is a daybed sometimes.

Mr. Ware: That is also offered in evidence.

(Said photograph marked Exhibit D-2.)

Q. I show you another photograph and ask you what that is?

A. Well, this shows the end of the room, the other end of the daybed and the chifforobe and the door that enters into the dining room.

Mr. Ware: That is offered in evidence.

The Court: The photograph may be marked as a defendant's Exhibit.

(Said photograph marked Exhibit D-3.)

Q. What, Mr. Witness, is the aperture or opening that appears in that photograph?

Mr. Peacock: The curtain is pulled back.

Mr. Ware: Yes, I am going to mention that.

A. This shows the end of the bed.

Q. Answer the question. The question was directed to you about the doorway.

A. The doorway is the same as it is in the others.

Mr. Ware: This is offered in evidence, your Honor, more for the purpose of showing the doorway, with the one portion of the curtain pulled aside, which may be an abnormal position of a curtain, not saying it points that way all the time but it exhibits one entrance or exit, as the case might be.

The Court: It may be offered.

(Said photograph marked Exhibit D-4.)

Q. I show you this photograph and ask you what it represents?

A. It represents the taproom. Directly back of this

room is the room in which the shooting took place and here is the top of the door that comes out into the taproom.

Mr. Ware: That is offered in evidence. I cannot certify to the contents of the barrels.

(Said photograph marked Exhibit D-5.)

Q. I offer you another photograph and ask you what 10
that represents?

A. This is the kitchen.

Q. The kitchen of the building?

A. Of the building. This enters into the dining room through which they have to pass to go to the bedroom. This shows the west end of the taproom.

Mr. Ware: I also offer that.

(Said photograph marked Exhibit D-6.)

20

Q. Will you look at that photograph, Mr. Sparks, and tell us what it is?

A. This shows the place in the rear. This is the room in which the shooting took place. This window is the window to the taproom. This back here is the kitchen, and the back entrance. These are the tourist camp houses.

Mr. Ware: I offer that.

30

(Received and marked Exhibit D-7.)

Q. I show you the last photograph of the external part of this matter, and ask you what it is?

A. This shows the building, the front and the back, and the back entrance. This is the room where the shooting took place. This is the taproom, and this is looking down the line of tourist houses.

Mr. Ware: I offer that.

(Received and marked Exhibit D-8.)

Mr. Ware: You may cross-examine.

Cross-examination.

Mr. Peacock: No questions.

10

EDWIN DANSER, resumed.

By Mr. Ware:

Q. You are the defendant in this case?

A. Yes, sir

Q. You are the husband of Ada Danser?

A. Yes.

Q. And she died on the 5th of June?

20 A. She did.

Q. When were you married to her?

A. I believe about 16 years ago.

Q. Where did you live after you were married?

A. Carney's Point, that's where we went to live after we were married.

Q. Then where?

A. Chicago.

Q. How long did you live in Chicago?

A. About a year.

30 Q. From Chicago where did you go?

A. Paulsboro.

Q. In Gloucester County?

A. Yes, sir.

Q. How long did you remain there?

A. In Paulsboro about six years.

Q. And then where?

A. To the present location, Danser's Corner.

Q. In Upper Penns Neck Township, the County of Salem?

A. Yes.

Q. During the period disclosed by your narration what occupation did you follow?

A. Powder maker mostly. In Chicago I worked for Stewart and Warner, manufacturers of automobile supplies, and the Vacuum Oil at Paulsboro.

Q. Where did you work in Salem County?

A. DuPont's, Carney's Point.

Q. At the time of the death of Mrs. Danser you were not following the occupation of powder maker, were 10 you?

A. No.

Q. What were you doing?

A. I had the gasoline, and my wife had the tourist camp and the liquor license.

Q. You had a liquor license from the municipality of Upper Penns Neck?

A. Yes.

Q. Rather, your wife did in your name?

A. Her name.

Q. In whose name was the real estate?

A. Both of our names.

Q. Whose property was it in the way of the money that went into it?

A. Well, I got the money through the sale of stocks that I had got from the Vacuum Oil. I allowed them to take so much out of my wages, so much out of every dollar, and accumulated some stock and sold it and built the place.

Q. What was the general characteristic of your married life? 30

The Court: Beginning when?

Q. Beginning from its inception, you were married 16 years.

A. We have been separated four times.

Q. Yes, and what was the cause of the separation?

A. The first time in Carney's Point after the war I was laid off, and I went to Wilkesbarre at the coal mines. They opened an employment agency at Carney's Point, and a man by the name of A. G. Dunn, I think it's A. G. Dunn, he sent me to——

Mr. Peacock: I think this is all immaterial.

Q. What was the cause of the separation?

- 10 A. I went to Wilkesbarre to work, and I didn't receive any mail from my wife, and after remaining there a couple of months I came home to see what was the matter, and there wasn't anybody living there when I got home. The furniture had been moved and so forth. I heard that my wife——

Mr. Peacock: I object to that.

The Court: Strike that out.

20

Q. Did you follow her?

A. I went to Paulsboro, I heard she was in Paulsboro.

Q. You went there, did you find her?

A. Yes.

Q. Did she come back to you?

A. No.

Q. Why wouldn't she come back?

- 30 A. She said she was going away and never coming back. She finally went to Chicago by herself.

Q. And as a result of her going to Chicago did you go out there?

A. No, a year later she came back to Paulsboro, and we resumed housekeeping.

Q. When is the next time you separated?

A. In Paulsboro.

Q. That was occasioned by——

A. She went to work for a nurse, for the Borough nurse in Paulsboro, and she said she was tired of keep-

ing house, so we had a sale, and sold the furniture and divided the money.

Q. How long did that separation last?

A. Not long.

Q. And after you resumed relations as husband and wife where did you go to live?

A. We came to Pennsgrove then, but we had separated once before in Pennsville, I had forgotten that.

Q. And at the time you went back the third time with your wife, and went to live in Pennsville you were following what occupation? 10

A. I worked for the Delaware and New Jersey Ferry Company at that time.

Q. When did you go to work for DuPonts?

A. I went to work for DuPonts the year of the Spanish-American War. I remained with them quite some years.

Q. You apparently left, didn't you?

A. No, I was laid off at the end of the War.

Q. You were laid off? 20

A. Yes, and then I have been back there since, I have been back there several times.

Q. Later you went back to DuPonts?

A. Yes.

Q. And was there another separation, you say, you had gone back to Pennsgrove and were working for the New Jersey and Delaware Ferry Company?

A. No, there's been no separation since we came to Paulsboro.

Q. I am speaking of Pennsgrove. 30

A. The separation in Pennsgrove was quite some time ago.

Q. What was that occasioned by?

A. My wife said that working for the Ferry Company I didn't make enough money.

Q. Did she leave you?

A. Yes.

Q. Then you got together again?

A. Yes.

Q. And after getting together after that separation you remained living together until the time of her death?

A. Yes.

Q. And during that time you followed your work at DuPonts, is that right?

A. I haven't been working at DuPonts for quite some time.

Q. What work did you follow this last time you got home?

10 A. Vacuum Oil.

Q. You went to work for Vacuum Oil?

A. Yes.

Q. They are located where?

A. Paulsboro, New Jersey.

Q. And then besides that you took up this oil station?

A. Yes.

Q. While you were living together at this oil station, how did you get along together?

A. We had little spats, they weren't serious?

20 Q. What were the spats occasioned by?

A. Any little thing.

Q. Was there any difference in your ages, between your wife's and your own?

A. Yes.

Q. How old was your wife at the time of her death?

A. I think my wife was about 50.

Q. How old were you?

A. 58.

30 Q. And during this period you drank intoxicating liquor, didn't you?

A. Yes.

Q. How long had you been drinking liquor?

A. I had been drinking liquor for a number of years periodically.

Q. How much?

A. A number of years.

Q. What were your habits in drinking liquor?

A. Well, I would drink periodically, and for maybe three or four days at a time. I would keep on foot, was

able to attend to business and keep down.

Q. Then you would quit, you would drink, you say, for three or four days?

A. Yes.

Q. Then that would be terminated, that would be the end of it?

A. For a month or more, yes, sometimes two months.

Q. The drinking and periodical habits of yours, what bearing or effect did they have on your home life?

A. Well, my wife was a crank against drink.

10

Q. She didn't believe in drink?

A. No, not for me.

Q. She didn't believe in you drinking, and she upbraided you for doing it?

A. Yes.

Q. Wanted you to stop it?

A. Yes.

Q. Did you ever promise her to stop it?

A. Yes.

Q. When you were drinking your behavior was none too excellent, was it? 20

A. No.

Q. It was a source of quarrels between you, and your wife didn't drink, did she?

A. Yes, but she wasn't a heavy drinker.

Q. A slight drinker, you mean?

A. Yes, although I have seen her under the influence, not many times.

Q. So the only trouble you had between you was the liquor? 30

A. That was most of it.

Q. What else, if you know of anything, what else did your wife quarrel with you about?

A. My wife always seemed to want to take the opposite from the way I did.

Q. You mean you would have differences and arguments on different matters?

A. Yes.

Q. That's what you meant about the minority, in which the liquor was the majority?

A. Yes.

Q. That would make argument?

A. Yes.

Q. Did you try to stop yourself from drinking, did you do anything to stop it?

A. I went to the State Hospital at Trenton for four weeks.

10 Q. When did you go?

A. I went around April 24th or 25th, and remained four weeks.

By the Court:

Q. Of this year?

A. Yes.

Q. Was that the first time?

A. Yes.

20 Q. And the only time?

A. Yes.

By Mr. Ware:

Q. Why did you go there?

A. Do you want to know what led up to it?

By the Court:

Q. Did you go of your own volition?

30 A. Yes, I was a volunteer patient.

By Mr. Ware:

Q. And how did you come out, by your own consent, or were you temporarily allowed out, or what?

A. I was allowed to come home.

Q. You were allowed to come home?

A. I was told on three days' notice you could leave the institution, a volunteer patient.

Q. And from whom did you learn that?

A. From numerous patients that were there.

Q. And was your leaving the institution with their knowledge?

A. Yes.

Q. Did you give them notice?

A. Yes, three days.

Q. And they offered no opposition to your leaving?

A. None at all.

Q. Now, Mr. Danser, aside from the arguments you had with your wife, or between you and your wife about your drinking habits, and differences you may have had on some infinitesimal matters, you don't remember, how did you generally get along? 10

A. Not so very good.

Q. Not so very good?

A. No.

Q. In what way?

A. Well, quarrelling, verbal quarrels, not serious.

Q. What over?

A. Any little thing. If I would on my day off, 20 if I didn't come home on the same boat that I promised to come on, there would be a quarrel. If I went to Pennsgrove, if I stopped too long, there would be a quarrel.

Q. What became of the wages, your wages or your salary or income from business?

A. You mean from the station?

Q. Yes, or from your wages as an employee of the New Jersey and Delaware Ferry Company, or E. I. DuPont, or Vacuum Oil? 30

A. My wife had charge of the wages, had charge—

Q. How did she get the wages?

A. I gave them to her.

Q. You gave them to her?

A. Yes.

By the Court:

Q. You gave her all the money?

A. Yes, I went to her, and she allowed me money, I could go to her and get it.

By Mr. Ware:

Q. You turned your wages over to her?

A. Yes.

Q. In turn she let you have what money you wanted?

A. Yes.

10 Q. That describes your financial condition during this period?

A. Yes.

Q. Will you state whether or not you ever bought her anything?

A. Yes, I have.

Q. What?

A. I have bought her an automobile, and I just gave her \$300 to buy a diamond ring.

Q. When did you buy her the automobile?

20 A. In December, last December, it's been nearly a year ago.

Q. That is December, 1934, I take it you mean?

A. Yes.

Q. And you gave \$300 towards buying a diamond ring?

A. Yes.

By the Court:

30 Q. Where did you get the money to buy her an automobile if you gave her all the money?

A. In the business we put all our money together, and neither one of us would take any money of any amount unless we consented.

Q. You mean to say this represented some money you turned over to her?

A. I was talking about when I was working at the factories.

Mr. Ware: I intended to show later these questions referred to the time when he was employed by the Vacuum Oil, DuPonts and the Ferry Company.

By Mr. Ware:

Q. When did you take up this taproom, your wife had the taproom, and you worked at the oil station?

A. At the time that the licenses came out.

Q. Do you remember when that was, Mr. Danser? 10

A. It's been about two years ago, nearly two years ago, this would be June 20th, that would be our second year to take out the license, or the latter part of June, June 30th, I believe.

Q. You had an oil station before that, didn't you?

A. Yes.

Q. And you were not working at the Vacuum Oil Company?

A. No.

Q. The money you got from the oil station, the 20 profits——

A. Yes.

Q. Who got that, who got the money?

A. The money was all put on the same cash register, from the liquor and the tourist camp.

Q. The liquor had not got into the picture yet?

A. It was put in the cash register.

Q. Who had charge of the cash register?

A. My wife had charge of the cash register.

Q. You didn't have anything to do with the cash 30 register?

A. I wasn't even allowed to take it off.

Q. Your wife took entire charge?

A. Yes.

Q. Later you added the taproom, you got a license from the Township of Upper Penns Neck?

A. Yes.

Q. Who had charge of that money?

A. That money was all put together, and my wife

had charge of it. If I needed any, she gave me the money.

Q. It was during the period of this oil station and the taproom that the automobile was purchased, wasn't it?

A. Yes.

Q. And from what source proceeded that money?

A. That came out of, all the money came out of the money box, the money that had been saved.

Q. You didn't have charge of it?

10 A. No, I didn't have charge of it, but I could have stopped the automobile buying.

Q. Won't you tell us the circumstances, won't you tell the circumstances, how you came to buy the automobile?

A. My wife had been despondent, and wanting an automobile, and I told her she could have one, and within twenty minutes after she asked I went to the telephone and called up the Chevrolet agent, and he was up there and we bought the machine. In buying the machine, I
20 never cared for a machine, but after we got it I thought I would like to go out in it once in a while.

Q. Now, your purpose, you say your purpose in buying this machine was because your wife seemed to be despondent at times?

A. Yes.

Q. She expressed a desire for it, and you thought you would cheer her up?

A. Yes.

Q. Did she use that machine?

30 A. Yes.

Q. Now about the purchase of this diamond ring, when did that happen?

A. How that came about——

Q. When did it happen, first?

A. Just before I went to the hospital, the ring wasn't purchased, she had permission to purchase it.

Q. That was during the present year?

A. Yes.

Q. Won't you tell us the circumstances of that?

A. I had wanted to go out in the automobile, and she would not allow me, and she told me if I would wait until the first of April that she would consent to me taking \$300 and buying a second hand car for myself. The first of April came, and she refused, so on about the 20th of April, or something like that, I went into the money box and took \$300 out and said I was going to buy a machine, and my wife found it out, and came out to the back yard and grabbed me by the coat with one hand, and started pommelling me all over and tore my coat off, 10 and I got away from her, threw my hands back that way (indicating), and struck my wife on the cheek. It made a small mark. Then in a little while I gave her the money back.

Q. In a little while, what do you mean by a little while, Mr. Danser?

A. Within a couple of hours, when I asked her forgiveness, and she said that if I would go to the State Hospital, and give her the \$300 to buy a diamond ring, she would forgive me. After going to the hospital, the 20 first Sunday she came up she told me that she couldn't get a very nice diamond ring for \$300, but for \$500 she could, and I told her if she would wait until Labor Day, at the end of the season, I would be willing for her to get the \$500 ring, and she told me she had already put the \$500 in the bank while I was up there.

Q. Before the 5th of June, did you ever have any quarrels with your wife that culminated in your striking her?

A. I can never remember striking my wife deliberately. 30

Q. What do you mean by "deliberately"?

A. Walking up and punching her.

Q. Intentionally, I take it you mean intentionally?

A. Yes.

Q. You don't remember ever intentionally striking your wife?

A. No.

Q. Were you ever charged with doing it, there has been some testimony here?

A. Yes.

Q. What was the circumstances of that?

A. In breaking away from her, putting my hands on her.

Q. Were you sued for that?

A. Yes.

Q. And where were you sued?

10 A. Carney's Point. I remember one occasion that Officer Taylor speaks of, but I wanted to go to Pennsgrove to a picnic, and I asked my wife, and she said "No", and we had an argument over it, and without putting my hands on her she went out and got a car, got in a car and went before Recorder Guyder. Mr. Taylor come up after me, and he said, "My, you are all right, I don't see anything the matter with you", and he got me in the car, and took me down to Guyder, and Mr. Guyder told me——

20

Mr. Peacock: I object to this, Mr. Guyder is dead.

Q. What happened?

A. I wasn't held, and I was told——

The Court: You cannot tell what you were told.

Q. What other times did she have you sued?

30 A. One time before Mayor Humphries of Woodstown, and the trouble over that was——

Q. Did you strike her on this occasion?

A. No, I did not.

Q. Another time she had you sued was overtaking a cat, wasn't it?

A. Yes, I was arrested for stealing a cat.

Q. Just an ordinary, domestic cat, or a Persian or Angora?

A. An ordinary alley cat.

Q. An ordinary alley cat?

A. Yes.

Q. You were charged with larceny of a cat?

A. Yes.

Q. What happened to that?

A. My wife and I had separated, and I had got a house where I boarded, and they thought they would like to have a cat. I had this nice cat, the cat had made two round trips to Chicago, we thought a lot of it, and I went around to see my wife and ask her for the cat.

10

Mr. Peacock: I object to all these details.

By the Court:

Q. When did this affair about the cat take place?

A. Five years ago.

The Court: That is too remote, it may be interesting, but it is too remote.

20

By Mr. Ware:

Q. Were you sued on any other occasion?

A. Yes, not by my wife.

Q. I am asking about your wife. That was all that your wife sued you?

A. Yes, twice.

Q. Now, we will come down to the time you were allowed out of the State Hospital, allowed to come back, you came back to where?

30

A. To my place of business.

Q. You were sober or intoxicated when you came back?

A. Coming from the hospital?

Q. Yes.

A. I was sober.

Q. Did you drink anything when you got out?

A. Not for two weeks.

By the Court:

Q. When did you get out?

A. He asked me if I drank anything when I got out.

Q. You said not for two weeks, I am asking you when you got out?

A. About the 22nd or 23rd of May.

Q. Had you been drinking anything until after your wife's death?

10 A. No, yes, the day before.

Q. That's what I am coming to.

The Court: I had in mind the amount of time would take him over the period of his wife's death.

Mr. Ware: That is true, but I didn't want to get to his wife's death yet.

By Mr. Ware:

20

Q. You came back to the filling station?

A. Yes.

Q. And how did you get along with your wife while you were there?

A. After I came back from the hospital?

Q. Yes.

A. Pretty good for a few days.

Q. Now, the incident on which you say you drank after you came out occurs on the last day, doesn't it?

30 A. Yes.

Q. What happened that day?

The Court: So there may be no mistake, what day are you referring to now?

Mr. Ware: I am referring to June 5th.

The Witness: You mean Tuesday, June 4th?

The Court: You mean Tuesday, June 4th?

Mr. Ware: Yes.

Q. What happened that day?

A. You want me to go over that day?

Q. Yes.

A. On Tuesday, June 4th, being my day off, I had made arrangements with a man by the name of Eldredge Bevis, to go out in an automobile that afternoon, my wife's automobile. I left home about ten minutes of one, I imagine. I got to his place, and he said that he had some work to do. 10

Mr. Peacock: I object to this.

The Court: You cannot tell what anybody said to you except your wife.

Q. You got to his place?

20

A. I got to his place, and he couldn't go. I went around to the telephone and told my wife, and asked if it would be all right for me to go alone, and she said it would. I proceeded on out that road to the next gas station, a man by the name of Peter J. Roose, and stopped and talked to him about twenty minutes. I was not going any place in particular, I went to Auburn, from Auburn to Swedesboro, to Clarksboro, I have a brother-in-law and sister-in-law living in Clarksboro I had not seen for a long time, I drove up to the house and it looked dark. I went in the store next door, and they told me my sister—— 30

Mr. Peacock: I object.

The Court: You cannot tell what anyone said to you except your wife.

The Witness: (Continuing) They weren't home. I

left there, turned around to go to Paulsboro, and when I got at the hotel I remembered that a man had told me earlier in the season, by the name of Martin Kelly——

Mr. Peacock: I don't want to keep on objecting, but he cannot tell that, and I think it is all immaterial.

- The Witness: (Continued) I stopped to see the man, who I thought was employed there as a bartender. He
10 wasn't there. I continued on to Paulsboro, to Gibbstown, to Bridgeport. At Bridgeport I knew some people, the bridge tender, and I stopped there. I think I was there two or three minutes, and a storm was coming up, and I started for home, but I did not make home, but between Bridgeport and Pedricktown the storm broke loose, and I was afraid to drive any further, and I stopped for maybe twenty minutes until the storm subsided. After the storm subsided I went down as far as a man's gas station I know on the Pedricktown Road.
20 I stopped in there, while it cleared off, and I turned around, I thought I would go from Bridgeport to Swedesboro, and from there down home, and about a mile outside of Bridgeport, below Bridgeport, there was a car came down the road at a terrific speed, and in order to keep from hitting this car I had an accident and ran into the ditch. As soon as I ran into the ditch, ran into a fence, rather, not a ditch, I hailed a passing motorist to take me to Bridgeport. At Bridgeport I called the State Police. I also asked the lady to telephone for a
30 taxi to take me home. I supposed they had taxis in Bridgeport. I don't think I telephoned my wife, because I knew that she would be nervous about it; but they sent a taxi from Bridgeport. Well, I didn't go, I waited in the taxi, I told them to wait until the State Police came. We waited quite a while, and there wasn't any State Police came, and I went with the Township officer, I believe his name is Phillips, up into the Town Hall for a hearing. While I was waiting for a hearing the two troopers came. I had my hearing and was fined.

By the Court:

Q. You were charged with some wrongdoing?

A. Yes, I had an accident with the automobile.

Q. You were charged with some wrongdoing and had a hearing and were fined?

A. Yes, I called the State Police and reported the accident. After the hearing was ended, on coming down out of the Hall, my wife had heard of the accident, and it seems that she had just got out of the car. I got in the car with her and Mr. Bevis, and he took me home, and she started to say something, and I put my arms around her, I said, "Don't worry, I will never get in the car again". We came on home, and when we got in the yard I believe Sheriff Layton, and another car were there. I talked to them for a while, and busied myself around the store, and I judge between nine and ten o'clock some tourists——

Q. You arrived back home?

A. Yes.

Q. And you are telling us about some incidents that night?

A. Yes.

Q. What were you charged with, what infraction of the Motor Vehicle Act were you charged with?

A. I plead guilty.

Q. What happened to you?

A. I was fined five dollars and——

The Court: You have not yet told us what charge you were charged with.

Mr. Ware: I do not know that he knows.

Q. Do you?

A. I really don't know.

The Court: You do not know what you pleaded guilty to?

The Witness: No.

Mr. Ware: I never thought it made much difference.

Mr. Peacock: I ask that that remark be stricken from the record.

Mr. Ware: What remark?

10 The Court: Yes, strike it. The jury will ignore it.

Q. You ran into a pole?

A. Yes.

Q. You say to avoid being struck by another car?

A. Yes.

Q. And then you called up the State Police?

A. Yes.

Q. You were taken into custody and brought before a magistrate?

20 A. Yes.

Q. A charge was made against you to which you pleaded guilty?

A. Yes.

Q. And you were fined five dollars and costs, is that right?

A. Yes, six dollars.

Q. Then you called your wife up?

A. No, my wife came there. She heard it in some way I don't know.

30 Q. How much drink had you gotten that particular day?

A. I had three drinks.

Q. You had three drinks of what?

A. Liquor.

Q. That was all?

A. At that time, yes.

Q. And those drinks of liquor were not in a licensed taproom?

A. I did not get it there.

Q. Where did you get it?

A. I got it while I was out in the machine during the storm. The place I stopped, a licensed place.

Q. Up until that time you had not had anything to drink?

A. I can't remember anything.

Q. You do not remember any drink?

A. No.

Q. Before you stopped in a place to avoid the storm?

A. Yes.

10

Q. And you had three drinks in there?

A. Yes.

Q. And that was all the liquor you had that day?

A. No.

Q. Well, what else, if you can tell?

A. That day, yes, after I got home I had a couple of drinks.

Q. We haven't got you home yet.

A. Well, that's all I had that day.

Q. Then you had this accident. I do not want to be 20
repetitious.

A. Yes.

Q. And then your wife came on the scene at that time?

A. Yes, after the hearing.

Q. You had not sent word to her?

A. No, I don't think I had.

Q. And she was quite angry with you and you attempted to mollify her by telling her you would not drink again?

30

A. I did.

Mr. Peacock: I think the witness ought to testify instead of the Judge.

The Court: Yes, those are nice smooth words but you better let him testify.

Q. Well, anyway, Mr. Bevis—or Mr. Danser, when

Mrs. Danser got there, what, if anything, did she say to you?

A. Well, she was mad about the car. I don't know just what she said. She said I ought to be put in jail for wrecking the car and different things. I put my arm around her and told her not to worry, that I had ordered the car fixed, I had the garage man who towed the car away, I told him to repair the car, and I told her I would never get in it again.

10 Q. What else, if anything, was said?

A. Well, I tried to keep her in good humor coming down.

Q. Well, in what way?

A. Joking with her and putting my arm around her and so forth.

Q. What did she say to you and what did you say to her?

A. Well, she didn't say much about it.

Q. She did not say much about it?

20 A. No.

Q. Well, why did you try to keep her in a good humor?

A. I saw that she was downcast and I expected her to break out most any time.

Q. Yes. Well, was that an unusual happening with her?

A. No, no.

Q. When you got back to the gas station, was anything said by you to her or her to you?

30 A. During supper time there was.

Q. Yes?

A. It was brought up.

Q. That was after these people had come?

A. Yes, after they had come.

Q. Now, you are getting away ahead of them. Were there any persons in your place when you got back there that night?

A. Sheriff Layton, Ex-sheriff Layton and he had someone in with him. I don't know just who was with

him, and I believe a man by the name of Campbell.

The Court: What was Sheriff Layton doing there?

The Witness: Well, he lives close by.

The Court: Just visiting?

A. I don't know. He may have been in the store.

10

The Court: He was there at any event?

The Witness: Yes.

The Court: He did not tell you why he was there?

The Witness: No, he was sitting in the machine.

Q. And a man named Campbell, you said?

A. Yes, Campbell.

20

Q. Who is he?

A. Well, I know him by the name of Campbell. He used to come around and inspect with the labels and so forth under the Burnett——

Q. Employed by the Alcoholic Beverage Control, I guess. Had he any business with you that night?

A. No, he bought some gasoline.

Q. Anyone else there?

A. I believe he got it from my wife. I don't think he got it from me.

30

Q. Was anyone else there?

A. At that time?

Q. Yes.

A. Miss Mattson.

Q. Well, she was working for you?

A. Yes.

Q. What was the first thing you did after you got there, you?

A. After I got home?

Q. Yes, after you got home.

A. Well, I talked to Ex-sheriff Layton, I busied myself around the store, the tourists came in and they asked if they could look——

Q. When you speak of tourists, who do you mean, what are their names?

A. I believe the name is Hoelin.

The Court: You mean these people who are in
10 Court?

A. Yes, from Minnesota.

Q. What was their business with you?

A. They wanted a place to camp for the night, parking, and I told them to go back, back of the house, any place that suited them suited me, so they would leave a driveway so a car could drive between the house and their tent.

Q. Did they do so?

20 A. Yes.

Q. And you made arrangements with them?

A. Yes.

Q. Then what followed that?

A. After that, supper.

Q. Supper?

A. Yes.

Q. Where did you get your supper?

A. Home, in the kitchen.

Q. Did you go in the house?

30 A. In the kitchen, yes.

Q. Who prepared your supper?

A. My wife.

Q. Your wife prepared your supper and did she remain or go while you ate your supper?

A. Well, she was busying herself in and around the house.

Q. Will you state whether or not she was in the kitchen while you were eating?

A. Oh, yes.

Q. Yes, she was in there?

A. Yes.

Q. Did you talk to her?

A. Yes.

Q. What was your conversation had with her?

A. About the automobile mostly and then I did have a little argument about the taximan. After I paid my fine I did not have the money to pay the taximan who had remained there and I told him to come down that night and he got it, I told him to come down that night and get it, and when I came in my wife objected to me paying the taxifare because he did not bring me home and I did not need him, but he was there at my call and I paid him the money. 10

Q. And did you have any conversation about other matters?

A. Well, I can't just recall.

Q. You do not recall any of those?

A. No.

Q. You finished your supper? 20

A. Finished my supper, went out front and stayed awhile and went to bed.

Q. Where did you go to bed?

A. I went to bed in No. 2 cottage.

Q. No. 2 cottage?

A. Yes—No. 3 cottage.

Q. Why did you go to bed in one of these cottages rather than go to bed in your own home?

A. Well, if I slept in the cottages, often time if I wanted to go to bed before the store was closed I would go to the cottages to sleep and it was coming the time of year that I would sleep in one of the cottages anyway as long as they were not occupied, because we keep our sign lit all night, tourist cabins, and the Pennsville Ferry running all night, we are apt to be called any time and I always slept, in the Summer time, in one of the cottages so as to be handy. When all five beds were occupied, then I would go in the house. 30

Q. Where did your wife stay that night?

A. She stayed in the main building.

Q. And who was to attend the store?

A. Well, Miss Mattson and my wife were there when I went to bed.

Q. When you went to bed you left them both in the store?

A. Yes.

Q. Now, you had gone in this I think you said No. 3 cottage to sleep?

10 A. Yes.

Q. Were you awakened by any noise or sounds?

A. Yes, I was awakened by running footsteps and I heard a net door open, one of the screen doors open, and I got up and went to the door and I opened the door and I said, "Who is there?" and I got no reply. I went, I looked at all the cottages. There were no lights, I knew there hadn't been any rented, I went over to the door where my wife was sleeping—I don't know whether I got all the way to the door or not but at the window I asked her if she had heard anyone around and she said she had not. After that time Mr. Coles came walking across the yard.

Q. Who is Mr. Coles?

A. He is a mechanic for Klein.

Q. Harold Klein?

A. Yes. Mr. Coles came walking around the yard and said his car was in the ditch.

Q. Well, by what he said you ascertained the car was in the ditch?

30 A. Yes.

Q. What did you do?

A. He asked if there were any cars around.

Q. Do not tell what he asked. Did you go out to the car?

A. I walked over with him as far as the Auburn Road. I was in my underwear and I heard Miss Mattson around over there and I came on over back to the house and Miss Mattson joined him.

Q. Yes.

A. I don't know whether my wife had gotten to the

door and unlocked it or whether she had not but anyway I went in.

Q. You tried to get in?

A. Yes, I did get in.

Q. You tried to get in?

A. Yes.

Q. Gave sounds or notice of your presence?

A. Yes.

Q. And you think somebody came to the door or you got in somehow?

10

A. Well, if my wife came to the door when I first called, why, it was probably unlocked, but I don't just know. The door is always kept locked, that door.

Q. Now, it is in connection with that, I think, Mr. Danser, they say your entrance into the cottage was accompanied by notice to your wife that "We might as well settle all this" or "Settle this for the last time" or "have it out."?

A. I don't remember anything like that.

Q. People have testified that they heard you make that 20
remark.

A. Yes.

Q. Yes?

A. Well, that might mean anything.

Q. Yes.

A. Now, I had asked my wife, I thought Miss Mattson was sleeping in the house that night, I had asked my wife three or four times that the Summer season was coming on and to get Miss Mattson to sleep inside and she had told me that morning she guessed she would get Nancy to sleep inside, but when I saw Miss Mattson come out of the cottage to go over to the automobile, I knew that she was not sleeping inside and it might have been we might have gone to settle that. I don't know, I don't remember saying it at all. 30

Q. Are you prepared to say that you did not have any arguments with your wife that night on account of any man or men?

A. No, that's one thing I never accused my wife of running around with men.

Q. Now, it has been said in the course of the testimony that some man's name was mentioned as coming to the cottages and that you quarreled with your wife about it.

A. No.

Q. Is that right?

A. No, I don't believe any man was attentive to my wife.

Q. You do not?

10

A. No.

Q. You had no reason to suspect it?

A. No.

Q. You never made any accusations against her?

A. Since being where we are at over six years I never saw anything that even looked suspicious.

Q. Have you any recollection of that evening, any part of that evening accusing your wife of taking your money or holding out on your money or hiding your money?

20

A. No, the only time that money was mentioned that I remember was when she objected to me paying the taximan.

Q. That was the only thing?

A. Yes, that's all I remember about money.

Q. Well, what was the purpose of coming back into the cottage that night, inasmuch as you had selected or not gone home that night—inasmuch as you had started out to sleep in No. 3 cottage?

30

A. Well, I had done that often and there was nothing strange about that.

Q. Why did you get up in the middle of the night?

A. I got up to come out to see who was prowling around the yard.

Q. Why did you get up in the middle of the night to come see who was walking around and then go to the cottage where you wife was sleeping?

A. Well, I had a right in there.

Q. What?

A. I had a right in there.

Q. True but why did you do it, if you know?

A. One thing, I did not want to leave my wife alone, after some things that had happened a week or so before, and I would not have went in there if Miss Mattson had been in there. I supposed Miss Mattson was going to sleep there that night.

Q. Will you indicate what you mean by what happened a week before?

A. Well, one night I had went over to the cottage to go to bed, and on closing time my wife came over and she said, "You come over to the house to sleep tonight," 10
and I said, "No, I am going to remain here." She said, "If you don't come over, you will probably be sorry." Sometime in the night I heard the screen door open and I sat up in bed and I listened and pretty soon the kitchen door opened or the cottage door opened—I had lit the light—and it was my wife and I said, "What in the world are you doing over here?" Well, she said, "I just came over to see whether you were asleep or not," and she held her hands back of her and there was something dropped when she went out and she reached and picked 20
it up. In the morning, on the porch, I found a paper bag with a hole in it and I came to the conclusion that whatever was in the bag had broke through the bag. I asked her what it was, in the morning, when I went over, and she said, "I brought you over a bottle of ale." I said, "Well, why didn't you give it to me?" Well, she said, "I don't know why I didn't," she said, but that was something unusual for her to bring me over a drink. A few nights after that, on Miss Mattson's night off, I went to bed over in the cottage and I noticed that the 30
screen was unhooked at the bottom—the screens hook on the windowsills—but I did not think anything of it, I thought that probably they had been over there cleaning or scrubbing. Sometime in the night I heard a noise at that window and I shouted "Who is there?" I did not get any reply and I went to the front door and I watched. I could see like it looked like a streak of white down like around below the knees, like somebody walking with a black coat on. They did not go in the house.

They stayed. I watched there for a few minutes and an automobile coming down the Harding Highway and turning off to go to Auburn threw a bright light back of the house and I saw my wife standing back on the coal bin. After the car went away, I heard the door open and I saw my wife walking from the kitchen to the middle room, to the bedroom. I could see the flashlight going. I could not see her. I went back in the cottage and I put on the light and I hooked the screen, and in

- 10 the morning I went out back of the cottage and there was an empty beer case standing on its edge. I went over and my wife was there very cheerful. She said, "Good morning! good morning! what do you want for breakfast?" I said, "Ada, what were you doing over at the cottage last night?" Why, she said, "I wasn't over at the cottage." I said, "Yes, you were over at the cottage," I said, "I saw you." She said, "Well, if I was, I must have been walking in my sleep," and since that time I had made up my mind that I would have somebody
- 20 with her all the time, either myself or Miss Mattson, to sleep with her.

Q. It was on account of that that you went to the cottage that night you say?

A. No.

Q. Having regard to that?

A. Oh, myself, when I found out Miss Mattson was not there, but there wouldn't be anything strange about that.

Q. You did not associate that with any men?

30 A. What say?

Q. You did not associate that with no men whatever?

A. No.

Q. No part of it?

A. No.

Q. And she let you in, didn't she?

A. That night?

Q. Yes.

A. Yes.

Q. And you went where after you went in that door?

A. I went in on the davenport bed. She was lying on another bed.

Q. Well, this door you went into led you to what part of the house?

A. Into the kitchen.

Q. So you came from the kitchen to where?

A. Into the middle room, we call it the middle room. You folks call it the bedroom.

Q. Then from the middle room into the bedroom?

A. Yes.

10

Q. Where your wife had her bed that night?

A. Yes.

Q. Does that picture correctly show—these pictures correctly indicate the location of the bed?

A. Yes, there's a very good location of it.

Q. Which?

A. Of the two beds.

Q. You mean the picture—you mean the picture known as Exhibit S-4, that picture?

A. Yes, that would be the bed that I was on (indicating on photograph). 20

Q. Show it to the jury.

A. (Witness shows picture to the jury) This would be the bed I was on, my head lying in that direction (indicating on photograph).

The Court: Indicating which way your head was lying, in which direction?

The Witness: Toward the door that goes into the store. My wife would be lying on this bed, with her head the other way. My head would be toward her feet, in the direction of her feet. I would be lying that way and her with her head that way (indicating on photograph). This is the bed I occupied. It was a davenport bed but it was not pulled down. 30

Q. Will you state whether or not it is in the shape that is indicated there?

A. Yes, the pillows may not be just the same.

Q. But it is that position, like a small couch, isn't it?

A. Yes.

Q. You could not project yourself out lengthwise on it, could you, it is too short?

A. No, you would have to sort of double up.

Q. More for sitting in that shape than for lying, isn't it?

A. Yes.

10 Q. And does the room depict the furniture, then the location of the different articles, in approximately the same way they were that night?

A. Yes, the only thing——

Q. Only what?

A. I did not notice my wife's leg drawn up like that (indicating on photograph).

Q. You are getting away ahead now. Sit down there. Now, with the situation in mind as depicted by that picture, I understand you that your wife was lying on that

20 bed which is nearest to the window?

A. Yes.

Q. And was the window up?

A. Well, it was very warm that night and I imagine all the windows were up.

Q. Well, you don't know?

A. No.

Q. And you sat on this daybed?

A. I laid on it.

Q. Or couch, as you call it?

30 A. I laid down on it.

Q. You laid down on it?

A. Yes.

Q. While you were lying down on it, what were you doing, you were not sleeping, were you?

A. I asked her why Nancy was not in there to sleep with her and she said she did not believe she wanted to come over there but I said, I asked her, and she said no.

Q. Just a minute. Where was the tent of these people at that time?

A. They were out right back of this room.

Q. Right back of it?

A. Yes.

Q. Towards the rear of the room?

A. In the rear.

Q. Was there anything on the side?

A. No.

Q. Was there an automobile?

A. Well, their automobile was right by the tent.

Q. Right by the tent?

10

A. Yes.

Q. And the two receptacles, that is, the automobile and the tent, were in the rear of the kitchen?

A. Yes.

Q. Yes, that is right. Now did you have any idea when it was when you took your seat, your position on that davenport-couch?

A. No, I did not look at a clock at any time during the night, only at twenty minutes after four in the morning. It is said that—

20

Q. I don't care what is said but from what you remember about and from the comparisons and investigations, which you made, can you fix anywheres near the time when you came in and took your position there?

A. No, I had turned in there a while and laid down and I got up and went into the kitchen and got something to eat and came back and laid down and I had not been there very long before I told my wife that I was going to get a drink of water.

Q. I know but I am not asking you that, I am only asking you a question and you go off on something else. You say you do not know about the time?

30

A. No.

Q. Absolutely no knowledge whether it was one o'clock, 3 o'clock or 4 o'clock.

A. It was when Mo. Coles went in the ditch with his car.

Q. Do you know that time?

A. No, I don't know what time. I only know the time they say.

Q. Well, you do not know what time but this was shortly after that?

A. Yes.

Q. And you sat down there on this couch and you talked to your wife, why wasn't Nancy there, something like that?

A. Yes.

Q. What else did you talk about?

A. My wife told me that she had not asked Nancy.

10 Q. I said what else did you talk about?

A. We talked about the automobile accident.

Q. And what else?

A. I don't remember anything else.

Q. You do not remember anything else?

A. No.

Q. Have you any idea how long you were seated there talking to your wife?

A. Well, not very long. I must have dropped off into a doze.

20 Q. You must have dropped off into a doze?

A. Yes.

Q. What makes you think so?

A. Well, I did not hear Mr. Coles when he came in to telephone.

Q. Yes.

A. And it did not seem I laid there so very long when I woke up and went to get some lunch.

Q. Well, when you were next in a conscious state, where did you find yourself?

30 A. On the couch.

Q. You were on the couch?

A. Yes.

Q. And you take it from that that you were in a doze, you had been in a doze, is that right?

A. Yes.

Q. And then what did you do?

A. I got up and went to the kitchen and had some lunch.

Q. Had some lunch?

A. Yes, I was probably there fifteen or twenty minutes.

Q. What is your recollection of what you ate, if you know?

A. Ham sandwich.

Q. You made a ham sandwich?

A. And a glass of milk.

Q. Have anything to drink?

A. Yes.

Q. At that time?

10

A. That is the drink that I took before the shooting.

Q. Yes.

A. I poured about an ounce of whiskey in a glass of milk.

Q. What drinks did you have other than this ounce of whiskey, other than the three you had in the oil station?

A. Well, I can remember two sure home.

Q. Two sure home?

A. Yes.

Q. Three in the oil station?

20

A. Yes—not the oil station, the taproom.

Q. Well, whatever it was, I don't know that place that you call it. It does not make very much difference. But you had three in that place that afternoon and you came back to your own house?

A. Yes.

Q. And you remember having two?

A. Yes.

Q. Do you know when those two were?

A. Well, I cannot say. I know when the last one was 30 but I can't say sure whether the fourth drink—the first one home was when I arrived home or on going to bed.

Q. You do not know that?

A. No.

Q. What was this composition?

The Court: What did you drink, whiskey?

The Witness: Yes, sir.

Q. You drank whiskey?

A. Yes.

Q. A large drink or a little drink?

A. No, I always take little drinks.

Q. An ounce drink, do you call that a small drink?

A. Yes.

Q. An ounce drink?

A. Yes.

10 Q. You took that when you went home or when you went to bed and when you say you went to bed you have reference of going to bed in this cottage, don't you?

A. Yes.

Q. And the only other drink you remember of was the drink you took at the time you got the ham sandwich?

A. That's it.

Q. That is right?

A. That's right.

20 Q. And the consumption of which took fifteen minutes?

A. Yes.

Q. You describe fifteen minutes as the time you occupied?

A. Yes.

Q. At the end of that time, what do you remember doing?

A. I went back and laid down on the couch and my wife and I started.

30 Q. Did you lie down and did you go to sleep when you laid down?

A. No.

Q. You did not go to sleep?

A. No, I did not go to sleep then.

Q. Why didn't you?

A. Well, all the time talking about the car and so forth.

Q. Then who started the talk?

A. My wife was the aggressor that night.

Q. You mean she began the conversation?

A. Yes.

Q. What was the occasion of it?

A. It was over the car.

Q. I know but what was the occasion for your talking about the car? The car had been talked about that day?

A. I know it had.

Q. What was the occasion for talking about it now?

A. I did not want to talk about it.

Q. What did she say or you hear?

A. Well, that I had ruined her pleasure and the car 10
would never be the same again, and all that sort of stuff.

By the Court:

Q. Did she say anything to you about drinking again?

A. Yes, yes.

Q. You see, you had just come back about a week before and here you are taking five, six or seven drinks that day.

A. Yes.

20

Q. Did she say something to you about drinking?

A. Yes, indeed, she had it on her mind.

By Mr. Ware:

Q. At this particular time what did she say to you?

A. She did not believe that I was ever going to stop.

Q. What did you say to her in answer to that?

A. I told her that I had only just a few and that I was not going to take any more and I believe when I said 30
I was going to get a drink of water, I believe she thought I was going to get a drink then.

Q. When you went to get the drink of water or when you went for the purpose of getting a drink of water, did you have such a thought in your mind of getting a drink of whiskey?

A. No, I went after water, I was going to get water.

Q. Was anything said by her "Where are you going?"

A. No.

Q. Did you say anything to her as to where you were going?

A. No, I told her where I was going.

Q. Then you did tell her?

A. Yes.

Q. What was the language you quoted?

A. The last words I said was I was going to get a drink of water, then that I would have the car repaired, brought home and locked up and neither one of us would use it.

10 Q. Go on. You are not telling us anything about telling her about getting this drink of water, are you?

A. As I got about the door——

Q. You had gotten up from the couch, had you?

A. I had got up from the couch and as I got about——

Q. How did you say your head was, your head was lying where?

A. Toward the door.

Q. Your head was lying on the end of the couch towards the door?

A. Towards the door.

20 Q. And when you got up?

A. When I got up and started——

Q. How did you——

A. I would feel my way along the couch.

Q. Now, when you got up and straightened out, where did you find yourself, headed in what direction?

A. When I got up I would be looking out towards where the tourist camp was.

By the Court:

30

Q. And I take it the house was dark, the lights were off?

A. Yes, there were no lights, and when I got up——

By Mr. Ware:

Q. Wait until I ask you. When a person gets up from a sleeping position, they put their feet down first, don't they?

A. Yes.

Q. You put your feet down?

A. Of course.

Q. Then you raised the rest of your body up?

A. Yes.

Q. And you found yourself, you say, facing in the direction where the tourist camp was?

A. Yes.

Q. Where was that?

A. Back of the house.

10

Q. In back of the house, that was in the direction of the kitchen, wasn't it?

A. Yes.

Q. It would also take within that scope the place where your wife was lying wouldn't it?

A. When I turned to go out, it would.

Q. Holding this picture here, you might be from this daybed—

A. Yes, I would be standing here and I would be facing this way (indicating on photograph).

20

Q. What way?

A. Right across when I got up.

Q. Wouldn't that take in the daybed as well?

A. Yes.

Q. How large is that room?

A. It is not very large.

Q. Well, I know you say not very large. Some people say that a millionaire's mansion is not very large for a millionaire. How large?

A. I don't know what the dimensions are.

30

Q. Will you give us approximately, whether two hundred, twenty or ten?

A. It might be ten by twelve.

Q. Ten by twelve?

A. It may be.

Q. Assuming ten by twelve and facing the direction where the tourist camp was, did you stand there or go out?

A. No, I got up.

Q. What?

A. I felt my way along the couch.

Q. You felt your way along the couch?

A. Yes, to the head of the couch, and when I was about to enter the door, two shots rang out. I saw the flashes of two shots.

Q. Well, you must have been looking in the direction of the flashes?

A. Well, I had my head on that side.

10 Q. You were looking in the direction of the flashes?

A. Yes, I saw two flashes, I ran through the door—I don't know whether I ran all the way to the lunch room, that is, all the way through or not, and then I heard a shot that at first I doubted whether it was a shot or not.

Q. Why do you mean doubted? You heard a shot and then you doubted it?

A. Well, it didn't sound like the first two. The first two were clear and distinct. The third shot was muffled; it did not sound like the others. I might have remained
20 out there a minute, but I don't think so, and I went back to the room and put on the switch. My wife's body was lying there, I knelt at her head, I tried to talk to her and she didn't answer. I went out to the telephone. I attempted to call on the telephone, and there was someone talking. I hung up and waited a little while, probably a couple of minutes, and then I called Miss Mattson. Then I went over to the cottage and changed my clothes. I am not sure whether I called Sheriff Layton before I changed my clothes, or not, but I don't think so. Miss
30 Mattson could say whether I did or not, I don't know, she was in the house when I came back. I waited around a little while and the police came. Trooper Ditzel was the first man, and then the Sheriff, and I don't know who just did come after.

Q. How many times, if you remember, did you telephone Sheriff Layton that night?

A. The first attempt, I don't know whether I attempted to get the State Police first, or whether I attempted to get the Sheriff. The first attempt there was

somebody on the phone, but I know I called the Sheriff first after that.

Q. Did you call the Sheriff that evening in reference to the head of the State Police?

A. Yes.

Q. When was that?

A. Three o'clock.

Q. Three o'clock, what makes you think it was three o'clock?

A. The reason for that the State Police in making an investigation, the State Detective, rather, Ruggiero, in making an investigation, he found that I had a light lit in the house at three o'clock. 10

Q. No, why did you call Sheriff Layton at three o'clock that morning?

A. I called to ask who was the head of the State Police.

Q. I say why did you do that?

By the Court:

20

Q. This is before your wife was dead?

A. Yes.

Q. Why did you call Sheriff Layton?

A. Well, I thought that would pacify my wife. I told her I was going to make a report, and have the State Police stop from coming there. There was no intention to report anybody of the State Police, I couldn't stop them, if I wanted to.

30

By Mr. Ware:

Q. That you say is your reason?

A. Yes.

Q. You say you saw two flashes?

A. Yes.

Q. When you were standing and feeling your way, and feeling your way to the entrance to the door, is that right?

A. Yes.

Q. There was no light?

A. No light.

Q. In any of the rooms?

A. No.

Q. And do you know whether or not you had reached the entrance to the doorway at that time?

A. No, not positively, I believe I was about to the door, I am not certain about that.

10 Q. When these flashes happened?

A. If I had been in the center of the door, I would not have saw those flashes, because I would have had my back to the gun.

Q. When you saw the flashes were they any considerable length of time separated, or were they together?

A. No, they were rapid fire. The third shot—

Q. Answer, don't go into the third, we are talking about two flashes, and you say that they were together?

A. Very rapid.

20 Q. And by those flashes, what, if anything, could you see?

A. I couldn't see anything.

Q. Could you see anything?

A. No.

Q. Couldn't you see where you were?

A. No.

Q. Could you see what you were immediately facing?

A. No.

Q. Have no knowledge of that?

30 A. No.

Q. You say you ran out into the store?

A. Well, I felt my way out.

Q. Did you feel your way or did you run?

A. Well, I ran and felt, too.

Q. Well, and you felt, what did you feel, what did you feel in the way of objects at that time?

A. The side of the wall, the frigidaire.

Q. The side of the wall and the frigidaire. Does that show that in the picture? This is a frigidaire, is it not?

A. Yes, but that would be the frigidaire in the kitchen.

Q. What frigidaire do you mean?

A. The one in the store.

Q. You had got in the store, hadn't you?

A. Yes.

Q. When these flashes came you were in the store?

A. No.

Q. You were standing up?

A. Yes.

Q. You said that when you stood up you faced the direction where these tourists were camped? 10

A. Yes.

Q. And I don't suppose you stood there, did you?

A. No.

Q. You kept feeling your way down?

A. Yes.

Q. Do you know where you stood when you saw those flashes?

A. About at the door, I was about to enter the door, 20 as near as I can tell you.

Q. What is your knowledge that you were about to enter the door, what was the knowledge that enabled you to believe you were about to enter the door, what was your knowledge, seeing or feeling or what?

A. Feeling.

Q. What did you feel?

A. I had my hand on the curtain.

Q. You had your hand on the curtain?

A. And on the side of the door. 30

Q. That would enable you to face what way?

A. I would be facing the southerly direction, towards the store.

Q. And did you see anything?

A. No.

Q. And then as you felt this curtain, which enabled you to know that you were at the entrance, you saw these two flashes?

A. I did.

Q. And then you went into the store?

A. I went into the store.

Q. You went into the store?

A. Yes.

Q. Did you hear any reports?

A. Then is when I heard the third.

Q. Did you hear any report following these two flashes?

A. No.

10 Q. You didn't hear any reports then?

A. No, you mean reports of the pistol?

Q. Yes.

A. Of course, yes, certainly.

Q. You did hear the two reports?

A. Yes.

Q. And that lent some speed to your footsteps, no doubt?

A. Yes.

Q. That took you into what place?

20 A. Into the store.

Q. And then what did you hear or see?

A. And in a few seconds I heard the third shot.

By the Court:

Q. I understand that during this time the house was in darkness, is that it?

A. Yes.

Q. Everything was dark?

30 A. Yes, no lights.

By Mr. Ware:

Q. You say after a few seconds you heard——

A. The third shot.

Q. What you took to be a third report?

A. Yes.

Q. A muffled sound?

A. Right.

Q. Is that right?

A. That is right.

Q. Where were you at that time?

A. I couldn't say whether I was at the end of the counter or in the lunchroom.

Q. Don't you have a light out in front there?

A. No.

Q. No light out in front?

A. No, all lights are put out at night, the only lights, the only lights at night is the light on the top of the 10 house in the summer time, a tourist light.

Q. Was that light burning?

A. No.

Q. Why not?

A. We had not started to put it on yet.

Q. Don't the municipality have any lights out there on the corner?

A. No.

Q. No lights whatever?

A. Only gasoline lights.

20

Q. There's nothing after you got in the store, there was no artificial lighting whatever?

A. None whatever.

Q. Nothing to enable you to see things any better in the store than in the sleeping room, is that correct?

A. Correct.

Q. You did hear this muffled report, you say?

A. I did.

Q. You saw no flash?

A. No, I couldn't see it from there.

30

Q. And the effect of these two shots that you did hear, and the muffled one, on your senses, caused you to do what?

A. To go back in the room.

Q. There is two ways to get back into that room?

A. There is.

Q. What are those two ways?

A. One would be through the way that I came out.

Q. Yes.

A. The other would be through from the lunch room into the dining room.

Q. Then when you say lunch room——

A. That's a sort of room on the side for the store, it's really one room.

Q. What is your present knowledge as to what way brought you again to this bedroom?

A. I have said that I came back the same way that I went out, and I kind of still believe that I did.

10 Q. You say you still believe that that is——

A. It is possible that, it might be that I went the other way.

Q. Now, the switch in the bedroom is located where?

A. I would have had to pass her body to have got to the switch.

Q. Why don't you answer me first where the switch is?

A. That is between, the switch is between the dining room, as you folks call it here, and the sleeping room.

20 Q. Go on with your explanation that you would have had to pass her body.

A. If I came the way I went out I would have had to pass her body. It is said that I couldn't do that without stumbling. The way the body looked to me that morning, see, I don't say this isn't the same now, but the way the body looked to me that morning was that her head was over to this bed and her limbs were straight out.

30 Mr. Peacock: What bed?

The Court: There are two beds there.

By Mr. Ware:

Q. You mean the bed?

A. That is the bed.

Q. Yes, this one you mean?

A. It looked to me as though her head was over that way more, and she lay straight out.

Mr. Peacock: Indicating near her bed.

The Witness: I don't say it isn't right, but that's the way it appeared to me.

Q. Her head would be nearer?

A. Over this way.

Q. Where she had been sleeping?

A. Yes, and she would have been lying straight out.

Q. And the other bed, you mean this couch? 10

A. Yes.

Q. That is the two beds in the room?

A. Yes.

Q. You think her legs were straightened out more?

A. Yes. Now, if I came back that way, if she was eight inches away from that bed, I would pass to that switch without—

Q. Eight inches from what bed?

A. This bed (indicating).

Q. From the couch? 20

A. Because I would naturally feel my way around that the same as I went out, but to take a direct line from the door over, I would have stumbled over the body.

(At this point a recess for ten minutes was taken.)

(After recess.)

By Mr. Ware: 30

Q. Danser, you are charged with shooting your wife by shooting her with a ball discharged from a revolver, is that true?

A. It is not.

Q. I show you Exhibit S-5, and ask you if you know what that is?

A. A revolver.

Q. Did you ever see it before?

A. Well, I don't know, I have a faint recollection of a long time ago a revolver being in the house, and I imagine it came from my father, because he talked about letting us have one, and we should have one. There had been quite a number of holdups around, and if that's the revolver, I carried a revolver late at nights when I would go out and wait on gasoline, and in the daytime put it on the shelves.

10 Q. And when you speak of a period of carrying a revolver when you waited on customers, what period does that relate to?

A. You mean the time of the day?

Q. No, the time, whether it was this year, last year, or when?

A. No, it's been at least three or four years.

Q. Three or four years ago, and how did your father come to supply you, or your wife, with this revolver?

A. For protection in case of holdups.

Q. Did you apply to him?

20 A. No.

Q. Do you know whether your wife did?

A. No, I couldn't say whether she did, or not.

Q. Your father lived where in respect to this gas station of yours?

A. Within one hundred yards.

Q. When was the last time you saw this revolver?

A. I can't just remember.

Q. On the assumption that you got possession of it three or four years ago?

30 A. Yes.

Q. And you used it in waiting on customers about that time?

A. Yes.

Q. Do you know what became of it after that?

A. No, I don't. I would lay it on the shelf in the daytime. At that time we didn't have a liquor license, and we sold canned goods. I remember one day I went to get a can down off a shelf and pulled the revolver down, and it dropped on the floor. I told my wife to

pick it up and take it away, and I have never seen the revolver since.

Q. You mean when you told your wife to take it away, you mean the revolver?

A. Yes.

Q. Do you know whether that was last year?

A. It's longer than that.

Q. Or the year before last, or what was last year?

A. 1934.

Q. The year before that was 1933?

10

A. Yes.

Q. Will you say it was that year?

A. No, it was before that.

Q. Before 1933?

A. I would say so.

Q. You had only had it three or four years ago, you said?

A. Yes.

Q. That would bring it about 1932, wouldn't it?

20

A. Yes.

Q. Would the same year you got it be the last year you saw it?

A. Yes.

Q. Your testimony then this afternoon is that since the year 1932 you never saw the revolver in question?

A. I have not.

Q. You have not?

A. No.

Q. When it fell from off—

A. A shelf.

30

Q. You told your wife to put it away?

A. I did.

Q. You didn't see it at all during the present year?

A. I have not.

Q. Never shot it off?

A. That gun?

Q. Yes.

A. No, I have never shot a revolver off but twice in my life.

Q. You never shot a revolver but twice in your life?

A. Never.

Q. When were those times you shot a revolver?

A. I was quite young then, and there was a revolver in our home, and I smuggled it out and shot in the barn twice.

Q. That was when you were a young boy?

A. Yes, going to school.

Q. And since that time you have never discharged one?

A. I never discharged it, never since, or even a shot-

10 gun.

Q. Now, Mr. Danser, were you in the habit of cursing your wife?

A. No, not directly, we would swear some, both of us, during our arguments.

Q. How about when you were drinking, would you swear at her?

A. No.

Q. You would not when you were drunk?

A. Not directly, no.

20 Q. Wasn't profanity part of your language when you were drinking?

A. Yes.

Q. You employed it?

A. Yes.

Q. Now, Mr. Danser, you say that you got back in this bedroom?

A. Yes.

Q. And turned on the light?

A. Yes.

30 Q. And found your wife lying on the floor?

A. Yes.

Q. And you say, as I recall, that her position was not exactly like that?

A. Well——

Q. As in Exhibit S-4, in that her legs were extended, and her head was more to the center?

A. Yes.

Q. It is inclined, as that photograph indicates, in what direction?

A. What do you mean?

Q. Her head is inclined in that photograph in what direction?

A. That's east.

Q. East, left or right?

A. Right, what do you mean?

Q. I said is it on her right side, or on her left side, her head?

A. On her left side.

Q. It was more in the center, and you got down on the floor and looked at her? 10

A. I knelt by her head, yes.

Q. And what did you discover?

A. That she was dead.

Q. She was dead, and you attempted to talk to her?

A. I did.

Q. How many times?

A. You mean how many times I knelt by her?

Q. How many times did you talk to her, you were kneeling there? 20

A. I don't know, I don't even know what I said to her.

Q. Don't you remember saying, "Ada, why did you do this"?

A. No.

Q. It has been testified that you did say it.

A. I don't remember it.

Q. Could you possibly have said that?

A. Yes, it seemed natural.

Q. It is not your purpose to deny it, is it?

A. No. 30

Q. What was your condition, were you drunk?

A. No.

Q. What was your condition so far as knowing what was going on?

A. Of course, when I found my wife's body I was terrified, I was scared.

Q. Anything else?

A. Excited.

Q. How long did you remain with your wife's body?

A. I would not say over thirty or forty-five seconds, probably.

Q. You mean not over the greater part of a minute?

A. Not over a minute.

Q. What did you do then?

A. I went to the telephone then, I don't know whether I attempted to call the Sheriff first, or the State Police, but someone was on the telephone, and I hung up, and I waited a little while, and just a short time I tried to call
10 again. It seems as though they were on then, and then I went out and called Miss Mattson, and I don't know whether I came back and telephoned then, or whether I went over to the cottage and got my clothes and came back and telephoned.

Q. And where did you go to call Miss Mattson?

A. I believe between the house and the tourist camp. I don't think I got all the way over to the cottage, probably I did.

Q. And your method of calling her was to raise your
20 voice?

A. Was what?

Q. Was to raise your voice, to call her name by raising your voice?

A. I would have to, if she was asleep.

Q. Did you knock on the door?

A. I don't remember about that.

Q. But she came out?

A. Yes.

Q. What did you do?

30 A. I told her that Ada had killed herself.

Q. And then what did you do?

A. Then I got my clothes, I believe, from the cottage, I am not quite sure.

Q. The cottage where you had started?

A. Previously went to bed, yes, sir.

Q. Then what?

A. Then I came back over to the house, and I believe Miss Mattson was in the house, and I told her she had better call the State Police, too, and she did.

Q. She did?

A. And I am not certain, but I think I called the State Police, too.

Q. What did you say to her?

A. Say to Miss Mattson?

Q. Yes, when she called the State Police, or you had called the State Police?

A. I don't know what I said to her after I called the State Police.

Q. She says that you said, after the call had been 10 made, that you used the expression "I guess they have not me now."

A. Well, I don't remember anything like that.

Q. You don't remember?

A. No.

Q. You don't remember whether you said that or not?

A. No, I don't know why I would say it, I knew I was in a predicament, I knew that.

Q. Did you ever threaten to kill your wife?

A. No.

20

Q. Do you remember threatening to kill your wife?

A. Do I remember threatening to kill my wife?

Q. You have been charged with doing it, haven't you?

A. Yes.

Q. And what you mean is you never did threaten to kill your wife?

A. No, to the best of my memory I never threatened to kill her.

Q. Did you ever threaten to shoot your wife?

A. No.

30

Q. Or beat her up?

A. No.

Q. She had you arrested, you have testified to that, a number of times. Now, what time did the State Police get there?

A. Well, I told Miss Mattson we had better put the time down and I remember our clock was 4:20 and they were not there then and that clock may not be exactly right, we have had a lot of trouble with it. I don't

know whether it was gaining ten minutes a day or losing ten minutes a day but she maneuvered it.

Q. You mean when you say they had not gotten yet at your place——

A. At 4:20 they were not there by that clock.

Q. They had not arrived by 4:20?

A. No.

Q. Do you know when they did arrive?

A. Well, they arrived a few minutes afterwards.

10 Q. And who were they?

A. Trooper Ditzel.

Q. Alone?

A. Yes.

Q. And what did you say?

A. I told him about that Ada had shot herself and he walked on back—I don't know which way—I think he went back of the counter lane—I am not sure—I followed him in and then I saw him coming out with the revolver. It appeared to me as though he was holding it

20 up so that it dangled or something of the sort.

Q. You said that Ada had shot herself?

A. Yes.

Q. On what did you base that? Why did you say that she had shot herself?

A. Well, because she had.

Q. Because she had?

A. Certainly.

Q. What makes you say that? What makes you think she had? You did not see her shoot herself, did you?

30 A. No, but there were only two of us in the house.

Q. You know there were only two of you there?

A. Yes.

Q. And you know that she was alive at one time?

A. Yes.

Q. And you heard revolver shots and you later found her body down on the floor?

A. Yes.

Q. And you have already testified that you did not shoot your wife?

A. I have.

Q. And now that is your reason?

A. Yes.

Q. And did Mr. Ditzel ask you questions?

A. I don't believe Mr. Ditzel asked me questions. I was busy around there. I can't remember his asking any.

Q. Did anyone else come?

A. The Sheriff was the next one to arrive.

Q. Did you make a statement to him?

10

A. No, I don't believe I did.

Q. Who else came after the Sheriff?

A. Well, I don't know just how they came in rotation but Dr. Dunn, the County Physician, Mr. Coles, and, I believe the Prosecutor. I don't just——

Q. And did you make a statement to any of them?

A. I might have talked in there. I don't know. I was willing to talk about anything that they asked me.

Q. How long did you remain in the gas station that morning?

20

A. Well, I believe a couple—yes, more than a couple of hours. I think we had a little breakfast. Miss Mattson got breakfast for those who were there, toast, coffee or something or other and shortly after that I was taken to Woodstown.

Q. And what were the circumstances of your being taken to Woodstown? Did anyone—I am asking that in the sense did anyone put you under arrest?

A. No, they told me to get in the car.

Q. Someone told you to get in a car?

30

A. Yes.

Q. And he was a member of the State Police?

A. Yes.

Q. And you did get in the car?

A. Yes.

Q. And you went to Woodstown?

A. Yes.

Q. To the barracks?

A. Yes.

Q. And did you there make a statement?

A. Yes.

Q. Who did you make it to?

A. Detective Ruggiero.

Q. And in that statement I believe you said that you were standing in the doorway when your wife shot herself, is that right, or fired the two shots?

A. Well, I don't mean to say I was standing exactly in the doorway. I was about the doorway.

10 Q. Did you say that you thought you saw two flashes?

A. I did not say I thought I saw them. I did see two.

Q. You say you did see two flashes?

A. Yes.

Q. And he also said that you said the shots were fired by your wife while she was in bed?

A. Well, while I was on that couch I knew from the sounds of her voice she was in the bed but my wife was in her bare feet, she could have arisen from that bed without me hearing.

20 Q. I am asking did you say that she was in bed when the shots were fired?

A. Yes. Well, I don't know she was in bed when the shots were——

Q. Well, do you know whether you said it?

A. No, I don't know.

Q. You do not know whether you said it?

A. No.

Q. Did you make any other statement there?

30 A. Yes, I answered all the questions that the detective asked.

Q. Did anyone else besides Ruggiero ask any questions of you?

A. I don't know whether Corporal Bob Johnson did or not. He might have asked a few but I don't just remember.

Q. Was the Sheriff there?

A. No.

Q. The Prosecutor?

A. No, not at the barracks.

Q. When did you have your inquest?

A. That evening, I would say seven or half past seven.

Q. And where was the inquest had?

A. I believe it is the Borough Hall.

Q. In Woodstown?

A. Yes.

Q. And you were taken there?

A. Yes.

Q. Were you called as a witness?

10

A. I testified there.

Q. You testified there?

A. Yes.

Q. Who called you?

A. I just don't know.

Q. You do not know who addressed you?

A. The Prosecutor questioned me.

Q. The Prosecutor asked you to take the stand?

A. Yes.

Q. Were you the first witness called?

20

A. Yes.

Q. Were you there during the whole inquest?

A. No.

Q. Why were you not there during the whole time?

A. Well, I was in the building but I was taken, after about three or four witnesses testified, I was taken in back.

Q. And was any other hearing had in that building that night, any hearing had by the Magistrate?

A. I think Mayor Humphries asked me some questions. I am not sure. 30

Q. As a matter of fact you were turned over to Mayor Humphries, were you not?

A. I think so.

Q. And given a hearing that night?

A. Yes.

Q. Any witnesses sworn?

A. I don't know whether they were sworn or not.

Q. And you were by Mayor Humphries committed to the Salem County Jail that night?

A. Yes.

Q. And have been here ever since?

A. Yes, six months the fifth.

Q. Where did you keep the money from the sales of gasoline and the taproom?

10 A. The money would have been kept in the right hand side of the chifforobe as you would come in from that little room you call the dining room, in the upper drawer.

Q. Upper drawer?

A. Yes, upper compartment.

Q. What was the money kept in?

A. A cigar box, as a rule.

Q. A cigar box, as a rule?

A. Yes.

Q. Did you have any specified sum of money all the time on hand?

20 A. Sometimes there was eight hundred dollars, sometimes nine hundred dollars, sometimes three hundred dollars.

Q. All kept in there?

A. Yes.

Q. Was this revolver which is known as Exhibit S-5A kept in there with the money?

A. No.

Q. Did you ever see it in there?

A. No, I——

30 Q. Do you know anything——

A. There was no article of any kind I don't think kept in that drawer but the money.

Q. And you had keys to that drawer?

A. I had a key and my wife had a key.

Q. You and your wife?

A. Yes.

Q. Anyone else?

A. No, there were only two keys but I believe that in our absence that Miss Mattson might have a key, that

it would be turned over to her or Mrs. Oliver, anybody that went up there.

Q. Now, these women, this Mrs. Oliver who has testified, was she employed by you?

A. Yes, she worked. She has been there off and on at different times.

Q. What was she employed as?

A. Well, as a waitress, anything there was to be done.

Q. What was Miss Mattson employed as?

A. The same.

10

Q. Did you have a Miss Barrett there?

A. Yes.

Q. And a Miss Fagan?

A. Yes.

Q. And a Miss Hawn?

A. Yes.

Q. You did not have them all there at the same time, did you?

A. Oh, my, no, no.

Q. Different times?

20

A. Yes.

Q. They were for general work around there?

A. Yes.

Q. And who hired them as a rule?

A. My wife hired them.

Q. Your wife hired them?

A. I did not have anything to do with that.

The Court: Keep your voice up.

30

The Witness: Yes.

Q. When was Mrs. Oliver there?

A. Mrs. Oliver, I believe, was there part of last summer.

Q. Yes.

A. Not this past summer, this summer a year ago.

Q. When was Miss Hawn there?

A. Miss Hawn was there the summer before.

Q. It has been testified in this case that you were fearful your wife would cause you to be sent back to the State Hospital.

A. We had never discussed that since I came home. I had talked about the State Hospital, about things up there, things that occurred at my work and so forth but there was nothing ever said about me going back, that I can remember.

10 Q. You did say, however, that you thought it would be good for a man to go up there once a year?

A. I do yet.

Q. And spend a month?

A. Yes, I do.

Q. That is a man that has an inclination for drink?

A. Whether he drinks or not.

Q. Whether he had a drink or not?

A. Yes.

Q. Why, what is your reason for that?

20 A. Well, for one thing, they fix up your teeth, look at your tonsils, your adenoids and so forth.

The Court: They do that in the army.

The Witness: And, of course, my teeth were all right, my tonsils were all right, I never had a doctor in my life, I never had a headache, but the irrigation they give you makes a man feel wonderful.

Q. You think a man would get a general overhauling there?

30 A. Yes.

Q. Make an old man young or a young man in good repair?

The Court: They have enough patients up there now.

A. Yes, it is a wonderful place. I had it very nice there. I worked in the doctors' kitchen.

Mr. Ware: You may cross-examine. I think that is all.

Cross-examination.

By Mr. Peacock:

Q. I show you a picture, Mr. Danser. Who is that?

A. That is my wife.

Q. How tall was she?

A. My wife was about my height.

Q. A little taller, wasn't she?

A. Well, possibly she might have been.

10

By the Court:

Q. How tall are you?

A. I believe I am about five foot six and a half.

Q. How tall was your wife?

A. Well, I thought she was about the same.

By Mr. Peacock:

Q. Five feet seven and a half inches, wasn't she?

A. Maybe, I don't know.

Q. You are five feet six and a half?

20

A. Yes.

Q. That is right?

A. Something like that.

Q. I am five feet seven and a half and you are five feet six and a half. Will you stand up down here?

A. Yes.

Q. Point it at me. Are you left handed?

A. Yes.

Q. Point it up close.

A. (Witness points revolver at examining counsel.) 30

Q. Did you ever point that at anybody before?

A. Never.

Q. Your wife was a hard-working woman, wasn't she?

A. Yes.

Q. Ran the place?

A. With my assistance.

Q. Saved the money?

A. She did no more saving than I.

Q. Tried to keep a home together?

A. So did I.

Q. She kept a good house and was a good housekeeper, wasn't she?

A. Wonderful.

Q. Loving woman?

A. No, she was not.

Q. Peaceful woman?

A. Yes.

Q. That is right, isn't it?

A. Yes, we hadn't any outside trouble.

10 Q. And you drank all the time, didn't you?

A. Not all the time, no.

Q. Will you tell us what day in the last three years you did not take a drink?

A. What day?

Q. Yes.

A. Yes, I can name a number of days.

Q. Can you?

A. Yes, that I went without a month or two months.

Q. You drank so much you had to go to the hospital?

20 A. No, I did not have to go.

Q. Why did you go?

A. I went there to please my wife more than anything else. I was in good condition.

Q. Because you were full of so much liquor you had to go and have it sweated out?

A. No.

Q. I suppose the four times you separated from your wife that was her fault too?

A. I don't say it was altogether.

30 Q. Wasn't it because you drank so much?

A. No, that might have helped.

Q. She had to go to work?

A. No, she never had to leave me to go to work.

Q. Did you ever go back and get her to return to you?

A. Yes.

Q. You said you drank plenty of liquor but was able to keep on your feet and was able to attend to business?

A. Yes.

Q. And that was up until the time you had to go to the hospital?

A. Yes.

Q. And you were able to attend to your work at all times?

A. Yes.

Q. She pleaded with you to stop drinking?

A. Yes.

Q. She told you what would happen if you did not stop?

A. Yes.

Q. She told you she would send you back to the hospital again if you did not stop? 10

A. No.

Q. You do not remember that?

A. No, I don't remember that.

Q. Your memory is good?

A. I believe one Sunday she was up there she said something about that.

Q. The Sunday Helen Sparks was there with her, she said, "If you don't stop drinking you are coming back to this hospital again?" 20

A. She might have.

Q. What did you say?

A. I don't know just what the reply was.

Q. You said there you had a fear of coming back to that hospital, didn't you?

A. I might have said that. I don't remember.

Q. And there was a fear of going back?

A. No.

Q. Why would you have said it if there wasn't any fear of going back there? 30

A. I have never thought of it since I have come home.

Q. You said there was a fear of going back, is that true?

A. I might have said that that Sunday but it has never been talked about since I came home.

Q. But it had been talked about that day in Trenton, between you and your wife?

A. I believe it was.

Q. It was talked about that if you did not stop drinking you would go back again?

A. Well we will say it was.

Q. And it was talked about the day she died?

A. Not to me it was not.

Q. Didn't you and your wife talk about it?

A. I don't remember it.

Q. Your memory is good on that point?

A. On what point?

10 Q. As to whether or not you talked about going back to the hospital.

A. Oh, I said it would be good for to go back a month every year.

Q. You think it is good for every man to go to an asylum for a month in the year?

A. The people up there, they are not in an asylum. They are not all crazy, are they?

Q. I suppose they are sent there just to have a good time?

20 A. No.

The Court: We are getting off the track, gentlemen.

Q. Why were you sent there?

A. We were always under the impression that they give you medicine to turn you against liquor but I never took no medicine while there.

Q. Did they give you the liquor cure while you were there?

30 A. No.

Q. Now, the last year of your married life was a constant quarrel, wasn't it?

A. We quarreled.

Q. And it was over liquor, wasn't it?

A. Most of it.

Q. Your wife still coaxing you to stop drinking and take care of the business, that is right, isn't it?

A. I was taking care of the business.

Q. Will you answer my question?

The Court: Yes, the question was, your wife coaxed you to stop drinking liquor and take care of the business.

A. Yes, she spoke about it several times.

Q. And when you were out on a drinking bout she was taking care of the business?

A. I did all my drinking at home.

Q. Then you could not work while drunk?

A. Well, I did drink when I was at home.

Q. Never drank at any place except home?

10

A. Oh, yes, I have.

Q. Then during the last year you did not do all your drinking at home?

A. Yes.

Q. That is the reason the wife took charge of the money, you being drunk all the time and she could not trust you with it?

A. No.

Q. If you had it when you were drunk you would spend it?

20

A. My wife always gave me the money when I wanted to go.

Q. She kept charge of it just the same?

A. Yes.

Q. Then you gave her a five hundred dollar automobile?

A. \$750.

Q. \$750 to make her happy?

A. Yes.

Q. And three hundred dollars to buy a diamond ring to make her happy?

30

A. Yes.

Q. You gave her that because she was pleading with you to stop drinking and you promised you would?

A. Yes.

Q. And in order to stop drinking you gave her a \$750 automobile and a \$300 diamond ring, didn't you?

A. Yes.

Q. That did not stop you from drinking?

A. No. That was the first day I drank away from home.

Q. How many did you drink that day?

A. I can't remember five or six probably.

Q. When?

A. During the day.

Q. How many at night?

A. I can only remember taking two drinks at night.

Q. Seven that day?

10 A. Seven.

Q. And what time did you start to drink?

A. Why, I don't think I drank anything until afternoon. I don't remember.

Q. Then you had seven ounces of liquor that afternoon?

A. And night.

Q. I do not suppose that affected you at all, did it?

A. No.

Q. How much does it take to make you drunk?

20 A. Well, I have drank a pint of liquor.

Q. And you would not get drunk?

A. Why, I felt it.

Q. Pretty well soaked up with liquor so you would not ket drunk on a pint?

A. No.

Q. How much more than a pint would it take to make you drunk?

A. Not much more.

30 Q. That is why you do not remember beating your wife?

A. No.

Q. Do you remember Mr. and Mrs. Cook?

A. Yes.

Q. They were there one day when you hit her, in the yard?

A. I testified to that this morning.

Q. She screamed and they had to carry her into the house.

A. Carry her in?

Q. Yes.

A. I don't know.

Q. You know she was down in the yard, don't you?

A. No, I don't. When she had one of those turns she always dropped to her knees.

Q. What kind of turns?

A. Nervous turns.

Q. Then she dropped to her knees to pray so you would not hit her again?

A. No, because she had nervous spells. 10

Q. Why would she have to drop to her knees, how often, a hundred times?

A. No.

Q. Seventy-five?

A. No.

Q. Fifty?

A. No, no.

Q. Twenty-five?

A. Yes.

Q. And those nervous spells were whenever you hit 20 her or when you were drunk?

A. I never purposely struck her.

Q. You just struck her?

A. No.

Q. These nervous spells were always when she had a quarrel with you cursing or hitting her or whether you hit her or not, that is when she had the nervous spells?

A. No, she had them at any time.

Q. She had them at other times when nothing at all happened? 30

A. Yes, she did get nervous about anything.

Q. Then without anything happening to her she would have a nervous spell and go down on her knees?

A. Yes.

Q. I suppose then when working in the store or sitting in the bedroom reading she would have a nervous spell and fall?

A. No, I never saw her have a nervous spell and fall.

Q. You say you have seen her go to her knees and

that is what I mean by falling. That is correct, isn't it?

A. Yes, she would get down in a sitting position.

Q. If you never hit her, why did she have to have Recorder Gider on two occasions?

A. My wife attacked me and in getting away from her she had me arrested.

Q. She attacked you and then she had you arrested for attacking her?

A. Yes.

10 Q. Do you know officer Taylor?

A. Yes.

Q. She said right in his presence you had threatened to kill her and you heard her say that?

A. No, I did not.

Q. What did you say?

A. I don't remember.

Q. Your memory is bad the night you were before Justice Humphries, you were there a couple of times?

A. Once.

20 Q. What was that, did she attack you again?

A. No, at that time——

Mr. Ware: There is nothing in the case about being before Humphries.

Mr. Peacock: He said it on your direct examination.

Mr. Ware: I did not ask him the parties. He started to say something.

30 Q. Your wife had you arrested before Justice Humphries for threatening her?

A. I don't know what the charge was but I never threatened her.

Q. The Justice never told you what the charge was?

A. Well, he might not have. I could tell you why I was before Humphries.

Q. What was it?

A. My wife was over for a few days over to Swedesboro. During her absence I got a statement from the

Swedesboro Bank and Trust Company showing me where she had put around two hundred dollars in bank inside of six weeks, without me knowing anything about it and I knew it hadn't come out of the receipts. When her brother brought her home, I asked her about it and she denied it and we had some words and she went away with her brother and the next thing the officer came from Woodstown after me to come up that evening and I was held under a peace bond.

Q. You had not done anything?

10

A. What say?

Q. You had not done anything?

A. No, we had an argument. What I mean, I did not touch her or put my hands on her.

Q. And the officer held you under a peace bond?

A. Yes.

Q. How many peace bonds did you sign before Recorder Gider?

A. Two.

Q. You were also locked up in Paulsboro for the same offense?

20

A. No.

Q. You were arrested in Paulsboro?

A. I was arrested for stealing a cat in Paulsboro.

Q. That the only thing?

A. Yes, and I was arrested for waiting for my wife to come home one night when she was out in an automobile.

Q. And they held you under a peace bond for waiting for your wife to come home?

30

A. A fine, no peace bond.

Q. You were arrested waiting for her to come home but when she got home you did something to her?

A. I was not living with her then. She was out in an automobile and I waited at the house until she came home. I did not do anything to her because she did not get out of the automobile.

Q. You have been convicted of crime in this Court too, haven't you?

A. Yes.

Q. How many times?

A. Once.

Q. That is the reason you could not have the license in your name, wasn't it?

A. Well, I don't know about that.

Q. It was in your wife's name, wasn't it?

A. Yes.

10 Q. You told Judge Ware you were sued on another occasion by some person other than your wife. What were you arrested for that time?

A. I don't remember any other time.

Q. Well, you said that. Did you mean it? I will read to you what you said. "I was sued on another occasion but not by my wife."

The Court: I think that is when he was talking about the cats.

20 Mr. Peacock: After the cats, yes.

The witness: I have never been sued by anyone else.

Q. You have forgotten that?

A. Yes.

Q. It might have happened but your memory is bad on that. Now, you never had any serious arguments with your wife, did you?

A. Not serious, no.

30 A. No, I suppose they were the ordinary spats between man and wife, that is right, isn't it?

A. Yes.

Q. Those spats would not be sufficient to upset her trend of mind, would they?

A. Well, they might have helped some.

Q. Did they upset you?

A. Did not make me nervous?

Q. They were not sufficient to make you nervous but they might have upset her a little bit. Now, in the last

three years how many of those spats do you suppose you had?

A. What do you mean, just worded spats?

Q. Yes, just ordinary, because that is what you say they were. Half a dozen? I don't suppose you had any more than that?

A. Yes.

Q. Dozen?

A. Yes.

Q. Twenty-five?

10

A. No, I wouldn't say that.

Q. Then we will say eighteen.

A. Well, it is hard to say.

Q. Between fifteen and twenty-five in three years, that is right, isn't it?

A. I would say that.

Q. And they were not sufficient to upset her, even to cry, were they?

A. I have seen my wife cry, yes.

Q. Did you cause her to cry?

20

A. She would cry when she got angered.

Q. They were not sufficient to upset her and to kill herself, were they?

A. No.

Q. Yet you say she killed herself?

A. She did.

Q. Judge Neutze, his Honor, asked you on two occasions if it was very dark in the room when your wife was killed and you said yes. That is correct, isn't it?

A. It is correct.

30

Q. You said to your counsel, "I could not sleep in the house because it was so light there, the light annoyed me and I went to the cottage to go to sleep." Is that true?

A. When did I say that?

Q. Did you say that?

A. No, I don't remember saying that. We were talking about a light in the house. I said this, that if I went to bed before the store closed I went over in the cottage.

Q. Did you say it, that it was so light in the house that you could not sleep there and that is the reason that you went to the cottage, to get some rest?

A. No.

Q. You did not say that?

A. I don't remember saying that.

Q. Did you or didn't you say it?

A. No.

Q. Then it was so dark in there, that is the reason
10 the first two shots missed her, wasn't it?

A. The first two shots were not fired at her. They were fired at me.

Q. They missed you then because it was so dark?

A. Well, that's probably it.

Q. Did she say she was going to shoot you?

A. No, she never came out and told me she was going to shoot me.

Q. Never made any threats that she was going to shoot you, did she?

20 A. She had made threats this way——

Q. I mean the night that she was killed?

A. No, she did not.

Q. No, she did not have any gun in her hand, did she?

A. I could not see.

Q. You did not have any?

A. No.

Q. You did not know anyone was around there?

A. No.

Q. Never saw one?

30 A. Yes, as I said, I saw that three or four years ago.

Q. Your father gave you that gun?

A. Who?

Q. Your father?

A. I don't remember him giving it to me.

Q. He said he gave it to you.

A. He did not tell me so.

Q. He told you that in the presence of Trooper Ditzel?

A. I don't remember that. If I did, I would say so.

Q. Do you remember Coroner Coles being there?

A. Yes.

Q. Didn't he say, "I gave you that gun" in the presence of Coroner Coles?

A. I don't remember that.

Q. It is possible that he did say that and you have forgotten it?

A. Well, I don't remember.

Q. I suppose in all that darkness there was not a light around there?

A. Not when the shooting occurred.

Q. There wasn't any around before the shooting occurred, was there? 10

A. At 3 o'clock.

Q. She did not get shot until 4:14, did she?

A. I know that.

Q. Where was the light at 3 o'clock?

A. In the kitchen.

Q. You put that light out though, didn't you?

A. Yes.

Q. I show you Exhibit S-15. Who does that belong to? 20

A. Well, it looks like ours and I believe it is.

Q. Your wife did not put that flashlight on that night when she fired these two shots at you, did she?

A. When those two shots were fired there wasn't any light on, no flashlight, and I did not see any flashlight at any time that night at all.

Q. You did not have any, did you?

A. Did not have any flashlight? We have two flashlights.

Q. You did not use any in that room at the time the 30 shots were fired?

A. No, I did not.

Q. She did not use any?

A. I did not see her use any, no.

Q. And there wasn't any flashlight in that room before the shots were fired?

A. No, I did not see any. I know there wasn't.

Q. You knew there wasn't?

A. I know that I did not have any and I did not see her have any.

Q. You knew after she had been shot there was a lighted flashlight there, didn't you?

A. I don't know whether I knew that before the inquest that night or not.

Q. Didn't you know it when Trooper Ditzel found it there?

A. No.

10 Q. Didn't he talk to you about it?

A. No.

Q. Did Ruggiero talk to you about it?

A. Ruggiero might have.

Q. What did you say about it?

A. That she always kept a flashlight at her bed.

Q. What did you say about the lighted flashlight being found under her body? What did you tell Detective Ruggiero?

A. I don't remember.

20 Q. You do not remember that either?

A. No, I don't remember what I told Trooper Ruggiero.

Q. You have a memory of convenience, don't you? Things that are beneficial you can remember, that is correct, isn't it?

A. No, I don't want to hide anything.

Q. You are not hiding the fact that you killed her, are you?

A. No, I am not, I am telling the truth.

30 Q. Now, we come back to the flashlight again. When is the last time that you saw that flashlight?

A. Well, I don't just remember. That light is used and another light by me at night when we serve motor oil in order to see.

Q. Did you serve any motor oil on the night your wife was killed?

A. No, not that I remember.

Q. Then you had no occasion to use that light to serve motor oil?

A. No.

By the Court:

Q. Mr. Danser, you know by this time that this flashlight, lighted, burning, was found under the body of your wife, don't you?

A. Yes, I do.

Q. What explanation have you got for that fact?

A. Well, that I don't know. I have often wondered about that. Now, there is always a flashlight kept at the side of her bed, when we go to bed, because at night sometimes there are people come for cottages and if anybody comes for gasoline and we know them we get up and get it for them, if we know them, and we use a flashlight to do it. 10

Q. What explanation do you have, if any, for the fact that this lighted flashlight was found underneath her body?

A. Well, here is what I account for. Of course, I don't know, it is only suspicion, that after those two shots were fired that she either reached down and got that light and put it on to see if she had hit me or to use to shoot herself, that she may have had it in her hands when the shots were fired. That I don't know. 20

Q. Is your wife right handed or left handed?

A. She is right handed.

Q. You were in the room when two shots were fired?

A. Yes.

Q. You were out of the room forty-five seconds, or so? 30

A. Yes.

Q. There was no light in the room while you were out of the room?

A. No.

Q. The dining room door was open?

A. Yes.

Q. And the door from the bedroom to the store was open?

A. Yes, there is no door there.

Q. If there had been a flashlight flashed in that room you would have seen it from the store door, or the dining room door, wouldn't you?

A. I would have believed I would see the rays of it.

Q. You didn't see any rays?

A. I don't remember seeing any rays at all.

Q. On your return from the store to the bedroom you don't remember seeing any rays?

10 A. No.

Q. When you came back and saw your wife's body, you saw no rays?

A. No.

Q. You didn't see any gun there?

A. I don't remember seeing the gun. I don't dispute the gun was there, but I didn't see it, I was in a terrible state at that time, worried, scared.

Q. You said "I was in some predicament," what did you mean by that?

20 A. What I meant by that, that I was the only one there when my wife was killed.

Q. You would not be in a predicament, knowing she committed suicide?

A. I am in it.

Q. Because she didn't commit suicide is the reason.

A. She did commit suicide.

Q. There was nothing else on your mind besides suicide, was there?

A. No, there wasn't.

30 Q. Not when you called Sheriff Layton at three o'clock in the morning with a fake call, and asked about the State Police, what was on your mind at that time, answer me, will you?

A. Yes. Do I have to answer that (turning to the Court).

Q. Yes.

A. There were two State Troopers who stayed in our cottage early in April.

Q. And this was June 5th?

A. Yes.

Q. Three o'clock in the morning?

A. Yes, and I was away when it happened. When I came home I asked my wife if there had been anybody in the cottage.

Q. You didn't see any troopers there?

A. No.

Mr. Ware: Why didn't you let him explain? 10

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

The Court: He had not finished his answer.

A. (Continued) When I came home I asked my wife if there had been anybody in the cabins. She said "Yes," she said, "Two of the boys." I knew who she meant by "Two of the boys," and that night when she was raving, I said, "Well, I am going to report them." I didn't intend to do it, I knew who the head of the State Police is, but to make it look real I called up the Sheriff. 20

Q. And you waited from April to June 5th at three o'clock in the morning?

A. It was only to pacify her.

Q. And called up Sheriff Layton to find out who the head of the State Police was, even though you knew who it was? 30

A. Yes, I wanted to make it look real to my wife.

Q. You didn't even talk about it to the State Police that night, did you?

A. What night?

Q. The night she was killed?

By the Court:

Q. The night you called Sheriff Layton, when you

spoke to him, you didn't mention any State Police, the names of the State Police?

A. No, I didn't mention names.

By Mr. Peacock:

Q. When did you first think of that?

A. That was brought up in the argument.

Q. This is the first time in this entire trial that you
10 have made any statement that you talked to her about the State Police staying there in April, isn't it?

A. I didn't want to make any statement.

Q. That's your explanation for a three o'clock call in the morning?

A. Yes.

Q. And your explanation for saying Lester Coles got there at four o'clock, isn't it?

A. That was a mistake, I was confused.

Q. Lester Coles got there between twelve and one,
20 didn't he?

A. Yes.

Q. Your wife was killed between 4 and 4:14?

A. Yes.

Q. You called Trooper Ditzel at 4:14, or someone called him for you?

A. Yes.

Q. You didn't call Sheriff Layton then, did you?

A. When?

Q. At 4:14 or 4:20?
30

A. Yes.

Q. You called him?

A. Yes.

Q. That's the second time you called him?

A. Yes.

Q. What were you doing between then and four o'clock, from the time Lester Coles left until your wife was killed?

A. On that couch.

Q. Asleep?

A. Well, I believe I was, I don't just remember.

Q. Then from nine o'clock in the evening until the time you went to bed you and your wife were quarreling, weren't you?

A. I went to bed about ten o'clock.

Q. You got back between ten and one, didn't you?

A. Between twelve and one.

Q. And started quarreling again, didn't you?

10

A. Yes.

Q. After Coles left you started quarreling again?

A. I don't know what time Coles left.

Q. Were you sleeping between one and four?

A. Yes, I must have been.

Q. You and your wife didn't have any argument at all at that time, did you?

A. Between one and four?

Q. Yes.

A. We were around three o'clock.

20

Q. What were you arguing about that time?

A. About the automobile.

Q. The automobile accident?

A. Yes.

Q. Is that the only thing?

A. The only thing I remember.

Q. That's the only thing you remember?

A. Yes.

Q. That's correct, is it?

A. That's the only thing I remember.

30

Q. Arguing about the automobile accident at three o'clock, and then you go and call Sheriff Layton and tell him about the State Police at three o'clock?

A. Yes.

Q. To pacify your wife about your automobile accident, that's your answer, is it?

A. Yes.

Q. You didn't have any other argument, did you?

A. That night?

Q. Yes.

A. I don't remember.

Q. Did you talk about money that night?

A. Yes, I remember a little something mentioned about money, only a small sum that I paid a taxicab driver.

Q. Talk about any other man?

A. I don't remember talking about any other man.

10 Q. Will you tell me exactly how long, or how many moments or hours between nine o'clock and four o'clock, when your wife was killed, you actually talked to her and quarrelled with her?

A. Between nine o'clock and four o'clock?

Q. Yes.

A. I went to bed at ten o'clock, and we were quarrelling then, not serious, and when I got up between twelve and one, I judge we talked for fifteen or twenty minutes, and I must have fell off asleep. I remember being up at

20 three o'clock, and getting lunch, and we were talking then.

Q. How long?

A. Maybe an hour, maybe.

Q. From three to four?

A. Yes, until the time of the shooting.

Q. Until what?

A. Until the time of the shooting.

Q. Now, when she was actually shot, you didn't say anything to her about——

A. I knelt down at her side.

30 Q. The Judge asked you a question, if you said "Why did you do this?", or "Ada, why did you do it?" You didn't say that, did you?

A. I talked to my wife, but I don't remember what I said.

Q. You didn't say "Why did you do this, Ada?"

A. I don't remember.

Q. That didn't impress you very much as to what you really said at that time, did it?

A. I don't remember what I said.

Q. Did you say "What's the matter, what's the matter?"

A. I might have said that.

Q. Before your wife was killed, or shot herself, as you say, she was lying on the bed shown in that picture, wasn't she?

A. Yes.

Q. And you never saw her rise from that bed, did you?

A. No, I couldn't see her, it was dark.

10

Q. Now, was there a light outside of your house, or not?

A. None of our lights were lit.

Q. No lights at all were lighted around your house at any time, were there?

A. No.

Q. Sure of that?

A. Well, there would not have been any lights lit, we put out the lights when we go to bed, outside lights and inside lights.

20

By the Court:

Q. Not what you usually do, what was the situation that night, as you recall?

A. I don't recall any lights being lit that night.

By Mr. Peacock:

Q. You had tourists in June, didn't you?

30

A. Yes.

Q. You had a special light for tourists, didn't you?

A. No, we have a sign on top of the house that lights up the sign "Tourists Cottages," but we had not started to put that on, that wasn't on.

Q. What lights were there outside of your house?

A. Lit, you mean?

Q. I mean regular lights, what were they, whether lighted or not?

A. There's about twenty-five lights outside.

Q. Where are they located?

A. They are located on the pumps, on top of the house, and then, of course, we have lights in the cottages, but you don't mean them.

Q. Those lights were all on at ten o'clock, weren't they?

A. Yes, they were all on until closing time.

Q. They were on at twelve o'clock, weren't they?

10 A. I don't think so.

Q. They were on when Coles came there, weren't they?

A. No.

Q. Sure of that?

A. Pretty sure.

Q. You went to bed and left the lights burning, didn't you?

A. You mean from the store, when we closed it?

Q. You went to bed at ten o'clock before they closed
20 the store?

A. Yes, but I left Miss Mattson and my wife in the store.

Q. You left all lights burning?

A. Yes, I did.

Q. When you left your wife you say she was on that bed?

A. Yes, as far as I know she——

Q. Was that dresser, as you call it, or chifforobe, was that locked at that time?

30 A. I believe there's only one compartment that we kept locked, and that is with the money.

Q. You had a key to that compartment?

A. I did.

Q. Your wife had a key to it?

A. She did.

Q. And that is either the first or second drawer, which is it, from the top of the chifforobe?

A. That's the first, it isn't a drawer, it's a compartment.

Q. And that is adjoining the door from where you leave the bedroom into the dining room, isn't it?

A. Yes, in the bedroom it sets.

Q. I think the Judge showed you a picture of it?

A. Yes.

Q. Referring to Exhibit D-3?

A. That's the chifforobe.

Q. Show me the drawer where you kept the money?

A. Right there (indicating).

Q. Referring to the top drawer on the left hand side 10
of the picture, that's correct, is it?

A. Yes.

Q. And in front of that?

A. It would be on the—— Standing the same way as the drawer, it would be on the right hand side, this is the compartment (indicating).

Q. This is the compartment on the left hand side. What is directly in front of that chifforobe?

A. The bed that I laid on.

Q. And opposite that chifforobe is the bed that your 20
wife was lying on, which is shown in that picture?

A. Yes.

Q. Which door were you in when the shots were fired at you?

A. The door leading to the store, it don't show here.

The Court: Point it out, and make it clear to the Jury, hold it around so the Jury can see it, show it to all, not only one.

30

The Witness: Here is the bed where I was. Here's the bed she was lying on. About here, on this edge, along here, was about where I was when the shots were fired, the two shots. I was about here when the shots were fired.

Q. Take this pencil and mark on this paper where you were when the shots were fired.

A. This is the bed, the other bed?

Q. I don't know, you know.

A. I was about here.

Q. Were you here (indicating)?

A. I would say there.

Q. About there?

A. About to enter the door.

Q. Where I am marking is the spot you were when the shots were fired, is that correct?

10 A. As near as I can tell. I thought the head of the couch come over there.

Q. Now, Mr. Danser, this bed, I show you S-5, runs alongside, the foot of that is shown in that picture, isn't it?

A. Yes.

Q. And the table here in that picture, D-4, adjoins the foot of this bed, like this, doesn't it, is that correct? I am referring to S-5, that is the top of the table, isn't it? See those articles sitting on top of it?

A. Yes, at the foot of her bed.

20 Q. You were standing over here at the right side of that door?

A. Yes.

Q. And your wife was laying in this bed, wasn't she?

A. Yes.

Q. She fired from that bed over towards you over here?

A. Yes, the shots came in that direction.

Q. Your wife laying in that bed fired at you over here, that's correct, isn't it?

30 A. I don't say that she couldn't have got off the bed.

Q. I didn't ask you that, you were over there when the shots were fired?

A. Yes.

Q. That's correct, isn't it?

A. Yes.

Q. And both shots were fired while you were over there?

A. Yes.

Q. After she was dead you found one of the shots down at the foot of this chair, didn't you?

A. After she was dead?

Q. Yes.

A. No, I didn't know where those shots struck until two days afterwards.

Q. Weren't they shown to you by the troopers that night?

A. No, they weren't.

Q. Referring to S-12, you found that one of the shots 10 struck at the foot of this bed, or this table?

A. I don't remember knowing anything about those shots until I was taken home to select the clothes for my wife's funeral.

Q. That's where the shots struck?

A. Yes.

Q. Your wife, lying in that bed, fired at you over on the right hand side of the door, and one of the shots struck down at that table, that's correct?

A. My wife couldn't see me.

20

Q. She was in bed, wasn't she?

A. That I can't say. She was in bed while we were talking. She could have arisen, she was in her bare feet.

Q. But the top of the table came to the foot of the bed, didn't it?

A. I believe so, I know there was a table at the foot of the bed.

Q. I don't suppose any time that night you were over near the door that goes out into the dining room, were you?

30

A. Yes, I went through that door when I went to get lunch, three o'clock.

Q. I call your attention to Exhibit D-3, does that show the door that goes into the dining room?

A. Yes.

Q. It shows the chifforobe where the money was kept?

A. Yes.

Q. That shows the same drawer where she kept the gun?

A. I don't know where the gun was.

Q. Where did she keep the gun when you knew about it?

A. I never knew about it, I gave it to her and never saw it.

Q. I thought you carried it around with you?

A. Only two days, in the middle of the night.

Q. You kept it in the store on a shelf?

A. In the daytime.

10 Q. Is that this same gun?

A. I imagine it is, I don't know much about guns.

Q. Do you know what color that gun was?

A. No, I don't.

Q. Now, there were only two people in that house that night?

A. There were. I am positive there was no one else there.

Q. Either your wife committed suicide or you shot her?

20 A. That is correct.

Q. That is?

A. That is.

Q. You did not fire any shots that night at anybody, did you?

A. No.

Q. Can you explain to the jury how your wife, lying in that bed, fired two shots at you, on the right hand side of her, and one shot landed at the foot of the table, to the left of it, inside the bar door?

30 A. I don't know how to explain that; I don't know.

Q. You cannot explain it, can you?

A. No, I don't know. She probably could have arisen from the bed. I don't know that she did. I don't know that she did not.

Q. Did she shoot at you at the same time you got up to get the drink of water?

A. That is the time the shots were fired.

Q. You say she might have thought you were going after liquor.

A. Yes.

Q. When you got up from the leather couch to go into the store to get a drink of water, where was your wife at that time?

A. As far as I know, she was on the bed.

Q. And the room was in total darkness?

A. It was.

Q. At the time the shots went off, where was your wife?

A. Well, I did not hear her get off the bed but the flashes looked as though they were out a little bit, extended out from the bed.

Q. You did not tell that to Detective Ruggiero?

A. I don't know that I did. I told Trooper Ruggiero everything he asked me.

Q. "At the time the shots went off, where was your wife?" "I believe she was in bed." That was your answer, wasn't it?

A. I believe it was.

Q. You do not deny that, do you?

20

A. No.

Q. He asked you this question "You say that immediately after the shots were fired, you switched on the lights. Do you remember what course you took from where you say you were standing, which was at the door leading from bedroom to the store part?" "I don't remember which way I went."

A. Not positively but I believe I went in the door that I came out.

Q. On June 5, 1935, you made that statement, that is correct, isn't it?

30

A. Yes, I made the statement.

Q. You did not remember which door you went out and to-day you can say you went out through the store door, is that correct?

A. I told Detective Ruggiero that I believe I went in the way I came out.

Q. Did you say, "I don't remember which way I went"?

A. I might have said that. I don't know.

Q. And that was on June fifth?

A. Yes.

Q. You were not sure on June 5th, the date your wife was killed, which way you went out?

A. I told Detective Ruggiero—I believe you mean back to the body, don't you?

Q. I mean from the bedroom to the store?

A. I know which door I went out. I went out the
10 store door.

Q. Did you say, "Immediately after the shots were fired you switched on the lights? Do you remember which course you took from where you say you were standing which was at the door leading from the bedroom to the store part?" "I don't remember which way I went." Is that correct?"

A. I told him I believe I went back the way I came out.

Q. Do you know which way you went out?

20 A. Not positively I don't.

Q. Now you told this jury a moment ago that this place was in total darkness at all times?

A. I did.

Q. And you told his Honor there was no light there?

A. I don't know.

Q. At any time during the night?

A. I admitted there was a light on at 3 o'clock.

Q. I ask you to read your answer that you gave to

30 Judge Ware. Read this right all to the jury.

A. Well, if I slept in the cottages——

Q. Read it to the jury, the whole thing.

A. Well, if I slept in the cottages, often times if I wanted to go to bed before the store was closed, I would go to the cottages to sleep and it was coming the time of year that I would sleep in one of the cottages anyway as long as they were not occupied, because we kept our sign lit all night, tourist cabins and the Pennsville ferries running all night, we are apt to be called any time and I always slept in the Summer time in one of the

cottages so as to be handy, when all five cottages were empty. Yes, I see what you mean.

Q. You did say that?

A. The light on top of the house.

Q. Did you say that this morning?

A. Yes, but the lights on top of the house were not lit.

Q. You said this morning to Judge Ware that that sign was lit all night and you told his Honor that it was in absolute darkness. Which is true? 10

A. I did not say it was lit night and if it was the light on top of the house would not make it any lighter in the house.

Q. You said it was in total darkness and the sign was out because you had no tourists?

A. The sign was not lit that night. What I meant by that, in the summer time, as a rule, we keep that sign lit, but we had not started to do it yet this summer.

Q. Don't you say there "The time was coming, because we keep our sign lit all night?" 20

A. The time is coming, yes.

Q. And didn't you say you had it lighted that night and that is the reason you went to sleep in the cabin?

A. What had the light——

Q. Didn't you say that?

A. No.

Q. "And the Pennsville Ferry running all night, we are apt to be called any time?"

A. That is right.

Q. "And I always sleep in one of the cottages so I 30 can be handy?"

A. That is right.

Q. Are you any handier in the cottages than you are in your home, to people who need you?

A. Yes, because they will come to the house first and my wife will send them over to the cottages I sleep in and I can tend to them.

Q. You think it is handier to wake your wife up and she can send them over to the cottage where you are, that was handier that night?

A. That's the way we usually have it arranged. It was nothing unusual for me to sleep in the cottage.

Q. You still say it was in total darkness that night?

A. Yes. What I mean by that, the time of the year was coming when we kept that sign lit all night.

Q. You did not mean it was lighted that night, did you?

A. No.

10 Q. And you did not say it, did you? You did not say it that night?

A. The sign was not lit that night.

Q. Now, you were sober when you got home, were you not?

A. Yes.

Q. Absolutely sober?

A. Yes, I was.

Q. And you had how many drinks after you got home?

A. Well, I remember two.

20 Q. And when you went to bed you and your wife were on perfectly good terms, were you?

A. No.

Q. You were not?

A. No, I went to my wife and asked by wife to kiss me goodnight, called her in the bedroom.

Q. Do you remember testifying at the Coroner's Inquest?

30 The Court: You better answer the question? You testified?

A. Yes, I testified.

Q. This question was asked you "Were you both on good terms when you went to bed?" Is that true or is it true what you just said now?

A. Well, my wife would not kiss me good night.

Q. Were you on good terms?

A. Well, that would not seem very good terms.

Q. On June 5th you said you were on perfectly good

terms with her when you went to bed. Were you telling the truth then or are you telling it now when you say you are not on good terms with her?

A. Well, we were not overly friendly but we were not bad friends. She refused to kiss me good-night.

Q. That made you bad friends and on bad terms?

A. Well, I did not say she had a very good feeling toward me.

Q. Is that the first time you ever asked her to kiss you goodnight?

10

A. No.

Q. Did she ever refuse you before?

A. Yes.

Q. And were you mad about it at that time?

A. Well, no.

Q. Did not go on bad terms because she had refused you at other times, did you?

A. Well, we did not go on bad terms because she refused me this time.

Q. How many shots did you hear?

20

A. I heard two in rapid fire, and then at an interval of a few seconds I heard this third shot.

Q. Now, Mr. Danser, where were you when you turned on the switch which threw lights on in the bedroom?

A. Well, in that room.

Q. And where is that switch located?

A. That switch is located between the bedroom and the sitting room.

Q. I call your attention to Exhibit D-3. It is pointed out here, isn't it?

30

A. There, that's the switch. Now, that switch can be turned on from this room.

Q. That is the bedroom there, isn't it?

A. This is, yes.

Q. And that switch is inside the bedroom?

A. Yes, but it can be turned on from the other room.

Q. Do you mean the dining room?

A. Yes.

Q. You turned that switch on after you had heard the three shots?

A. Yes.

Q. And after those three shots were fired, your wife was lying on the floor in the room?

A. She was.

Q. What door did you come in to turn that switch on?

A. Well, I am not positive but I think I went in the same door that I came out.

10 Q. The store door?

A. Yes, I believe I did.

Q. And you did not strike any object on the floor?

A. No.

Q. You went right straight through without striking any object?

A. No, in going that way in the dark you would feel your way around.

Q. All right, go ahead.

A. You would feel your way around.

20 Q. You are assuming this is the store door and this is your house. You heard three shots, I suppose, fired, and you came in and felt your way around like I am doing now, in order to get in to turn the lights on?

A. I might have come quicker than that.

Q. Show me how quick you came.

A. I don't know how quick I came.

Q. But you felt your way through?

A. Yes, there were no lights on.

30 Q. Having heard three shots in a room which you know is not occupied by anybody but your wife and you, you felt your way through, is that right?

A. Well, I could not come in there anyway without risk of injury.

Q. I show you these curtains. They are over the door to the store door?

A. Yes.

Q. You mean to tell me you could come now in that door and walk around that davenport and walk around your wife's body without touching it?

A. I would say for sure I am telling you the way I think I came.

Q. You could be mistaken about it?

A. Yes.

Q. It is possible you came in the door from the dining room?

A. It is possible.

Q. And it is possible you went out that door?

A. No, I did not go out that door.

Q. You knew if you went out that door you would be 10
in the direction or range from which the shots were
fired?

A. No.

Q. That is not true?

A. I don't know.

Q. You do not know the range on which these shots
were fired in the direction to imbed themselves in those
boards?

A. I know where they lodged now.

Q. Which would be fired from that bed or davenport 20
in order to lodge in the two spots which they lodged in?

A. I don't know.

Q. What do you think?

A. I don't know.

Q. You know they could not lodge there if a woman
was lying in bed, don't you?

A. I don't know that. I did not say my wife remain-
ed there. She had an opportunity to raise and it looked
to me as though the flashes were extended out some-
what from the bed. 30

Q. She did raise in the bed, didn't she?

A. I don't know. I would not say.

Q. You are not sure of that?

A. No.

Q. Didn't your wife raise up from that bed at the
same time you raised up from that davenport?

A. I don't know. I did not hear her.

Q. Your head was at the end of the davenport towards
this door?

A. Yes, towards her feet.

Q. And when you arose, you arose towards this chifforobe?

A. Yes, you would.

Q. And when you stood up you stood up in front of that chifforobe, didn't you?

A. No.

Q. Where did you stand?

A. You would stand, your side to it. This, I see you
10 have the pillow there, the pillow is on the other end—
oh, I see, yes.

Q. Then you would stand sideways to the chifforobe like I am standing?

A. No, I was lying with my head the other way.

Q. Certainly, I have showed you that.

A. Just a moment. I don't understand.

Q. You were lying with your head toward the door shown in Exhibit S-4?

A. Yes.

20 Q. As you arose, you arose towards that chifforobe shown in Exhibit D-3?

A. You would go up towards it but when you got on your feet you would be aside to it.

Q. You stand straight in front of the jury box, I mean facing me, so that the chifforobe would be at your left side just as it is now. That is correct.

A. Well, I would not be facing the chifforobe.

Q. It is to the left of you?

A. It is to the left.

30 Q. You would be standing in front of the davenport?

A. Yes, that is right, my back to the davenport.

Q. And this bed which your wife was on would be in front of you?

A. Yes.

Q. And you did not see her standing there?

A. No, I did not.

Q. At no time?

A. No.

Q. Did you hear her fall?

A. No.

Q. Did you hear a gun fall?

A. I did not.

Q. Did you hear a flashlight fall?

A. I did not..

Q. Did you hear any noise after the shots?

A. No.

Q. You were how close to her?

A. That is difficult. I don't know how far I ran. I 10
could not run far, because the building is small.

The Court: Suppose at this time we take a recess,
Prosecutor? Let the jury be taken out in the care of the
constables. The prisoner is remanded to the care of the
Sheriff and we will recess for a short time.

(At this point a recess was taken.)

By Mr. Peacock:

20

Q. I want to ask you another question, was your wife's
body disturbed at any time, you say she might have been
moved?

A. I don't say it was, but it looked to me as though
my wife should have been a little bit more towards the
center of the bed, and her limbs were stretched out
straight.

Q. They were stretched out straight when Trooper
Ditzel arrived there?

30

A. To me it appeared so, I don't say they had been
changed, but that was my opinion.

Q. You made a statement to Trooper Ruggiero, didn't
you, and this question was asked you: "Q. Was your
wife lying just about the way she was when Trooper
Ditzel arrived at the scene? A. Yes, she was, she was
not disturbed, as I told Nancy not to touch anything until
the troopers arrived."

A. That's right.

Q. Then her body was not moved any time, was it?

A. No, I thought maybe the doctor, it might have been moved before it was photographed.

Q. The doctor didn't arrive there until after the troopers arrived and it was photographed?

A. I didn't say it was moved.

Q. Then it wasn't moved, was it?

A. That I would not say.

10 Q. I asked you a question awhile ago, you had not been arrested in Paulsboro on complaint of your wife, and you said "No," that's correct, isn't it?

A. I said I had been arrested in Paulsboro.

Q. On your wife's complaint?

A. Yes.

Q. Then I am mistaken?

A. Yes, I said I had been arrested in Paulsboro.

Q. Now, you remember everything that happened between one o'clock, or twelve-thirty, and four o'clock, don't you?

20 A. Yes.

Q. From the time the mechanic left there?

A. Yes.

Q. This question was asked you by the trooper: "Q. You do not remember what you did from the time that Lester, the mechanic, left, until the shooting occurred, although Lester stated that he was at your place at twelve-thirty A. M., and you claim that it was four—

A. Yes.

30 Q. "... when he was there, if it was at twelve-thirty A. M. that Lester was there, what did you do from twelve-thirty A. M. until about four A. M., the time of the shooting? A. I do not know unless I fell asleep." Is that correct?

A. Well—

Q. Did you say that to Ruggiero?

A. I wasn't out of the building.

Q. Did you say that to Ruggiero?

A. I don't remember.

Q. Do you deny it?

A. No, I don't remember.

Q. Is it true that you fell asleep between twelve-thirty and four?

A. I must have fallen asleep.

Q. There was no argument between twelve-thirty and four?

A. Three o'clock we were arguing.

Q. You said here you fell asleep from twelve-thirty to four, now you say you were awake at three.

A. I had forgotten until Mr. Ruggiero came what I 10
was doing at three o'clock.

Q. Did he ask you this question: "Q. If you fell asleep, where did you sleep, in the cottage, or in the house? A. I must of went to sleep in the house." Is that correct?

A. Yes.

Q. Then were you asked this: "If you went to sleep in the house at say one A. M., what woke you up at about four A. M.? A. I can't answer it, I don't know what woke me up." Is that correct?

A. Yes.

20

Q. You don't know what woke you up at four o'clock?

A. No.

Q. Did you say this: "I had been lying down on the leather couch in the bedroom at the time, and I got up to get a glass of water in the store part of the house, and just about when I reached the doorway, I heard two or three shots, I am pretty near positive there were three shots, I had seen the flashes of two shots, I remained there for a minute or two, then I kneeled on the floor, and asked Ada 'What's the matter, what's the matter?'" 30

A. I don't know what I asked her when I knelt on the floor.

Q. Do you remember that?

A. Asking her what was the matter?

Q. Do you remember what I have just read to you?

A. I might, I don't know, I forget, I don't say I didn't.

Q. Did you ever see these two rags, S-6 and S-7, did you ever see these in your house?

A. No, I can't say that I did.

Q. Wrap that gun up in one of them, will you?

A. (The witness complies.)

Q. Did you ever see that gun wrapped in it?

A. No.

Q. You never saw the rags in the house?

A. No.

10 Q. You say you saw these rags at the side of your wife's body?

A. I don't know, I don't remember seeing them.

Q. You don't remember seeing that gun at the side of your wife's body?

A. I don't remember it.

Q. What do you mean, you don't remember?

A. I don't remember, there's things you have happen at that time I cannot remember, I know it was there, that is, the revolver, there is no doubt about that.

20 Q. Did you use these rags any time on that gun?

A. No, I never used rags on a gun any time.

Q. Never had any oily rags in the house?

A. Yes, we have lots of oily rags.

Q. Did your wife have oily rags in her hands, or not, at any time that night?

A. Not that I am aware of.

Q. Did she have the gun wrapped in oily rags?

A. No, not that I know of.

30 Mr. Peacock: That's all.

Mr. Peacock: I would like to have placed on the record the position that Mr. Danser just laid that gun down.

Mr. Ware: I object.

Mr. Peacock: The gun is laid on the left hand side of the gun.

Mr. Ware: I object to that, that is not part of the examination of the witness.

Mr. Peacock: Come back and take the stand, Mr. Danser, please.

By Mr. Peacock:

Q. I just handed you the gun to lay down, did you lay it down in front of me that way? 10

A. Yes, I did.

Q. With the left hand side down?

A. I don't know what you call the left hand side down.

Q. This is the right side of the gun, this is the left side, this is the right side of the barrel.

A. That is the side, that is the position I laid it.

Q. That's correct, isn't it, the way you laid it?

A. I believe so.

Q. That's the way you heard Trooper Ditzel say he found it? 20

A. I may lay that there again, and lay it a dozen times.

Mr. Peacock: That's all.

HILDA BARTIE, SWORN.

By Mr. Ware:

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Q. Where do you live, Mrs. Bartie?

A. Paulsboro, New Jersey.

Q. And your husband's name is John?

A. John Bartie.

Q. He is employed where?

A. Vacuum Oil Company.

Q. You know Danser, the defendant in this case?

A. Yes, sir.

Q. How long have you known him?

A. I have known both Mr. and Mrs. Danser for twelve years.

Q. What was the nature of your relationship to them?

A. Well, just neighbors and good friends.

Q. Neighbors where, at Paulsboro?

A. In Paulsboro, yes.

The Court: Speak out louder, madam, the Jury is just about hearing you.

10

Q. Danser moved from Paulsboro?

A. Yes, sir.

Q. Some years ago?

A. Yes, sir.

Q. And were you in the habit of visiting each other?

A. Yes, sir.

Q. When did you see Mrs. Danser last?

A. On the Friday before she was shot.

Q. On the Friday before she was shot where did you

20 see her?

A. She had been to her sister-in-law's funeral, and she stopped on her way home for a few minutes.

Q. Do you know who her sister-in-law was?

A. Mr. Danser's brother, Norman Danser.

Q. And she stopped to see you for a few minutes?

A. Yes, she just called in for a few minutes.

Q. How did she seem to be, Mrs. Bartie?

Mr. Peacock: I object to that, that is a conclusion,
30 an opinion, which the witness is not qualified to pass on.

Q. What did you notice about her?

A. That particular day?

Q. Yes.

A. Well, nothing unusual, she just stopped in and said "Hello" to us.

Q. What did she say to you and what did you say to her?

A. Well, I was asking how everything was, and she

said that, well, she said, "You know Ed has just come back, and he is terrible to put up with, awfully nervous, but," she said, "I will have to make the best of that for awhile," and then she said, "I will be down to see you next week sometime," and then she said, "I must hurry home for supper," and I believe she said she had to hurry home on account of the DuPont's pay, or something, she had to hurry home for that.

Q. Did she say where she had been?

A. To the funeral.

Q. And what did she say in reference to herself in connection with it?

A. She didn't say anything.

Q. When did she say something about it?

A. I am not positive of the month, but I believe it was the latter part of February, she came up on Wednesday and she stayed with me until Friday.

Q. You mean February of this year?

A. This past, yes.

Q. Stayed with you for how long?

A. She came up on a Wednesday, and went home on a Friday, and we were talking about the different things, and she told me then about things at home, and she said, "You know, Hilda," she said, "if Ed doesn't stop drinking pretty soon I will have to put him away."

Q. Yes.

A. And then she went on, she said, "You know I haven't got a thing to live for."

Q. Yes.

A. She said, "If you can't have a little piece in your own home, there isn't anything left to live for," and then she went on about the new car, she said, "If Ed ever gets out and gets drunk and wrecks my car, I will shoot him." That's all I know.

Q. That was all that was said?

A. That's all that was said about that.

Q. That's all she said on the visit in February?

A. Yes.

Q. You saw her—This conversation you had with

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her shortly before her death, was that in the month of June?

A. That was the Friday before this thing happened.

Q. The Friday before this thing happened?

A. Yes, sir.

Q. She had been to the funeral of some relative?

A. Yes.

Q. She said nothing whatever?

A. No, she didn't say anything more.

10 Q. More than what you have said?

A. Yes, I was just asking how things were at home, and how Ed was, I didn't even know he had been away at the time, and then she just told me what I have said, "Ed was terribly nervous, and hard to get along with," but she said, "I will have to put up with that for awhile."

Mr. Ware: Cross-examine.

Cross-examination.

20 By Mr. Peacock:

Q. You are a friend of Mr. Dansers?

A. Yes.

Q. How long have you been friends?

A. 12 years.

Q. Relative of his?

A. No sir.

Q. Does he visit your home?

A. Yes.

30 Q. Without his wife?

A. Yes, sir.

Q. How many times?

A. I couldn't say, I believe Mr. Danser stayed with us for two or three days while he was working at the Vacuum Oil.

Q. Where do you live?

A. In Paulsboro.

Q. And just the Friday before her death you say she was perfectly all right?

A. Yes, sir

Q. Had been to a funeral?

A. Yes.

Q. And talked to you?

A. Yes, sir.

Q. Good spirits?

A. Yes.

Q. Nothing wrong with her that day?

A. Didn't seem to be.

Q. She complained about her husband drinking a lot, 10
didn't she?

A. Yes, that was the only thing.

Q. She said if he became no better she would have to
put him back in the hospital?

A. Yes.

Q. Did you tell Mr. Danser that?

A. No.

Q. You have talked to him about that, haven't you?

A. No, sir.

Q. Did you ever tell anybody about that? 20

A. No, sir.

Q. When was this?

A. That was the day that she stopped at my home.

Q. When was it?

A. On the Friday before she was shot.

Q. She didn't tell you that that Friday, you say this
was last February?

A. Yes.

Q. When in February?

A. I don't exactly know, whether it was the latter part 30
of February.

Q. Sure it was February?

A. Yes, because there was still snow on the ground.

Q. She was at your house?

A. Yes.

Q. Who else was there?

A. That was all.

Q. Do you know what day of the week it was?

- A. No, I couldn't say, it was in the middle of the week.
Q. Have you been to her house lately?
A. I was there sometime during the cold weather.
Q. When?
A. I couldn't say.
Q. What were her exact words in February, what did you say to her before she said anything to you?
A. I don't remember.
Q. Who opened the conversation, you or Mrs. Dan-
10 ser?
A. She did.
Q. You don't remember what you said to her?
A. No, I don't.
Q. Without you saying anything to her, she said, "If Ed doesn't stop drinking I will have to put him away"?
A. We were talking about different things, and that's what we were talking about.
Q. What were you talking about?
A. About things at home.
20 Q. What?
A. About Ed drinking, and about him carrying on.
Q. She was complaining because he had been abusing her?
A. No, not that he has been abusing her.
Q. You knew he had been abusing her?
A. No.
Q. Didn't she tell you that?
A. No, sir.
Q. You say she complained about him drinking?
30 A. About him drinking, but never abusing her.
Q. You knew he had been drinking for weeks' didn't you?
A. I didn't know he drank for weeks.
Q. Didn't she tell you that?
A. No.
Q. Is that all she said to you?
A. What's that?
Q. "If Ed doesn't stop drinking I will have to put him away"?

A. Yes.

Q. She said he bothered her in her business, didn't she?

A. No.

Q. What else did she say?

A. That was all she said about him.

Q. That's all she said about him?

A. Yes.

Q. You don't remember what you said?

A. No, I don't, because I have heard this complaint 10
so many times.

Q. She has complained many times about her husband's treatment of her to you?

A. Not treatment, but drinking.

Q. Complained about him drinking?

A. Yes.

Q. What other complaints has she made to you?

A. No other complaint, only drinking.

Q. That's all, is it?

A. Yes, sir.

20

Q. Can you tell me why you remember what was said to you, but you can't remember what you told her?

A. No, I can't.

Q. When did that first come to your mind she had made that statement?

A. I remembered it after the thing happened, I read in the papers, and I remembered what she had said.

Q. This was in February, 1935, was it?

A. Yes, sir.

Q. But the Friday before, she made no complaint 30
about him, you say?

A. No, only what I just said.

Q. In good humor, talked to you and in good spirits?

A. She was only in about half an hour.

Q. And out of a half an hour's conversation you don't remember anything?

A. All she said was just I asked about Ed, how things were at home, she says, "You know Ed has just come

back, and he is awfully nervous, terribly hard to get along with, but," she said, "I will have to put up with it."

Q. That's all you remember of what she said to you?

A. Yes.

Q. That's all she said that day?

A. Yes.

Mr. Peacock: That's all.

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EDNA BARRETT, SWORN.

By Mr. Ware:

Q. Where do you live at the present time?

A. At the present time I am living and working in Philadelphia.

Q. In Philadelphia?

A. Yes.

20 Q. And where did you live during the forepart of the present year?

A. The forepart of this year?

Q. Yes.

A. I worked at Danser's, from about the middle of August, 1934, I don't know just the exact date, but it was either in the forepart or the middle of August, and I left there on January 31st of this year.

By the Court:

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Q. From August until January?

A. Yes, sir

By Mr. Ware:

Q. And who were you hired by, Mrs. Barrett?

A. I was hired by Mrs. Danser.

Q. Mrs. Danser, and in what capacity?

A. To assist her with all the work, both inside the

store and the house, and make up the cottages, and occasionally when Mr. Danser had his day off to help with the gas outside.

Q. While you were there what did you notice between Danser and his wife?

A. I did notice they didn't get along at all well.

Q. What did you see that caused you to conclude they did not get along so well?

A. Well, there were times when Mr. Danser was drinking. I noticed Mrs. Danser would be very upset, and there were times when he wasn't drinking when she was not well, and she had told me of a condition that she had when I talked to her one time, she said she was going to kill herself. She was in the kitchen and she was running her hands through the back of her hair, and I said, "What's the matter, Mrs. Danser?" She said, "I am going to kill myself." I asked her what was the matter, and I said, "What makes you this way?" and she said, "I wish Ed would go away for awhile." At that time Mr. Danser was not drinking, had not been drinking for about two weeks, and I said, "Well, you should be all right now, Mr. Danser is not drinking," I said, "What makes you act that way?" I said, "You should not act this way, why don't you go away for awhile and see your people?" and she said, she told me about a condition that she had. 10 20

Q. What?

A. A condition of her own that she had since she was twenty years old, she had an operation, and she believed that was what made her act that way. 30

Q. Mrs. Barrett, when was the occasion of this conversation?

A. I just don't remember any dates, because I never thought of anything like this, I don't know just what the date was.

Q. Would you say it was in 1934?

A. It was probably around in October or November.

Q. Of 1934?

A. Yes. I won't say sure, but it was around that time.

Q. Do you know what was the immediate occasion of the conversation, what had happened before?

A. She was sitting in the kitchen, and she was crying. She said she didn't feel good. I said, "Why don't you feel good?" Usually when she was feeling this way it was on account of Mr. Danser drinking, but at this particular time Mr. Danser had not been drinking, and I couldn't account for her feeling the way she did.

Q. Did she ever show you the revolver?

10 A. No, I didn't see the revolver.

Q. What did she show you?

A. Just after Miss Fagan came there to work—

Q. When was that?

A. She came there some time in October, I don't know the date, either, but it was in October.

Q. Yes.

A. And we were in what they used as a bedroom, we used to call it a living room, because they made it a living room in the daytime, Mrs. Danser was cleaning
20 out some bureau drawers, or chifforobe drawers, and in the second drawer, I believe, I won't say sure, but I think it was the drawer next to the bottom, she took that drawer out, and it had a lot of old pocketbooks in it, and it was the day before that she had told me she was going to kill herself, she pulled this package out, and it was about this big (indicating), and it was just wrapped in a white rag, and she said, "Here's my gun," and both Miss Fagan and I were in the room, Mr. Danser was out at the time attending to some gas, and I said, "Don't
30 unwrap that while we are here, because I am afraid of guns," and with that Mr. Danser opened the store door to go into the cash register, I imagine, and Mrs. Danser heard him coming, and she went like this(indicating), and put her finger up, and put this package back in the drawer. She didn't open it, she didn't show it to us.

Q. Out of what drawer was that taken?

A. This drawer next to the bottom, I believe, because I know she had cleaned one drawer out, and had lifted the second drawer out, and one was silk underwear, and the next one was pocketbooks.

Q. Do you know where they kept the money?

A. Yes, I know where they kept the money.

Q. Where was it kept?

A. It was kept in a little door that opened up at the left of this chifforobe.

Q. Not in the same drawer or compartment out of which she took this revolver?

A. No.

Q. And was the money locked?

A. Yes.

10

Q. That drawer was locked?

A. When we wanted to change a large bill we had to ask either Mr. or Mrs. Danser to make the change. They only kept about \$15 worth of change in the cash register in the store, and if we had to change a large bill we had to go to Mr. or Mrs. Danser for change.

Q. How many times did you hear Mrs. Danser express the intention of killing herself?

A. A number of times, but I don't know just how many.

20

Q. What?

A. I don't just know how many times, but I have heard her say it a number of times.

Q. A number of times, you mean as many as half a dozen?

A. I don't know just how many times, at least half a dozen.

Q. When was the first time that you recall?

A. I don't know, I don't know just what date, I couldn't say.

30

Q. Was it before Miss Fagan came there?

A. Yes, it was probably three weeks after I went there to work, the first time I heard her say she had nothing to live for.

Q. Do you know the occasion of her using that expression, or giving way to that thought?

A. Well, the first time that I heard her say it I believe it was while Mr. Danser was drinking, and he was laying in the living room on the davenport.

Q. This continued, you say, for possibly half a dozen times. Do you know what precipitated the remark on the other occasions?

A. It was usually while Mr. Danser was drinking, but there were a couple of times when he wasn't.

Q. What did you say to her in return?

A. I said, "Oh, don't ever do anything like that," I said, "Why don't you—your nerves are all unstrung, why don't you go away for awhile, if you can't get along together;" and one time she said she was having a closet built, Mr. Danser was going to one of the cabins, she told me she was going to put Mr. Danser over in the cabin and he would have to stay there, and Mrs. Danser had a carpenter to build a closet, and carry the bureau that kept his clothes in over to this cottage No. 2, No. 2 cottage they called it, and the carpenter helped her carry the clothing over, and she took his clothes out of the chifforobe in the dining room and carried it over and put it in the closet, and at that time when he was going
10 over I had talked to her, and I said, "If Mr. Danser doesn't get off the drinking," he had been drinking then about two or three days, I said, "He will die for," I said, "His face is so red," he had come through the house to go out back, and I said, "He looks like he had high blood pressure." She said, "Do you think, if he keeps on drinking he will die?" I said, "Why yes," I said, "He looks terribly bad." She said, Mrs. Danser said, "Well, if I thought that, I would give him all he wanted to drink," and she carried over a case of ale, and a quart
20 of Golden Wedding, or a pint, I don't know which, a bottle she took over to the cottage, and she came back and told Mr. Danser, she said, "Now, there's a case of ale over there, and a bottle of liquor. Go over there, and stay in the cottage, and when that's gone, if you want more, holler, and I will bring it over, but don't come near the place again or I will blow your brains out."

Q. Did you see Mr. Danser strike Mrs. Danser.

A. I never did.

Q. Did you see them have quarrels?

A. I heard them quarrelling.

Q. Did you see any blows struck?

A. No, I didn't see any.

Q. By either one?

A. No.

Q. Do you remember an incident of an ice pitcher being used there?

A. Mrs. Danser was washing something one day, but I was not in the room, but she came out with the pitcher, and it was dented, and it would not stand up, it fell over. 10
As she laid it on the table she knocked it off with her hand. She said, "Now, see what I did." I said, "What's the matter?" She said, "I hit," she called Mr. Danser a name, "over the head with the pitcher," and immediately after that Mr. Danser called to Mrs. Danser. He said, "Ada, come here," he said, "I want to talk to you," and she said, "What do you want?" He said, "I am sorry," he said, "I will go away if you want me to," he said, "I will keep off drinking, I will take an oath before you and the girls, I don't want to be this 20 way."

Q. Do you know when that was?

A. No, I don't, but it was when the weather was cold, it was before Christmas, because, I don't know just the date, but I know it was before Christmas, because I went away for Christmas time, and I was away a week, I was sick.

Q. Do you remember any time in there when the stove was—the draft was shut off in the chimney?

A. Yes, I remember Mrs. Danser telling me about it. 30
I didn't know it was done until after.

Q. Did Mrs. Danser tell you that?

A. Mrs. Danser came, and I remember the time that happened, I don't know the exact date, but I know when it happened is when we decided to leave there, because I was afraid something terrible would happen. It was, we left there the 31st of January, and it was probably a week or ten days before that, and Mrs. Danser called

us, that's the other lady and I, slept in No. 1 cottage, and the night before she told us about it, at ten o'clock they weren't very busy. It had been storming and snowing and it was a very cold night, and Mrs. Danser said, "You girls can go over and go to bed now, I am going to close early," and Mr. Danser had been drinking a little that day, but he was around attending to business. I don't know that he was drunk but he had been drinking a little, and Mrs. Danser said, "You go over
10 and go to bed." We went over ten o'clock, and we thought we would read awhile, and the other lady said to me, "I would like to have something cold, could you eat some ice cream?" I said, "Yes," so I said, "Do you want me to go up to John's," a little store up the road, he serves a gas station, and they sell ice cream, and I said, "I will go get some." As I started out the door I saw Mrs. Danser coming over, and the lights were all out in the house, and Mrs. Danser said, "I am going to be your neighbor tonight." I said, "Are you going to sleep in
20 there?" She said, "Yes," so I went back and told the other lady, I said, "We are going to have a neighbor tonight, Mrs. Danser is going to sleep in No. 2." She said, "Get her some ice cream, too," so I did, I got ice cream double deck cones, one for Mrs. Danser and one for this other lady and myself, and when I came back I stopped to the cottage door to leave Mrs. Danser her cone first, and she said, when she opened the door, she had this light in her hand, flashing it in my face, she said, "Who's there?" as she opened the door, I said
30 "Marie is treating us to ice cream." I gave her the cone, and she went in and shut the door. The next morning, it was still dark, I believe around six o'clock, and we used to get up about six, she used to call us about six thirty in the morning, and we got up to fix the fire, we had a coal stove in the cabin, and we got up to fix the fire and get washed, and Mrs. Danser knocked at the door. She said, "Hurry, girls, I want you to get up." I opened the door then about so far, and she said, "I

want you to come over with me this morning, I am afraid," and I said, "You are afraid?" because Mrs. Danser wasn't a person to be frightened of anything, I said, "What are you afraid for?" and she said, "I will tell you what I did last night, I suppose," and she called him a name, "will be dead this morning." I was so frightened I said, "Oh, mercy, what's happened?" She said, "Well, I put a bucket of wet coal on the Heatrola, and I shut the draft off, and locked all the windows," but she said, "You know, the only thing I am afraid of, 10
Diddy would not come out with me." *Diddy* was the dog both Mr. and Mrs. Danser were very fond of. So then this lady said, "Listen, Edna, we had better get away from here, because I don't want to be around here if Mrs. Danser is going to do these things," she said, "My goodness, we want to get away from here," so it was about ten days after that we left; and we followed Mrs. Danser over, and she went back in the cabin and finished dressing, she came out the door, and we went 20
over, and when we got to the entrance Mrs. Danser went on through to the room where they slept, where Mr. Danser had been sleeping, and she came out with her hands on her hips like this (indicating), and she said "You couldn't kill that" and called him the same name she did before, and the window was open, and the dog had jumped out, I guess, so I felt sorry for her for leaving her when I did, because she was terribly upset and nervous, but I used to think it was due to her condition.

Mr. Peacock: I object to this and ask that it be 30
stricken out as an opinion.

The Court: Not what she thinks, that ought to be stricken, and it will be stricken, and the Jury will ignore it.

Q. Did you see Danser any time with a revolver?

A. No, I didn't.

Q. You have already said you didn't see him strike his wife?

A. Never saw him strike her.

Q. Did you ever hear him threaten his wife?

A. No.

Q. To kill her or commit bodily harm?

A. No.

Q. Did he curse her much?

A. Well, they would both swear back and forth to one another, but I never heard him call her any names.

Q. And the number of times you say you heard Mrs. Danser express the intention of killing herself was at least six?

A. Beg pardon?

(Question repeated.)

A. Yes.

Q. You remember Mr. Danser giving his wife an automobile?

A. Yes.

20 Q. Mrs. Danser drove the automobile at that time?

A. Not when she got it.

Q. That's when I mean, and did you drive the car, did you instruct her?

A. A couple of times I took Mrs. Danser out in the car.

Q. Did you do it the day the automobile came?

A. No, I had went away just the day after the automobile was purchased, I went away, I was sick, my nerves were very bad, due to the arguments and fussings, it just
30 upset me so I left, and I was away until after New Year's.

Q. You remember the date it was bought, don't you?

A. Yes.

Q. Didn't Mrs. Danser have an automobile that day to learn with, a trial car?

A. I was sick the day that the car was bought, because the other girl came over and told me, she said, "Edna, you will have to get up and come over," she said—

Mr. Peacock: I object to that.

The Court: Yes, strike it out, you cannot tell what the other girl said.

The Witness: I did not know about the car being bought until I was told about it.

Q. You were in Mrs. Danser's company all that day?

A. No, I wasn't, not until the evening around, I would judge, five o'clock.

Q. You went with her where?

A. I went with Mrs. Danser to Camden in the salesman's car.

Q. Is that where the car was purchased, in Camden?

A. I don't know, I believe the car was purchased at their home, I was not there when the car was purchased.

Q. You said you went to Camden in the salesman's car?

A. After the car had been bought, but it was the salesman's car, I believe, that he took Mrs. Danser, and asked Mr. Danser to go, and so the four of us——

Q. Did the four of you go?

A. The other lady and myself and Mrs. Danser.

Q. Three women and the automobile salesman?

A. Yes, went up to Camden and had dinner.

Q. Did you people drink on that occasion?

A. There was drinks had, yes, I wasn't drinking, because I was ill at the time.

Q. But, Mrs. Danser, you say, drank on that occasion?

A. Yes, she did.

Q. Light drinks or hard drinks?

A. What they call "Tom Collins" is what she was drinking.

Q. Many of them?

A. Yes.

Q. How many?

A. I don't know just how many, but several.

Mr. Ware: Cross-examine.

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Cross-examination.

By Mr. Peacock:

Q. Do you know what a delusion is?

A. Yes.

Q. You never have them?

A. No.

Q. Is your brain all right?

A. I believe.

10 Q. You have been in an insane asylum, haven't you?

A. No.

Q. You were not committed in this county to the New Jersey State Insane Asylum in March, 1928?

A. I was up there with a nervous breakdown, but I don't believe I was insane, I remember it now.

Q. Weren't you committed from this county as an insane person?

A. Yes.

Q. By the Judge of this Court?

20 A. Yes.

Q. You lived at 143 Mill Street, Pennsgrove, didn't you?

A. No.

Q. What?

A. No, I didn't live at 143 Mill Street, I lived at 60 Main Street, at the time.

Q. You formerly kept house for a Doctor Dyer, too, didn't you?

A. Yes.

30 Q. At the time you were sent to the State Hospital you tried to kill yourself, didn't you?

A. I don't think so.

Q. What?

A. I don't believe so.

Q. You had delusions about it, didn't you?

A. I don't believe so.

Q. You don't suppose those same delusions are praying on your mind now concerning Mr. and Mrs. Danser that were praying on your mind at the time you were in the asylum?

A. I don't believe I have.

Q. You operated a place on the Harding Highway?

A. Operated a place, no, I lived there.

Q. What was it?

A. My home.

Q. What did you have there?

A. What did I have there, I had my home.

Q. What else?

A. That's all.

Q. Only you there?

10

A. No, I had my little girl there with me, and occasionally I had company to visit, and my people there at Christmas time.

Q. You sold liquor there, didn't you?

A. No.

Q. What?

A. No.

Q. Have any girls there?

A. There were a couple of friends of mine used to come there.

20

Q. You had a couple of friends there quite a while, didn't you?

A. No.

Q. You remember Detective Ruggiero and another officer coming there one night?

A. Yes, they came there one day.

Q. You made a statement, didn't you?

A. I don't know, referring to what?

Q. Did you or did you not say to Detective Ruggiero on June 6th, 1935, "I do not know where the gun was kept, and I never saw a gun in the Danser house?"

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A. I didn't live there.

Q. Did you say that, yes or no, to this gentleman here (indicating)?

By the Court:

Q. Did you make that statement to Mr. Ruggiero?

Mr. Peacock: Repeat the question.

(Question repeated.)

A. I said I never saw a gun in the Danser house, and I didn't know where it was kept.

Q. Do you deny you made that statement?

A. I didn't know where it was kept at all the time.

Q. Do you deny you made that statement to Detective Ruggiero on June 6th, 1935?

A. Where the gun was kept—

10 Q. Do you deny you said that to him?

A. I probably did say that.

Q. You did say it, then why did you come here today and tell us you knew where the gun was?

A. Afterwards, as I recall, because I didn't know anything like this was going to happen, I didn't think these things would happen.

Q. Answer it, do you remember, June 6th it is dated?

A. I don't know.

20 Q. Three days after the woman died, or two days after she died?

A. I didn't want to get into it, I didn't want to get into it, I probably said that so I didn't have to come here.

Q. You lied to the Detective then?

A. I didn't know I lied to him, I didn't know I ever saw the gun.

Q. Did you also tell him you didn't know anything about the Dansers, what they did in their house, or anything else?

A. I may have said that.

30 Q. You didn't know whether he was a drinking man or not?

A. No, I don't think I said that.

Q. Told him also that he abused her and drank?

A. No, I did not.

Q. And threatened her?

A. No, I could not say that, I never did.

Q. You told him you did not know where the money was kept?

A. No, I did not say that.

Q. You did tell him you never saw a gun and did not know where it was kept?

A. I never saw a gun.

Q. What influenced your mind to come here to-day and testify different from what you told Detective Ruggiero?

A. It is not different from what I told Detective Ruggiero because I never did see a gun at the Danser home.

Q. You never knew where it was kept?

A. As I recall it, when Mrs. Fagan said to me——

Q. Never mind. Answer my question.

A. That refreshed my mind about its being in the drawer.

Q. Didn't he talk to Miss Fagan that day?

A. I don't know.

Q. Didn't you tell him you lived at 143 Mill Street, at Pennsgrove, in 1935?

A. I was there June sixth. I was there when Mrs. Danser was killed, at 143 Mill Street?

Q. Will you tell us how you operated the garage?

Mr. Ware: I object. That has been gone into a number of times.

The Court: The objection is sustained.

Mr. Peacock: That is all.

Mr. Ware: That is about all I can go into now.

The Court: Do you want to stop, Judge?

Mr. Ware: Yes.

The Court: Ladies and gentlemen of the Jury, this case will go over until Friday. On account of previous engagements that counsel have made, they cannot go on tomorrow. I will be here to take care of other matters but this case will resume on Friday morning at 10 o'clock and we will try to finish on Friday. The jury may be

taken out under the care of the constables. Court is adjourned and the prisoner is remanded to the custody of the Sheriff.

(At this point a recess was taken until Friday, December 6, 1935, at 10 o'clock A. M.)

SALEM, N. J., December 6, 1935.

10

Trial of the case resumed at 10 o'clock, A. M., pursuant to adjournment, in the presence of the defendant and counsel for the respective parties.

MARIE FAGAN, SWORN.

By Mr. Ware:

- Q. Where do you live, Miss Fagan?
20 A. 143 South River Walk.
Q. Do you know Edwin Danser, the defendant?
A. Yes, sir.
Q. Did you know his wife, Ada Danser, in her life?
A. Yes.
Q. Where did you know the defendant and his wife?
A. From the Danser corner, their home.
Q. And when?
A. I went to live at the Danser's home on October 9th, and I left January 31st.
30 Q. October 9th of what year?
A. 1934.
Q. And the day you left was during the present year?
A. Yes, sir.
Q. What was the nature of your duties?
A. Housework, cleaning cottages, serving on the tables.
Q. And who hired you?
A. Mrs. Danser.

The Court: Once again. I did not get on my notes the period you were there, from when to when?

The Witness: October 9th to January 31st.

The Court: Of this year?

The Witness: Of this year.

The Court: Who else was there with you, was there 10
another one of the girls with you there?

The Witness: Mrs. Barrett.

The Court: Mrs. Barrett, that is what I thought.
She was the last witness on Wednesday afternoon.

Mr. Ware: Yes, that is right.

Q. Now, Miss Fagan, did you know Mrs. Danser prior 20
to your going to work for her?

A. Two years before that?

Q. You knew her where?

A. From the Danser corner.

Q. You knew her from the Danser corner? Did you
work for her at that time?

A. No, I did not.

Q. How often did you see her then?

A. Oh, just a few times before I went there to work. 30

Q. Referring particularly to the period that you work-
ed there, would you say that you saw her every day?

A. Every day.

Q. And what sort of woman did she appear to be to
you by way of temperament?

A. Well, there were times she was very irritable.

Q. Did you see anything that was the cause of her
irritability?

A. Why, lots of things.

Q. What were they?

A. Well, one thing was Mr. Danser drinking.

Q. Yes.

A. Another thing was twice she had an automobile accident with her new car, and different little things that went on in the household.

Q. Referring to the incident to the automobile accident, when did that happen?

10

The Court: Well, she said two, so you better give us the occasion of the first.

Q. Was the automobile accident the first?

The Court: She said there were two automobile accidents.

The Witness: Two automobile accidents.

20

Q. Which automobile accident was the first?

A. The first automobile accident was first had the first week after she had gotten her car, she had not learned to drive it yet. That was on a Saturday and she took it to Noon's garage and had the fender fixed and it came out on Saturday night at 9 o'clock and the first time she had it out was on Monday afterwards, and she took it out and when she got to Bevis's home she called up Mr. Danser and told him she arrived safe.

30

Q. You need not name any conversations.

A. And coming back she had another accident. She knocked their garage off its foundations, and on both of those occasions she got very hysterical.

Q. Do I understand you to say she was the driver of the car on these occasions?

A. Yes, she was.

Q. What did you see concerning her on these occasions, what physical actions?

A. Well, she would cry and go on so bad.

Q. Make any remarks?

A. Yes, the first accident she had she got so mad she went in and laid down on the bed she always laid on and she said, "Oh, I can't stand this, I am going to kill myself." She said that on several occasions.

Q. Did you hear her say that on more than one occasion?

A. Yes, I have.

Q. And one of them, on the one occasion that you 10 heard her say that was by reason of her having had this automobile accident?

A. Yes, the first automobile accident she had.

Q. The other time you heard her make that remark, what was the occasion of her doing so, if you know?

A. Well, there was times when Mr. Danser was drinking that she would say she was going to kill herself but before she killed herself she was going to kill the s. b. first.

Q. Do you know when that was? 20

A. That's been several times.

Q. That has been several times you heard it?

A. Yes.

Q. You were present when this automobile was purchased, were you not?

A. Yes, I was.

Q. And was Mr. Danser present?

A. Yes, sir.

Q. What took place in reference to it that you saw?

A. Well, Mr. Danser had been drinking the day before 30 and the next day Mrs. Danser took hold of the Golden Wedding bottle and put it on the machine and told him he could go ahead and drink and afterwards she wanted me to ask him if he wanted some ale and she came out into the kitchen and she said, "I am going to get a new car to-day." She said, "That's how I got both my frigidaires, each time Ed was drunk." So she went in and called up a salesman from Woodstown and she

was afraid the salesman from Woodstown wouldn't get there soon enough and she called up Mr. Noon, from Pennsgrove, and the car was purchased in half an hour's time. Everybody sat there drinking, Mr. Danser, Mrs. Danser, myself.

Q. Did you see Mrs. Danser do anything in the way of remonstrating with her husband for drinking on that occasion?

A. No, not when she wanted something.

10 Q. Now Miss Fagan, will you tell the Court and jury whether or not you saw a revolver in the possession of Mrs. Danser on any occasion?

A. I could not say I saw the revolver. One day Mrs. Danser was cleaning out the chifforobe and she pulled something out that was wrapped up in a white cloth and she would have opened the contents of it only Mr. Danser came in from selling gas and she put it away in the drawer and said not to say anything, that's the last but I did not see it then.

20 Q. And in what drawer did she put it away?

A. In either the second or third chifforobe drawer.

Q. Was that the drawer in which the money was kept?

A. No, the money was kept on the other side.

Q. Did she make any sign or remark about her husband on that occasion?

A. No.

Q. Did she cover then the revolver?

A. She put the pocketbooks back in on top of it.

30 Q. Won't you describe the placing of that more exactly than you have, just how it was found, just how it was taken out of the closet and how it was put back?

A. Well, that time she was cleaning out the drawers, in fact, she went to get one of the match holders to show me their advertisement of their place and she took out these pocketbooks and she took the gun which she said was the gun but I did not see it and she was going to put it on their sewing machine when she heard Mr. Danser coming in to ring up money from selling gas,

and she put it back. She said not to say anything, and that's the last I ever saw it.

Mr. Ware: You may cross-examine.

Cross-examination.

By Mr. Peacock:

Q. Have you ever been convicted of crime? 10

A. No, sir.

Q. Did you live at 2027 Green Street, Philadelphia?

A. Yes, sir

Q. Were you not convicted in a Magistrate's Court of being an inmate of a disorderly house?

Mr. Ware: Objection.

The Court: Sustained. Do not answer the question.

20

Q. Were you not convicted in the Philadelphia Courts on November 9, 1926?

Mr. Ware: I object to that.

The Court: The objection is sustained. She said she had not been convicted of crime. Now, the way to contradict her would be to have a certified copy of the record.

Mr. Peacock: I certainly may cross-examine her further, if your Honor please, on her credibility as a witness. 30

Q. Now, I will repeat the question again. You say you have never been convicted of crime in Philadelphia?

Mr. Ware: That is objected to.

The Court: What is the objection?

Mr. Ware: The objection is that the witness has already answered in the negative to the question and it cannot be anything more than——

The Court: Well, the original question was had she ever been convicted of crime. This is a little more specific. I will allow that question to be answered. Have you ever been convicted of crime in Philadelphia?

10 Mr. Ware: That can be answered yes or no.

The Court: Yes or no.

A. Yes, I suppose you could call it yes.

Q. On June 6, 1935, you made a statement to Detective Ruggiero?

A. I don't believe I did. The questioning was to Mrs. Barrett.

20 Q. You do not remember this gentleman right here (indicating Detective Ruggiero)?

A. Yes, I do.

Q. You were both together there?

A. I was in bed when Mr. Ruggiero came and he was only there a few minutes after I got up out of bed.

Q. Was Mrs. Barrett with you?

A. Yes.

Q. He talked to both of you?

A. Yes, he talked to me for a few moments.

Q. Where do you live, what city?

30 A. 143 South River Walk.

Q. Where?

A. Pennsgrove, New Jersey.

Q. Did you or did you not state to Detective Ruggiero that day that you never saw a gun in Mrs. Danser's house?

A. I haven't saw it yet.

Q. Did you say that to him?

A. Yes, I did.

The Court: The question Mr. Peacock is requesting you to answer is do you recall certain things. You listen to the question.

Q. And that you knew nothing about Mr. and Mrs. Danser and you were unable to give him any information about this case or either of them?

A. Yes.

Q. You said that to him, didn't you?

A. Yes.

Q. How long have you known Edna Barrett?

A. Seven years.

Q. Did you know her when she lived at 1025 Mellon Street, Philadelphia?

A. No, I did not.

10

Mr. Ware: I object to that as not cross-examination.

The Court: The question has already been answered, Judge, and your objection came too late.

20

Mr. Peacock: That is all.

The Court: That is all, Mrs. Fagan.

ELDRIDGE BEVIS, SWORN.

The Court: Speak out loud to the jury, Mr. Bevis.

30

By Mr. Ware:

Q. Now, Mr. Bevis, where do you live?

A. Upper Penns Neck.

Q. Pardon?

A. Upper Penns Neck.

Q. Won't you place yourself in a position where the jury can hear your words?

A. Yes.

Q. What is your business?

A. Driving School Bus, working for the county.

Q. And did you know Ada Danser in her lifetime?

A. Her lifetime?

Q. Yes.

A. No.

Q. Ada Danser?

A. Not her lifetime, no.

10 The Court: The question is, did you know her before she died?

Q. You do not know her when she is dead but you knew her while she was living, didn't you?

A. Yes.

Q. What period did you know her, Mr. Bevis?

A. How was that?

The Court: For what period while she was alive did
20 you know her?

A. Oh, since they went in business down on the corner.

Q. That represented a period of how many years?

A. I should say seven or eight years.

Q. And you knew Ed Danser, didn't you?

A. Yes.

Q. Do you remember the fifth day of June of the present year?

A. Yes.

30 Q. Where were you on that day?

A. Home.

Q. What, if anything, occurred in reference to any business with the Dansers?

A. Well, Mr. Danser came there to my place about one o'clock I think it was and wanted me to take a ride with him.

The Court: You are talking of what day now, June 4th?

The Witness: The day before this happened.

The Court: June 4th?

The Witness: Yes.

Q. And what happened?

A. Well, I told him I was busy.

Mr. Peacock: One moment. I object to this conversation. 10

The Court: Mr. Bevis, let me say to you here you cannot relate any conversations that went on between you.

Q. By reason of what Mr. Danser said to you, what did you do?

A. What did I do?

Q. Yes.

A. Why, I told him——

20

The Court: You cannot tell about what you told him. You may tell us what you did.

Q. What did you do?

A. Well, I was busy working and couldn't go with him.

Q. Later in the day did you see Mrs. Danser?

A. Yes.

Q. And at what time?

A. I couldn't say what time. It was in the evening, probably halfpast seven or something like that, I would say.

30

Q. Where did you see her?

A. At her home.

Q. How did you happen to be at her home?

A. Well, I called her up. Mr. Danser was supposed to come to my place that night for me to take him out in the car.

Q. By reason of that, you called her up?

A. Yes.

Q. And what, if anything, happened?

A. Well, she said Mr. Danser had an accident up near Bridgeport and wanted to know if I would take her up there.

Q. And did you agree to do so?

A. Yes.

Q. When did you start?

10 A. When did I start?

Q. Start to go to Bridgeport?

A. Immediately after I was talking to her.

Q. And who went with you?

A. My wife and the missus.

Q. Where did you people sit in the automobile?

A. Mrs. Danser sat in the back seat and me and my wife in the front seat.

Q. And on your way to Bridgeport did Mrs. Danser say anything to you or you to her?

20 A. I can't remember about that. There wasn't a whole lot said. Her and my wife were talking.

Q. When you got to Bridgeport, was anything said there?

A. Well, we didn't get to Bridgeport. The accident was this side of Bridgeport.

Q. Well, this side of Bridgeport where the accident was?

A. No, nothing more than we got out and looked at the car.

30 Q. That is just what I asked you, when you got to the scene of the accident?

A. Yes.

Q. Did you have any conversation with her or she with you?

A. No, not there.

Q. Where did you have a conversation with her?

A. Well, I asked the State Police where we would find Mr. Danser and he said we would find him in the Borough Hall or Firehouse in Bridgeport. Well, we went

to the firehouse but he wasn't there. I think it was Steelman, Justice of the Police in Bridgeport. Anyhow, when we got to the Borough Hall, Mrs. Danser was still in the back of the car and I got out and turned the seat up so she could get out and when she went to get out she said, "If Ed starts drinking again, I shall kill myself." I said, "That's simpleness." And she said, "I will do it."

Q. How did she appear to be on this occasion?

A. Well, she was nervous and upset, crying sometimes.

10

Q. How many times did she say that?

A. Only once.

Q. What did she say to you in answer to your remark, "That is simpleness?"

A. Not anything. Well, she said, "I will do it." I said, "That's simpleness." Well, she said, "I will do it."

Q. And did you take her back that night?

A. We went from there around to this Steelman's house and there Mr. Danser and the State Police came out.

20

Q. How long had you known Mr. Danser?

A. Well, I had known Mr. Danser practically all my life but he was away for quite some time, that is, before they opened the business there.

Q. Were you ever in their home?

A. What?

Q. Were you ever in their home?

A. The service station?

Q. Yes?

A. Yes, several times.

30

Q. How often?

A. Oh, I couldn't say that. I don't know.

Q. Did you know other people who knew him?

A. Yes.

Q. Do you know his reputation for peace and quietness in the neighborhood in which he lived?

A. Not so much.

Q. You do not know it?

A. I don't know so much about—is that his peace and quietness?

Mr. Ware: All right; cross-examine.

Cross-examination.

By Mr. Peacock:

10 Q. You are a very good friend of Mr. Danser's?

A. Yes.

Q. And had been out with him at different times?

The Court: Keep your voice up.

A. Some.

Mr. Ware: Before you start, there is a further question.

20 By Mr. Ware:

Q. Both these people went back with you?

A. From Bridgeport they both come back to their service station.

Q. Was there any disturbance between them?

A. No.

Q. On their way back?

A. No.

Q. Did they talk?

30 A. Some.

Q. Talk to you?

A. Yes, Mr. Danser sit on the front seat with me and talked some coming home.

Q. And Mrs. Danser joined in the conversation?

A. Not so much.

Q. Not so much?

A. No.

Mr. Ware: You may cross-examine.

By Mr. Peacock:

Q. You and Mr. Danser travelled together considerable, didn't you?

A. Not so much, no.

Q. He has been at your house many times without his wife, hasn't he?

A. Yes, some.

Q. And you are a very good friend of his?

A. Yes.

Q. This day Mrs. Danser rode up in the car, talking to your wife all the way, didn't she?

A. Yes.

Q. They were talking about different things?

A. Yes.

Q. They were laughing too, were they not?

A. What?

Q. They were laughing too, in the back of the car?

A. I couldn't say that.

Q. You did not hear that?

A. No, I won't say they were laughing.

Q. She was in good spirits going up, talking to your wife, joining in the conversation with you?

A. No, I would not say she was in good spirits.

Q. When she started to get out of the car, she cried?

A. She cried two or three times off and on that day.

Q. What did she say when she got out of the car?

A. At Bridgeport?

Q. Yes.

A. Well, she said if Mr. Danser started drinking again she would kill herself.

Q. That is what she said, they were her exact words?

A. Yes.

Q. I suppose you remember exactly what was said, there is no doubt about it in your mind as to what she said?

A. Well, I would not say whether she said, "Kill herself" or "commit suicide." It was either one.

Q. You are not sure about that?

10

20

30

A. No, I would not say for sure.

Q. Did she say "Mr. Danser" or "Ed"?

A. What do you mean?

Q. You just said that she said "If Mr. Danser started drinking again she would kill herself," and when you talked to Mr. Ware you said that she said, "If Ed starts drinking I will kill myself"?

A. I am not quite sure. I think she said "Ed."

Q. It was not "Mr. Danser," she said, "Ed"?

10 A. I don't know which.

Q. You are not quite sure which it was, you are just guessing at it?

A. Well, I know she said either one.

Q. When was that?

A. That was the evening before.

Q. What month was it?

A. June.

Q. What day was it?

A. Well, 4th of June, I suppose it was.

20 Q. The fourth of June, that is the murder day?

A. Yes.

Q. You are not quite sure what did happen?

A. Well, it was the night before this did happen anyway, in the evening.

Mr. Peacock: That is all.

30

BORDEN DANSER, SWORN.

By Mr. Ware:

Q. Mr. Danser, you are the father of the defendant?

A. Yes, sir.

Q. And you are a man how old?

A. 80 years old.

Q. I show you Exhibit known as S-5, take hold of it, and ask you to tell the Court and Jury if you recognize it?

A. I can't say that I do, from the fact that the revolver was repolished by two of the State officers, State Police.

Q. You couldn't say you recognize it?

A. No, I couldn't say it was the one, it's been too long ago.

Q. Did you own a revolver?

A. No, sir; I got the revolver from my brother's home after his death.

Q. You had possession of it?

A. Yes, sir.

10

Q. Do you know the make of it?

A. What's that?

Q. Do you know the make of it?

A. No, sir, I know absolutely nothing about firearms.

Q. And do you know what became of this revolver you got from your brother's home after it got into your possession?

A. I couldn't say about that. They had no protection up there, and I offered them the revolver, with the stipulation that it should be returned to me when they procured one.

20

Mr. Peacock: I don't have any objection to the old gentleman, but I don't see this is material.

The Court: I think what he has said may be material.

Q. What period are you referring to in years?

A. I couldn't say when I gave it to them, I didn't give it to them, I loaned it to them to return after she, after they were there a year or two.

30

By the Court:

Q. It doesn't appear upon the record yet, only by working in a roundabout fashion. Did you give your son a revolver?

A. I did not, I couldn't say——

Q. Did you loan him a revolver?

A. Whether they got the revolver, or whether I took it up to the house, but the revolver was loaned to them with the understanding they were to return it to me when they got one.

Q. They got a revolver from you, either as a loan or a gift?

A. Yes, sir.

Q. How long ago?

A. That was about, I think the second year they were
10 there.

Q. You don't know the make of it?

A. No, sir.

Q. Was it a revolver, or was it a pistol? A revolver has a barrel which goes around, and a pistol is like a Colt automatic.

A. It was a revolver, then.

Q. Did you get it back, or didn't you get it back?

A. I never did, no, sir.

20 By Mr. Ware:

Q. Did you know Ada Danser, your son's wife?

A. Yes, sir.

Q. Where did they live as far as your residence is concerned?

A. What say?

Q. Where did they live in Upper Penns Neck Township so far as your residence is concerned?

A. They were living down the village.

30

By the Court:

Q. How near to you?

A. About three miles.

By Mr. Ware:

Q. When?

A. During the boom, 1914, probably to 17 or 18.

Q. On June 5th of this year where did you live?

A. Where did they live?

By the Court:

Q. On June 5th, this year.

A. In my old residence, just below them.

Q. What is the distance?

A. About a square.

By Mr. Ware:

10

Q. During the time that you lived at your old residence, were you ever in the home of your son?

A. Frequently.

Q. Will you tell the Court and Jury if anything happened in reference to your daughter?

A. Daughter-in-law.

Q. Your daughter-in-law, while you were living there, that you recall in the way of drinking poison?

A. One morning——

20

The Court: I would like to fix the date.

By the Court:

Q. You are talking about one morning, when was it, about?

A. I couldn't tell you that, I don't remember that.

Q. How long before her death?

A. Three or four years.

30

Mr. Peacock: I object to it.

The Court: Sustained.

Mr. Ware: I think it's material.

The Court: Not that far back.

Mr. Ware: Professor Wigmore takes the position that evidence of suicide, or attempted suicide is admissible without regard to time, on the ground that it shows a disposition in the party to resort to that method. He is very strong on that point.

10 The Court: Perhaps you are right. It is a borderline question. If I will allow that I will have to allow rebuttal and go back by way of rebuttal, and let a lot of stuff in. It opens the way for a great deal. Perhaps, in view of the nature of the crime, I ought to allow it to go in, and I will allow it this once, but it is a borderline question. I will change my ruling, I will allow it.

Q. Proceed.

A. One morning my son hurried down to the house, and said——

Mr. Peacock: I object to this.

20

By the Court:

Q. Not what you said, you can tell what she said, or what she did.

A. I am only trying to tell you about going up there, and what we saw in reference to poison.

The Court: You can tell what you saw, not what you said.

30 By Mr. Ware:

Q. Do you understand, relate what you saw, as well as what your daughter-in-law said.

A. When Mother and I went up to the house, to their home, the wife was sitting with her hands in her head, and her elbows on her knees, and she said, "I have done it," and my wife said, "What?" She said, "I have taken poison," and there was the bottle right in front on the little stand labeled "poison."

Q. What happened?

A. Mother gave her some emetics, of some kind, and she vomited, and recovered in four or five days and was better.

Q. That's all you know about it?

A. That's all I know about it, sir.

Mr. Ware: Cross-examine.

Cross-examination.

10

By Mr. Peacock:

Q. You didn't call any doctor that day, did you?

A. I don't remember whether he did, or not. I think he did, I am not sure of that.

Q. What did she give her, the white of an egg?

A. I couldn't say what she gave her.

Q. You don't know what kind of medicine she gave her?

20

A. No, sir.

Q. She still lived after that?

A. Yes, still lived after that, yes, sir.

The Court: Let us fix the time.

Q. That was about four years ago?

A. I think so, yes, sir, about that. I can't remember the exact date, I didn't keep a diary.

Q. You never told Ed about it, did you?

30

A. About what?

Q. About her taking poison.

A. He was right there.

Q. He saw her take it?

A. He was with her when we went into the room, he come up with us.

Q. Was he drunk that day?

A. No, sir.

Q. Had they had a quarrel?

A. I couldn't say whether they had a quarrel or not.

Q. You said you gave your son a gun?

A. I loaned it to him.

Q. You never got it back?

A. No, sir.

Q. And it had a barrel that turned around, didn't it?

A. Yes, sir, something like that, yes sir.

Q. And it was a 32, wasn't it?

10 A. I couldn't say what the number was. I know nothing about guns or revolvers, I never shot anything in my life.

Q. It was a small one?

A. Yes, sir.

Q. Like this (indicating)?

A. It was small.

Q. Like that (indicating).

A. That small, yes.

Q. This might be it?

20 A. I couldn't say, I heard a couple of officers brightened it up for the lady.

Q. What color was it when you gave it to him?

A. I presume it was dull colored, because it had been in the house for a long time in my brother's home.

Q. It could be brightened up by oily rags, couldn't it?

A. I couldn't say.

Q. You would not say it couldn't be, would you, Mr. Danser?

A. No, sir.

30 The Court: That is objectionable?

Mr. Peacock: I see, that's all.

JOHN JOHNSON, sworn.

By Mr. Ware:

Q. Mr. Johnson, where do you live?

A. At the present time I live on Harding Highway and the Auburn Road, across from Mr. Danser's place.

Q. How long have you lived there?

A. Since July 3rd.

Q. Prior to that where did you live?

A. I lived on Harding Highway, in a little service station, probably 150 to 200 yards from there.

Q. And that represented a period of how many years?

A. I was there one year, and I moved there the 20th of June, 1934. 10

Q. Before that where did you live?

A. I lived in Pennsgrove.

Q. And Pennsgrove adjoins the Township, does it not, where Danser lives?

A. Yes, sir.

Q. You know Edwin Danser, don't you?

A. Yes, sir.

Q. How long have you known him?

A. I would say five years.

Q. Do you know other people who know him? 20

A. Yes, sir.

Q. Do you know his reputation for peace and quietness in the neighborhood in which he lives?

A. As far as I know his——

Mr. Peacock: I object to that, the answer is yes or no.

Q. Do you know?

A. Yes.

Q. What is it? 30

A. Good.

Mr. Ware: Cross-examine.

Cross-examination.

By Mr. Peacock:

Q. Who have you heard talking about him?

A. Well, I couldn't say anybody particularly.

Q. Your testimony that his reputation is good is more from your own view of him, your own opinion?

A. That's right.

Q. It is not from what you heard other people say, that's correct, isn't it?

A. That's right.

Q. And the testimony as to his good character is your own opinion, not what you have heard about it?

10 A. That's what I have saw about him.

Mr. Peacock: I object, and ask that it be stricken from the record.

Mr. Ware: No, that's been held very recently, in 106 New Jersey Law, State versus Baldanzo, 498, and there is a long line of decisions that where a man, who has known a man for a number of years, can testify, and he has never heard anything against him.

20

The Court: I agree with you as to the fact that he has never heard anything, but this is a man's own opinion as to this of another man, that's merely opinion evidence, and has no relevancy in the case whatsoever; but what character witnesses come in and testify to is a man's reputation in the neighborhood in which he lives. If he is testifying to the man's reputation in the community in which he lives, that is one thing, that is admissible in evidence; but if he is giving his own opinion, then it is
30 not admissible, it is opinion evidence. Mr. Peacock asked him whether he was giving his own opinion, or the man's reputation. He said he was giving his own opinion. So, therefore, it is inadmissible. Even though he has never heard anything against him, that doesn't entitle the testimony to be given, and it will be stricken.

Mr. Ware: If your Honor will bear with me, I would like to argue that. There are a very long line of decisions——

The Court: Before I hear your argument, I would suggest you go back and read the cross-examination of this witness, so we may have it very clear in your mind just what he said.

(The whole of the cross-examination at this point was read.)

By the Court:

10

Q. You have testified to the defendant's good reputation or good character, as they call it. Are you giving your own opinion, or are you giving us the opinion in the neighborhood in which he lives?

A. I am giving you my opinion, what I have seen and heard, and that's all I can give you.

Mr. Ware: That clearly comes within the line of argument I have just given you. In the case of—

20

The Court: He has now qualified it, and says that it is what he has seen and heard, it is not strictly his opinion. The objection is overruled, it may stand, but we are really on the border-line, and you must pursue this very closely.

By Mr. Peacock:

Q. Did you ever hear that Mr. Danser had been convicted in this court for the illegal sale of liquor?

30

A. I have.

Mr. Ware: I object to that, on the ground that the question goes too far. It does not give the time and place enough to apprise the other side of its nature.

Mr. Peacock: He said he heard of it.

Mr. Ware: I object to incorporating in the question the name of any charge.

The Court: Overruled.

Mr. Ware: Exception.

(Said exception noted for defendant and hereby sealed by the Court.

[L.S.]

F. F. NEUTZE,
Judge.

10 Q. You have heard of it?

A. Yes, I have heard of it.

Q. You have heard of him being before Recorder Guyder for threatening his wife, haven't you, being arrested on two occasions and taken there?

A. I couldn't remember, I remember him being arrested.

Q. You don't know how many occasions?

A. No.

20 Q. Do you remember him being arrested before Mayor Humphreys, too?

A. No.

Q. You knew he drank a lot, didn't you?

A. I never seen him take a drink in my life.

Q. Never heard of it?

A. I have heard.

Mr. Ware: I object to that about drinking, because that would exclude one-half the world, would it not?

30 Q. You know he was committed to the State Hospital for drinking?

A. Yes, sir.

Q. You know he was arrested and convicted the day this car accident happened, didn't you, driving the car without a license, and had an accident with it?

Mr. Ware: I object to that.

The Court: Sustained, that doesn't go to the man's character.

Q. Knowing all that you still say he had a good reputation for peace and good order?

A. I never seen that.

Q. You have heard of it, haven't you?

A. I never heard he was convicted, I heard he had an accident with it.

Q. Regardless of his being before Mayor Humphreys, Recorder Guyder, and in this Court a conviction for threatening his wife, you still think he had a good reputation for peace and good order? 10

A. I never seen him do nothing.

Q. You heard of it, not what you have seen, you have heard these things?

A. Yes, sir.

Q. And reputation is based upon what you hear about a man in the neighborhood, that's correct, isn't it? Now, hearing these things, do you still say that he had a good reputation for peace and good order?

A. As far as I know the man.

Q. I understand what you know, but the things you have heard, which I have just related to you, you still think he had a good reputation, do you? 20

By the Court :

Q. You see, Mr. Johnson, you are testifying as to a man's reputation, not what you think of him, but what the people at large in the neighborhood in which he lives think about him.

A. Well, I never heard anybody in the neighborhood say anything against him. 30

By Mr. Peacock :

Q. Counting those things to be true, do you still think he had a good reputation?

A. I know if they were all true he wouldn't have.

Mr. Peacock: That's all.

CHARLES LOCUSON, sworn.

By Mr. Ware:

Q. Where do you live?

A. Deep Water, Upper Penns Neck, Lower Penns Neck, rather.

Q. What is your business?

A. Carpenter.

10 Q. And how long have you lived in that neighborhood?

A. All my life.

Q. Do you know Edwin Danser, the defendant?

A. Yes, sir.

Q. Do you know other people that know him?

A. Quite a few.

Q. Do you know his reputation for peace and quietness in the neighborhood in which he lives?

A. Well, it was always good, as far as I know.

20

Mr. Peacock: I move that be stricken out.

The Court: Do you know, the answer should be yes or no.

Q. Do you know?

A. Yes.

Q. What is it?

A. Good.

30

Mr. Ware: Cross-examine.

Cross-examination.

By Mr. Peacock:

Q. How long have you known Mr. Danser?

A. About four or five years.

Q. Ever visited him?

A. Yes.

A. Yes.

Q. He visits your home?

A. No.

Q. Do work for him?

A. Yes, sir.

Q. Have you ever heard anybody talking about him?

A. I have heard people talking and say he was drinking.

Q. Heard people say he had been arrested for thaeat- 10
ening his wife?

A. I never heard any talk of it.

Q. You heard of it?

A. I read of it, about this last accident.

Q. You heard of him being before Mayor Hum-
phreys?

A. Only what I have heard in here, and the trouble.

Mr. Ware: That is objectionable, if the witness' knowledge of these things is——

20

The Court: I see nothing objectionable to this question. The question was whether he knew about him being before Mayor Humphreys.

The Witness: I knew that from this case.

Q. You knew he had been before Recorder Guyder?

A. I didn't know it for a fact.

Q. You heard it for a fact that she stated in the presence of Officer Taylor that he threatened to kill her on 30
two occasions?

A. I knew it in this case.

Q. You knew it had occurred?

A. I never knew it.

Q. You heard it?

A. In this court?

Q. Yes.

A. Yes.

Q. You heard here he had been convicted of liquor violation also?

A. Yes.

Q. Knowing these things, and having heard them from other people, would you say he had a good reputation?

Mr. Ware: I object to that.

The Court: Sustained.

10 Q. If these things are true, and have been said about him by people, and you have heard them, would you still say he had a good reputation?

Mr. Ware: I object to that.

The Court: I don't think it's admissible, sustained.

Q. You still think he has a good reputation?

A. Around the community I have never heard of him
20 harming anyone.

Q. If he has committed the things I have just stated to you, you think the man has a good reputation after those things?

Mr. Ware: I object to that, that is a question of ethics, more than anything else.

Mr. Peacock: Reputation is ethics.

30 Mr. Ware: I know, but there's certain standards of it, and your standard seems to be superlative. This gentleman has qualified and testified, and you want to make him take a post-graduate course.

Mr. Peacock: I submit, in the cross-examination of character witness, if you can prove——

The Court: Overruled.

Mr. Ware: Exception.

(Said exception noted for defendant and hereby sealed
by the Court.)

[L. s.]

F. F. NEUTZE,
Judge.

Mr. Peacock: Repeat the question.

(Question repeated.)

A. You mean I heard that here at the present time? 10

Q. After you have heard those things, yes, would it
change your opinion any?

A. Well, I suppose it would.

Q. It did, didn't it?

Mr. Ware: I object to that, "It did."

The Court: Strike it out.

Q. Knowing these things, you say it would have 20
changed your opinion, and do you still say he had a good
reputation?

A. If I had known of those things before, I don't see
why that would change it.

Q. If you had known those things before you would
not have said he had a good reputation, would you?

A. Probably not.

Mr. Peacock: That's all.

By Mr. Ware:

30

Q. What do you give testimony as?

A. When?

Q. What did you give testimony as to reputation and
character, as an honest man?

A. Yes, sir.

Q. A quiet man, a peaceful man?

A. Yes, sir.

Q. Honesty of living?

A. As far as I have ever known, of dealings I have had with him, he has always been square in every way.

Mr. Ware: No further questions.

By Mr. Peacock:

Q. Your opinion was mostly based upon your dealings with him?

10 A. Yes, sir.

Mr. Peacock: That's all I have, that's all.

HARRY SEEHOUS, sworn.

Br. Mr. Ware:

20 Q. Where do you live?

A. On the road from Auburn to Pennsville.

Q. What is your business?

A. Farmer.

Q. How long have you lived there?

A. Eight years this January.

Q. Do you know Edwin Danser?

A. Yes, sir.

Q. How long have you known him?

A. Since he started up business there.

30 Q. Do you know other people that know him?

A. Yes, sir.

Q. Do you know his reputation for peace and quietness and honesty of living in the community in which he lived?

Mr. Peacock: I object to that question. The proper question is peace and good order, or truth and veracity, and that's what our Courts have held.

The Court: Overruled.

A. As far as I know.

Q. What do you know about it?

The Court: You don't know, or you do know, yes or no.

A. Yes.

Q. What is it?

A. All right.

10

Mr. Ware: Cross-examine.

Cross-examination.

By Mr. Peacock:

Q. You never talked to anybody about him, did you?

A. No.

Q. The testimony that you are giving is your own opinion?

20

A. Yes, sir.

Q. And your dealings between you and he?

A. Yes, sir.

Q. Not what you have heard in the community about him?

A. Yes, sir.

Q. You don't know what the community knows about him, do you?

A. No.

Q. All you know is your own opinion?

30

A. Yes, sir.

Mr. Peacock: I ask that it be stricken.

By Mr. Ware:

Q. Have you heard anything about him?

A. Yes, I have heard some talk.

Q. From what you know of him, what you have heard of him, do you still think he has a good reputation?

A. Yes, as far as I know.

The Court: I will hold your motion in abeyance.

By Mr. Peacock:

Q. You have heard some talk, and that talk has been against him?

A. Yes, I heard some talk against him.

10 Q. Beating his wife?

A. I don't know I ever heard that.

Q. Been arrested for threatening her?

A. No, I have not.

Q. Convicted of a liquor violation?

A. Yes, I heard that.

Q. And up before Mayor Humphreys?

A. No, sir.

Q. Being before Recorder Guyder?

A. No.

20 Q. All you have heard about him has all been against him, the people you have heard talking about him have talked against him.

A. No.

Q. Do you say the things you have heard about him were against him?

A. It wasn't everybody.

Q. Who did you ever hear there say anything in his favor, good about him?

A. I never particularly talked with anybody.

30 Q. Never heard anybody particularly say anything good about him, isn't that true?

A. I don't know, I would not say, because I haven't talked to anybody about him.

Q. Give me the name of one person you ever heard say anything good about him, you cannot, can you?

A. No.

Mr. Peacock: I move it be stricken.

By the Court:

Q. Have you given us your personal opinion of it?

A. I am giving you what I know.

Q. Is that your personal opinion?

A. Yes.

Q. Not the reputation of the man?

A. No, sir.

The Court: It may be stricken.

10

Mr. Ware: I object to it being stricken on the ground that reputation is something that is acquired by the environment, not only what a man sees, but from the fact that he lives in a particular neighborhood, and he gleaned that idea imperceptibly. There's a whole lot of decisions on that in particular.

The Court: I think that we are split on this proposition. If he testifies as to the man's repute, that is all 20 well and good, but he is not giving other persons' opinion of this man, and that I take it is the test, and I think it ought to be stricken.

Mr. Ware: Will your Honor listen to me?

The Court: Yes.

Mr. Ware: Professor Wigmore says in his colossal work on evidence: "Put any one of us on trial for a 30 false charge, and ask him whether he would not rather invoke in his vindication, as Lord Kenyon said 'The warm, affectionate testimony' of those few whose long intimacy and trust has made them ready to demonstrate their faith to the Jury, than any amount of colorless assertions about reputation." Now, the idea is if John Smith lives in a community where Bill Jones lives, and he lived there for a number of years, and he has by that

- location acquired the idea, and is willing to place an estimate upon a man from what he has seen of him, or the contacts he has had with him, and that feeling for a man, that belief in a man is the imperceptible taking over of the feeling in which he is regarded, as he feels it, irrespective of what may be two or three isolated cases, for comparisons made. We will take, for instance, this reputed charge of violating the excise laws. Where does that in any way invalidate a reputation, or an estimate I may have
- 10 of somebody as to his being peaceful and quiet, and possessing honesty of living? He may violate the excise law every day in the year, and yet he may be a quiet man and a peaceful man and his honesty of living is above reproach. Now, that is the reason why this gentleman and some others have been called, and I say that his testimony should be allowed to stand.

- The Court: I am going to sustain the objection, on the ground that this man has given his own personal
- 20 opinion, which is not the test. It is the man's repute. Of course, character testimony is not strictly character testimony, it is reputation testimony. A man's character is what he is, his reputation is what he is reputed to be, and character testimony comes under the title of reputation or repute. He has testified not what the man's reputation is, but as to his personal knowledge of it, and I hold it objectionable, and I will sustain the objection and strike it out.

- 30 Mr. Ware: I must defer to your Honor's ruling and ask for an exception.

(Said exception noted for the defendant and hereby sealed by the Court.)

[L. S.]

F. F. NEUTZE,
Judge.

JOSEPH HARVEY, SWORN.

By Mr. Ware:

Q. Where do you live, Mr. Harvey?

A. Pennsville and Auburn Road, Upper Penns Neck.

Q. What is your business?

A. I operate a taproom.

The Court: You say you operate a taproom?

10

The Witness: Yes, sir.

Q. How many years have you done that?

A. About three years.

Q. Before that what was your occupation?

A. Farmer.

Q. Do you know Edwin Danser?

A. Yes, sir.

Q. How long have you known him?

20

A. Between four and five years.

Q. Do you know the reputation of Danser in the community in which he lives, for quietness, peacefulness——

The Court: Yes or no.

Q. ——and honesty of living?

A. Good, as far as I know.

Q. Well, do you know?

A. I don't know.

30

Q. What is that?

A. I didn't have any dealings with the man, only buying gas off him and speaking to him.

Q. I say do you know his reputation, yes or no?

The Court: Judge Ware is asking you whether you know his reputation. You either say yes you do know or no, that you do not know.

A. I don't know his reputation.

Q. What is that?

A. I don't know his reputation?

Q. You don't know his reputation?

A. No. So far as I know, it is good.

Mr. Peacock: I ask that be stricken.

The Court: Strike it out.

10

Mr. Ware: I will not press that if you do not know it.

No cross-examination.

FRANK DIETRICH, SWORN.

By Mr. Ware:

20

Q. Where do you live, Mr. Dietrich?

A. Oldsman Township.

Q. What is your occupation?

A. Farmer.

Q. And do you hold any official position?

A. Freeholder from Oldsman Township.

Q. Do you know Edwin Danser?

A. Yes, sir.

Q. How long have you known Edwin Danser?

30 all of his life.

Q. Do you know other people that know him?

A. Yes, sir.

Q. Do you know his reputation for peacefulness, quietness and honesty of living in the community in which he lives?

A. Well, I know what I have had dealings with him. I don't know what others think of him.

Q. Have you known his reputation during the years that you say you have known him, for those qualities?

A. Yes, sir, I have knowed it.

The Court: Judge Ware is asking you whether you know his reputation in the community.

The Witness: Yes, sir, I know it.

Q. What is it?

A. Good.

10

Mr. Ware: Cross-examine.

Cross-examination.

By Mr. Peacock:

Q. You said a moment ago you only know your view of it or your opinion, is that true?

A. That is true.

Q. You have never talked to anybody else about him? 20

A. Of course, his sister lived neighbors to me quite a while.

Q. Well, his sister naturally would think he had a good reputation?

A. Yes.

Q. Is she the only one you have talked to?

A. No.

Q. Are you testifying to your own opinion or what others have told you?

A. I have talked to others. Of course, I don't live in 30 his neighborhood.

Q. Who else have you talked to?

A. Frank Sparks.

Q. He was a witness for him?

A. No, sir.

Q. He is not the Sparks who was here yesterday?

A. No.

Q. Who else did you talk to about him?

A. Oh, that's hard to think.

Q. How did you come to talk to them about Mr. Danser?

A. That's been since this case.

Q. You did not talk to them before this case?

A. No, I don't know that I did.

Mr. Peacock: I move that it be stricken.

The Witness: They didn't know anything about him
10 or I didn't either.

Mr. Peacock: The Courts have held that the testimony must be prior to the offense. State vs. Sprague, 65 Law.

The Court: I appreciate that.

Mr. Ware: Here is a gentleman that he has testified
20 that he has known him all his life.

The Court: The objection is over-ruled. It may stand.

Q. What have you heard about him?

A. As a man, I have heard he is a good kind of man.

Q. You never heard he was convicted of the sale of liquor?

A. I never did.

Q. You never heard that he was arrested for threaten-
30 ing to kill his wife?

A. No, sir.

Q. Never heard of him giving her a black eye?

A. No, sir.

Q. You never heard of him being before Recorder Guyder twice?

A. No, sir.

Q. You never heard of him being before Mayor Humphreys for the same thing?

A. No, sir.

Q. Hearing those things, do you still say he is of good reputation?

Mr. Ware: I object.

The Court: It comes back to the same thing. The objection is sustained.

Mr. Peacock: That is all.

10

JOHN LAYTON, SWORN.

By Mr. Ware:

Q. Where do you live, Mr. Layton?

A. Upper Penns Neck.

Q. What is your occupation?

A. Well, I have got a small farm and I drive a school bus.

20

Q. How long have you lived in Upper Penns Neck?

A. Over sixty years.

Q. Do you know Edwin Danser?

A. Yes, sir.

Q. How long have you known him?

A. Ever since he had been born.

Q. Do you know other people that know him?

A. Oh, yes, lots.

Q. Do you know his reputation in the community in which he lives for peacefulness, quietness and honesty of living?

30

A. Well, I got my own or other people's?

Q. Well, it is the opinion, it is not the opinion other people have, it is the opinion you have I mean about him yourself.

A. Good.

Mr. Ware: Cross-examine.

Cross-examination.

By Mr. Peacock :

Q. That is your own opinion?

A. Yes, sir.

Q. And not what you have heard from other people?

A. I could not say about outside gossip.

10 Q. You do not know what other people think of him, all you know is what you think of him?

A. That's all I can answer.

Q. And it is not what you have heard in the community or the opinion of people in the community, it is your own opinion, that is correct, isn't it?

A. Yes, sir.

Mr. Peacock: I move that it be stricken.

Mr. Ware: I object.

20

The Court: You are giving, I understand, your personal opinion of this man?

The Witness: That's all I could give, your Honor.

The Court: And not his reputation in the community?

The Witness: Not what other people thinks.

30

The Court: You are giving your own personal opinion?

The Witness: Yes, sir.

The Court: What is the motion?

Mr. Peacock: I ask to strike the testimony.

Mr. Ware: I object and may I have an exception.

The Court: You may note an exception. You may step aside, Mr. Layton.

(Exception so noted and signed and sealed by the Court.)

[L. S.]

F. F. NEUTZE,
Judge.

JOSHUA SCOTT, SWORN.

10

By Mr. Ware:

Q. Where do you live, Mr. Scott?

A. 20 Olive Street, Salem.

Q. How long have you lived around here?

A. Sixteen years.

Q. Do you know Edwin Danser?

A. Yes, sir.

Q. How long have you known him?

20

A. About ten or twelve years. Well, ever since he opened the place.

Q. Do you know other people that know him?

A. Well, yes, I could say I knew a lot of people that know him.

Q. Do you know his reputation for peacefulness, quietness and honesty of living in the community in which he lives?

The Court: Say yes or no. You either know or you do not know. 30

A. Well, no.

Q. You do not know it?

A. That is——

Mr. Peacock: I object to anything further.

Mr. Ware: Well, if you do not know it, I will not press it.

The Witness: Because I am not acquainted in the neighborhood.

The Court: You may step down, Mr. Scott.

EBENEZER ZANE, SWORN.

By Mr. Ware:

- 10 Q. Where do you live, Mr. Zane?
A. Upper Neck.
Q. How long have you lived there?
A. Fifty years.
Q. Do you know Edwin Danser?
A. Yes, sir.
Q. Do you know other people that know him?
A. Oh, neighbors around there know him, I suppose.
Q. You know those people, don't you?
A. What say?
- 20 Q. You know those people that live around there, his neighbors?
A. Oh, yes, I know them.
Q. Do you know his reputation for peacefulness and quietness in the community in which he lives?
A. As far as I know, good.
Q. You know it?
A. Yes.
Q. And you say it is good?
A. Yes.

30 Mr. Ware: Cross-examine.

Cross-examination.

By Mr. Peacock:

- Q. That is only your personal opinion, isn't it?
A. Of course, you can hear a good bit but I don't listen to what I hear. It is what I know.
Q. You have heard a lot about him that is against him?

A. Heard a lot in Court here, yes.

Q. But you did not believe any of that?

A. That's something else to determine.

Q. I say all the things you heard against him you disregarded, giving your own opinion?

A. I know just what I know about him from a small boy.

Q. I say, that is your personal opinion?

A. I have dealt with him a good bit and sold him a truck and I believe he is dead square.

10

Q. After all that, you are still giving your personal opinion, aren't you?

A. That's up to the Court, about that. He always used me good and always had a good reputation.

Q. Let us stop the sermon and answer the questions. You are only talking about your personal opinion?

A. I am talking about what I know.

By the Court:

20

Q. Are you telling us about what you think about the man or the people generally in the neighborhood think about him?

A. Well, you——

Q. No, I am asking if you are telling us about what you think about the man or the people generally in the neighborhood think about him?

A. Well, as far as I know, it is good. I never heard anybody say anything else but I heard a good lot in this Court but that ain't up to me.

30

Mr. Peacock: Will you read the question to him?

(Question repeated.)

Mr. Peacock: No, the question asked by the Court.

(Question repeated.)

The Witness: Well, as far as I know, good.

By Mr. Peacock :

Q. Are you testifying as to what you know about him personally or what the people in the community know about him?

A. Good, as far as I know.

Q. Do you understand me? Am I speaking plain enough to you?

10 The Court : Mr. Peacock, let it stand and take up the next witness.

Mr. Peacock : All right, we will skip it.

J. SUMMERILL DAVIS, SWORN.

By Mr. Ware :

20

Q. Where do you live, Mr. Davis?

A. Pennsville, New Jersey.

Q. What is your business?

A. Die worker.

Q. How long have you lived there?

A. All my life.

Q. Do you know Edwin Danser, the defendant?

A. I do.

Q. How long have you known him?

30

A. All my life.

Q. Do you know other people that know him?

A. Oh, yes.

Q. Do you know his reputation for peacefulness, quietness and honesty of living in the community in which he lives?

A. Personally, good.

Mr. Ware : Cross-examine.

Cross-examination.

By Mr. Peacock:

Q. It is only your personal opinion?

A. That is right.

Q. Not what you heard in the community?

A. No.

Q. You do not know his reputation in the community?

A. I never lived out there.

10

The Court: Mr. Davis, we want to make it clear. Are you giving us what you think about the man yourself or what the people in the community in which he lives think about him?

The Witness: My personal. In the community, I don't know.

Mr. Peacock: I move to strike the testimony.

20

By Mr. Ware:

Q. Based on what, Mr. Davis?

A. Working with him.

Q. Seeing the man?

A. Yes.

Q. Talking with other people about him?

A. No.

Q. Well, having him as the subject of conversation, haven't you?

30

A. Not lately, no.

Q. And going by the estimate or using that as the estimate on which you observed his daily life or monthly life in the community in which he lived?

A. Well, the community where he lives, I don't know.

Q. Well, where he lives is a short distance from Pennsville, isn't it?

A. I know I only stopped there once in a while, off and on, if I wanted some gas or oil.

Q. But you have known of him for a number of years?

A. Yes.

By the Court:

Q. How far do you live from him?

A. About two or two and a half miles. I worked with him at duPont's for fourteen years.

10 Q. But what you have told us is from your personal opinion and not contacts with other people?

A. No, sir.

By Mr. Peacock:

Q. You do not know what his reputation is from other people in the community where he lives?

A. No, I haven't—

20 By the Court:

Q. You have not heard anything for or against him?

A. No, neither way.

The Court: I will strike his testimony.

Mr. Ware: He has not heard anything for or against him. That is evidence of good character.

30 The Court: I think it goes back to the original question whether it is the community opinion, he has given community opinion or his own personal opinion, and I think he stated, from his testimony, it is his own personal thought.

The Witness: That is right.

The Court: He said that is right and I will strike it.

Mr. Ware: I ask for the benefit of an exception.

The Court: You may have an exception. You may leave the stand, Mr. Davis.

(Exception so noted and signed and sealed by the Court.)

[L.S.]

F. F. NEUTZE,
Judge.

EDWARD SUMMERILL, sworn.

10

By Mr. Ware:

Q. Where do you live, Mr. Summerill?

A. Pennsgrove.

The Court: Speak out loud, Mr. Summerill.

The Witness: Pennsgrove.

20

Q. And before that you lived in the Township of Upper Penns Neck, didn't you?

A. Yes.

Q. And in the two municipalities, Pennsgrove and Upper Penns Neck, in which you have lived for how many years?

A. Around sixty years.

Q. Do you know Edwin Danser, the defendant in this case?

A. Yes.

30

Q. Do you know other people who know him?

A. Yes.

Q. How long have you known him?

A. All my life.

Q. Do you know his reputation for peacefulness and quietness in the community in which he lives?

A. As far as I know——

Q. What?

A. As far as I know, he is good.

Q. You do know it and you saw it is good?

A. (No response.)

Mr. Ware: Cross-examine.

Cross-examination.

By Mr. Peacock:

10 Q. As far as you know, you mean your personal opinion, just what you think about him personally?

A. I don't know what other people think about him.

Q. You do not know his reputation in the community, that is, what other people know about him?

A. No.

Q. You never talked to anybody about it?

A. No.

Q. All you know is your own contact with him and business with him?

20 A. My opinion.

Q. Just your opinion and not the opinion of others in the community where he lives?

A. I couldn't tell what they thought.

Q. You could not tell what they thought of him?

A. No.

Mr. Peacock: I move that his testimony be stricken.

Mr. Ware: I object to the motion.

30

By the Court:

Q. You are giving us your personal opinion of what you think of him?

A. Yes, he has always been all right with me.

By Mr. Ware:

Q. How often have you seen the man, Mr. Summerill?

A. Quite often.

Q. What do you mean "quite often?"

A. In recent years, since he has been there, I see him most every day or two.

The Court: I am going to grant the motion.

Mr. Ware: Well, I will ask for an exception.

The Court: His testimony as to the man's good character is stricken. 10

Mr. Ware: I do not see how a man can give an estimate of another's character if he has never heard anything about him.

The Court: You want an exception?

Mr. Ware: I do.

The Court: You may have an exception noted. 20

(Exception so noted and signed and sealed by the Court.)

[L. s.]

F. F. NEUTZE,
Judge.

The Court: We will take a recess at this time. Let the jury leave the Court room. 30

(The jury leaves the Court room.)

The Court: Now the prisoner will be taken care of by the Sheriff and we will recess for fifteen minutes.

(At this point a recess was taken for fifteen minutes.)

(After recess.)

The Court: Gentlemen, I want to straighten up that testimony that I concluded was erroneously admitted. Ladies and gentlemen of the jury, before we resume and proceed, I want to say that on Tuesday, during the trial of this case, the Court permitted Mrs. Hoelin, the lady from Minnesota, to testify that she heard her son Marvin Hoelin testify at the Coroner's Inquest that the defendant, Edwin Danser, had said, immediately after the shooting, "Die, God damn you, die!" This appears on pages 154, 155 and 156 of the typewritten record. This will be ordered stricken from the record and is stricken from the record and you will ignore that portion of Mrs. Hoelin's testimony that deals with the above. She cannot testify to what her son stated at the Coroner's Inquest. He, the son, should have been brought here to testify if the State deemed his testimony was necessary. However, it was testified that the son was attending a school at Minnesota and could not be here for the trial and his absence is thus explained. Of course, what Mrs. Hoelin testified to herself as having heard as to the shooting and the surrounding circumstances is admissible and will be considered by you, including the testimony of Mrs. Hoelin that she herself heard the defendant say, after the shooting, "Die, God damn you, die!" With that we will proceed.

Mr. Peacock: Your Honor, I omitted to ask a question of Edna Barrett. I would like to have her recalled.

EDNA BARRETT, recalled for further cross-examination.

By Mr. Peacock:

Q. You lived at 1025 Mellon Street, Philadelphia?

Mr. Ware: I object.

A. Never in my life.

Q. Never?

A. Never.

The Court: Just a minute. There is an objection.
What is the objection?

Mr. Ware: It has nothing to do with the record at all. We do not know what the purpose is but we apprehend for the purpose of throwing something on the character of the witness. 10

The Witness: I never did, though.

The Court: I suppose you are bound to state the purpose of these questions, coming as they do at this late time. What is the purpose of the questions?

Mr. Peacock: Convicted of crime in Philadelphia.

The Witness: Yes, your Honor, I never lived any place else. 20

The Court: Just a minute. Was she questioned the other day as to whether she was convicted of crime? I do not recall. She was not asked that question?

Mr. Peacock: No.

The Court: The question may be answered. This is preliminary to her residence. 30

Mr. Ware: I have no objection.

Q. Were you convicted of crime in Philadelphia on June 30, 1925?

A. No, sir, I never lived in Philadelphia but until the last couple of months.

Mr. Ware: That is all.

Q. I did not ask you that. Were you convicted of crime?

A. No, I was not.

Mr. Peacock: That is all.

Mr. Ware: The case of the defendant is closed.

10

The Court: The defense says that he rests.

Defendant rests.

STATE'S REBUTTAL

FRANK RUGGIERO, recalled.

20 By Mr. Peacock:

Q. On June 5, 1935, did you take a statement from Edwin Danser?

A. I did.

Q. I ask you whether or not this question was asked and this answer given——

Mr. Ware: This is by way of rebuttal, your Honor?

30 The Court: It is.

Mr. Peacock: By way of rebuttal.

Q. "Q. While you were talking to your wife during the morning concerning your own accident were the lights lit, or was the room in darkness?" "A. The room was dark." ?

A. Yes, sir.

Q. "When you got up from the leather couch to go into the store part to get a drink of water, where was

your wife at that time, and was the room still in darkness?" "A. She was lying on her bed, and the room was still in darkness." ?

Mr. Ware: I think that was all entered into. I do not want to be captious about it.

Q. Is that correct?

A. Yes, sir.

10

Mr. Ware: I think that has all been entered into in the early part of the testimony.

The Court: As I understand, the Attorney General developed this on cross-examination.

Mr. Ware: He says that

The Court: Now he is bringing the detective back.

20

Mr. Peacock: The answer of the defendant was "I don't remember whether I said it or not." I have a right to show that he said it.

Mr. Ware: My recollection is that he did say it.

Mr. Peacock: He did not say that.

Mr. Ware: My only objection is to a standpoint of time.

30

The Court: I think the questions may be answered. It is to show what the defendant testified to in answers that he gave to Ruggiero's questions.

Q. "Q. At the time the shots went off, where was your wife?" "A. I do not know, but I believe she was in bed." ?

A. That is correct.

Q. Was that question and was that answer given?

A. Yes, sir.

Q. Was this question asked by you and this answer given to you: "Q. You do not remember what you did from the time that Lester the mechanic left until the shooting occurred, although Lester stated that he was at your place at 12:30 A. M., and you claim that it was 4 A. M. when he was there, if it was at 12:30 A. M. that Lester was there, what did you do from 12:30 A.

10 M. until about 4 o'clock A. M., the time of the shooting?"

"A. I do not know unless I fell asleep." ?

A. That is correct.

Q. Was that question and was that answer given?

A. Yes, sir.

Q. "If you fell asleep, where did you sleep, in the cottage or in the house?" "A. I must of went to sleep in the house." ?

A. That is correct.

20 Q. Is that correct?

A. Yes, sir.

Q. "If you went to sleep in the house at say 1 A. M., what woke you up at about 4 A. M.?" "A. I can't answer it. I don't know what woke me up." Is that correct?

A. Yes, sir, it is.

Mr. Peacock: Cross-examine.

30 Mr. Ware: Pardon me just a moment. Have you further rebuttal?

Mr. Peacock: That is all.

Mr. Ware: When does your Honor expect to take an adjournment in this case?

The Court: It has been my thought to let both sides complete their case, if we can, before the luncheon recess, then stop and after the luncheon recess begin the arguments or summation.

Mr. Ware: If I close at this time, I wish to make a reservation.

The Court: Is that all you have by way of rebuttal?

Mr. Peacock: Yes, sir.

Mr. Ware: I want to make a reservation by making a suggestion that we recess at this time, in order that I might be afforded an opportunity of running down that testimony that was just used, which I cannot do on the 10 spur of the moment.

The Court: It is just a little early for lunch but I will be glad to accommodate you.

Mr. Ware: It is in the neighborhood of 12 o'clock, isn't it?

The Court: About five minutes of twelve.

Mr. Ware: Why not take a recess at twelve instead 20 of one?

The Court: Well, so as to give you a chance, we will. All arrangements are made for the jurors, in the restaurant, to feed them at a certain time but if it is an accommodation to the Judge I can adjourn now until half past one. They ought to get back by half past one, and then we may have the summations this afternoon and the case will go to the jury this afternoon. Ladies and gentlemen, you have heard what Judge Ware suggested, 30 that he wants the opportunity to check back on this testimony. He may want to put in some further testimony and again he may not and if so argument will begin immediately afterward, so we will take time out for lunch and so that you will be able to have sufficient time, knowing that you have a certain hour fixed for your lunch, suppose we take an adjournment until half past one. We will adjourn at this time, just a few minutes before 12 o'clock, and you return at half past one this afternoon.

The jury may be taken out under the care of the constables. The jury are to return at 1:30.

(The jury retires from the Court room.)

The Court: The prisoner is given over to the custody of the Sheriff and we will now recess, to resume at 1:30.

(At this point a recess was taken until 1:30 o'clock, P. M.)

10

Afternoon Session.

(Trial of the cause resumed, pursuant to adjournment, at one thirty o'clock P. M., in the presence of the Court and counsel for the respective parties.)

AT SIDE BAR

20

Mr. Ware: We rest.

The Court: Both sides have rested?

Mr. Peacock: Yes, sir.

The Court: You desire to make a motion, I will hear you at side bar.

30 Mr. Ware: The defendant moves that the Jury be instructed to return a verdict of not guilty, for the reason that the State has failed to prove its case, according to its opening, by either positive or circumstantial evidence.

The Court: The motion is overruled.

Mr. Ware: Exception.

(Said exception noted for the defendant, and hereby sealed by the Court.

[L.S.]

F. F. NEUTZE,
Judge.

Mr. Ware: The defendant moves that the Jury be instructed to return a verdict of Not Guilty as to the charge of first degree homicide, through the failure of the State to make proof by any evidence, either positive or circumstantial, in the making of its proof in the opening made in the case.

The Court: The motion is overruled, and an exception granted.

10

(Said exception noted for the defendant and hereby sealed by the Court)

[L.S.]

F. F. NEUTZE,
Judge.

Mr. Ware: The defendant moves that the Jury be instructed to return a verdict of Not Guilty as to the charge of second degree homicide, through the failure of the State to make proof by any evidence, either positive or circumstantial, in the making of its proof under the opening made in the case. 20

The Court: The motion is overruled, and an exception granted.

(Said exception noted for the defendant and hereby sealed by the Court)

[L.S.]

F. F. NEUTZE,
Judge. 30

(Upon return to the Courtroom.)

The Court: Ladies and gentlemen, counsel have informed me in Chambers that both sides have rested. They are now to begin their summation or argument, as you would call it, and we are to finish the case this afternoon.

CHARGE OF THE COURT

NEUTZE, J.:

Ladies and Gentlemen of the Jury, the Court desires to express its appreciation for the close attention and application that you have given to this case. All of you have been diligent and have paid close attention to everything that has gone on.

10 The prisoner at the Bar, Edwin Danser, stands charged in the indictment with the murder of his wife, Ada Danser, in the Township of Upper Penn's Neck, Salem County, on the fifth day of June, 1935, and it now becomes your duty to render a verdict upon the question of the defendant's guilt or his innocence and upon the degree of his guilt if you find him guilty. In doing this you must be guided by the principles of law bearing upon the case that I will now proceed to lay before you.

20 In the determination of all questions of fact, the sole responsibility is with the jury. You are the sole judges of the evidence, of the weight of the evidence and of the credibility of the witnesses. Any comments that I may make upon the evidence will be made not for the purpose of controlling you in your views of the facts but only to aid you in applying the principles of law to the facts as you may find them. You must not consider what I shall say concerning the evidence as being accurate but you must depend upon your own recollection of the evidence. You must not only consider the evidence in the
30 case to which I shall refer, but you must consider all the evidence in the case.

To support the indictment and to justify a conviction, the State of New Jersey must prove the facts sufficient for that purpose by evidence beyond a reasonable doubt and that burden never shifts from the State.

If there be a reasonable doubt whether the defendant is guilty of the offense charged, then he is to be declared not guilty by you. Reasonable doubt is a term

often used, probably pretty well understood but not easily defined. Reasonable doubt is not mere possible doubt, because everything relating to human affairs and depending upon moral evidence is open to some possible or imaginary doubt. Reasonable doubt is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge. The evidence must establish the truth of the fact to a moral certainty, a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it. But if, after canvassing carefully the evidence, giving the accused the benefit of reasonable doubt, you are led to the conclusion that the defendant is guilty, you should so declare by your verdict. 10

Now, the State of New Jersey charges that Edwin Danser, the defendant in this case, did on the fifth day of June, 1935, in the Township of Upper Penns Neck, County of Salem, wilfully, feloniously and of his malice aforethought kill and murder one Ada Danser, in the peace of God and of this State. 20

In this case, as in every criminal case, the defendant is presumed to be innocent, which presumption continues until he is proved to be guilty.

To convict the defendant of murder in the first degree, the State must establish by evidence beyond a reasonable doubt that Ada Danser came to her death on June 5, 1935, in the Township of Upper Penns Neck, this county, at the hands of the defendant, which killing by the defendant, Edwin Danser, was wilfull, deliberate and premeditated. Unless you are so satisfied, then the defendant is not guilty of murder in the first degree. 30

The State has offered evidence to prove that the defendant did kill and murder his wife, Ada Danser, the testimony being to the following effect: That Mrs. Danser came to her death by the act of the defendant as a result of a bullet wound, which bullet was fired into her

lung and heart, causing almost instantaneous death; that the bullet came from an Iver Johnson .32 calibre revolver, the same revolver which has been offered in evidence in this case; that on the early morning of June 5, 1935, Mrs. Hoelin, who was one of the tourists and who was in a tent which had been pitched or placed near the house, heard two shots in the Danser house and immediately afterwards heard the defendant, Edwin Danser, say in an angry voice, "Die, God damn you, die!" Then

10 after that there was a long silence, probably ten minutes and Mr. Danser was heard to come out of the house and walk over to where Nancy was staying—Nancy, you will recall, is Florence Mattson, who worked at the place at the time—and the defendant said to Nancy, "Nancy, come over, Ada has shot herself; poor girl, she is dead." Mr. Hoelin, the husband of Mrs. Hoelin, who slept in the same tent, testified that he heard two shots fired and he heard the defendant say, after about ten minutes, "Ada, why did you want to do that for?" and that the de-

20 fendant remained in the house for about ten minutes and then came out of the house and walked over to the cottage where the maid was sleeping and said, "Nancy, wake up, come over, Ada shot herself." The State contends also that the Iver Johnson .32 calibre revolver with which Mrs. Danser was killed was Mr. Danser's gun, having been given to him by his father. The State contends, by experiments that they have shown to you, that it would have been impossible for the deceased woman, Mrs. Ada Danser, to have killed herself as the defendant

30 contends, because it is claimed by the State that if the revolver were turned around so that the barrel pointed towards Mrs. Danser's own body while the revolver was in her hand, the deceased woman could not and would not have had strength enough to pull the trigger. Such was County Physician Dunn's testimony. He stated that Mrs. Danser could have committed suicide under only one condition and that was by holding the gun pointed towards her and pulling the trigger with her thumb. He said that if she held the gun the natural way, she could

not have pulled the trigger with her trigger finger. Captain Jones gave testimony to the same effect and that the bullet in Mrs. Danser's body and the two bullets found in the wall all came from the same Iver Johnson revolver, the .32 calibre gun that has been offered in evidence. The State contends that the gun having been found at Mrs. Danser's left-hand, when her body was found, shows that the gun was placed there by the defendant husband, Edwin Danser. The claim of the State is that Mrs. Danser being admittedly right-handed, the gun would be nearer her right hand when she fell and not close by her left hand if she had committed suicide. Dr. Dunn, the County Physician, testified the bullet that caused Mrs. Danser's death fractured the tenth rib, passed into the body, pierced the heart cavity and the heart, then through the lobe of the lung and finished up in the back, just under the skin, not breaking through the skin of the back. The bullet traversed directly back and slightly up, Dr. Dunn testified. The State contends that a bullet coming from a gun pointed and fired by a man the height of Mr. Danser, the defendant, being somewhat shorter than his wife, would travel slightly upward if fired into Mrs. Danser's body, she being the taller person of the two, although such difference in height was small, about one inch. The State's witness Trooper Ruggiero contends that it would have been impossible for Mrs. Danser to have shot herself in the manner testified to by Mr. Danser, and similar testimony was given by other witnesses. Frances Mattson, the girl who worked at the place when Mrs. Danser was killed and who has been referred to in the testimony as Nancy, testified that on the night in question, after she had been called by the defendant and told by him that Mrs. Danser had shot herself, he told her to call the police and said further to her, "I guess they have got me now." This testimony and other testimony that I need not quote, offered by the State of New Jersey through the Attorney General, Mr. Peacock, and the Prosecutor of the Pleas of this County, Mr. Grier, was for the purpose of showing that

Mrs. Danser did not and could not have killed herself as contended by the defendant but that she was shot and killed by her husband, the defendant herein.

- Now, Ladies and Gentlemen of the Jury, where the fact of a killing is made to appear, the law presumes it to be malicious and that it is murder in the second degree. In other words, the proof of a killing of one person by another, without any further evidence, presumes the defendant is guilty of murder in the second degree. Murder
- 10 in the second degree is marked by an absence of a wilfull, deliberate and premeditated attempt to take life. However, the State of New Jersey contends that such facts have been proven from which this jury can find that the killing in this case was wilfull, deliberate and premeditated. The State contends that the defendant and his late wife argued a great deal, particularly about his drinking heavily, that he had been in the State Hospital because he was addicted to the use of strong drink, having gone there himself and after four weeks' confinement
- 20 returned home shortly before June 5th. The State contends that he did not want to go back to the State Hospital, that his wife threatened to send him there again, that they quarreled and particularly so on the evening immediately prior to Mrs. Danser's death; that Mrs. Hoelin heard him say, sometime before the shooting, "We might as well have this out right away." Mr. Hoelin testified that he heard the defendant say, as he rapped on the door at that time, "Ada, open up, we might as well have this out tonight as well as some other time and settle
- 30 this tonight," or some words to that effect. The State contends that all of this and other testimony which I need not quote showed that the defendant killed his wife and that such killing was wilfull, premeditated and deliberate.

The evidence produced by the State, however, is largely circumstantial in character. In order to justify the conviction of the defendant upon circumstantial evidence, it is necessary not only that all of the circumstances concur to show that he committed the crime charged but that

they are inconsistent with any other rational conclusion. It is not sufficient that the circumstances proved coincide with, account for and therefore render probable the hypothesis that is sought to be established by the prosecution. They must exclude to a moral certainty every other hypothesis but the single one of guilt and if they do not do this the jury should find the defendant not guilty, and when the case against the defendant is made up wholly of a chain of circumstances and there is a reasonable doubt as to any fact the existence of which is essential 10 to establish guilt, the defendant should be acquitted. But the crime of murder is not one which is always committed in the presence of witnesses and if not so committed it must be established by circumstantial evidence or not at all, and where the essential facts and circumstances are proved which cannot be explained upon any other theory than that the defendant is guilty of the crime charged against him, such evidence should be considered as satisfactory and convincing as that of the most direct and positive character. If the State has not satisfied you by evidence beyond a reasonable doubt that the death of Mrs. Danser was caused by the act of the defendant, he must be acquitted. If, on the other hand, you determine under the evidence produced here by the State of New Jersey, beyond a reasonable doubt, that Ada Danser came to her death on June 5, 1935, in Upper Penns Neck Township, Salem County, by the defendant, Edwin Danser, and that such killing was wilfull, deliberate and premeditated, then the defendant, Edwin Danser, is guilty of murder in the first degree. Now, 20 premeditation means entertainment by the mind of a design to kill. Deliberation means the weighing of considerations pro and con. Wilfull means voluntarily and purposely. One must have contemplated the commission of the act, then determined upon its commission and then weighed such intent before carrying it into effect but it is not important that these elements should take place in the order named. It is not necessary that the design to kill shall have continued for any set space of time but 30

it is sufficient if the design to kill be fully and clearly conceived in the mind and purposely and deliberately executed.

10 In the case we now have before us, the State claims that in addition to proving the three elements necessary to prove murder in the first degree it has also proven a motive, that is, the purpose of the defendant in taking the life of Ada Danser, his wife, was to save him from going back to the State Hospital, which the State contends preyed upon the defendant's mind, also to get control of the money which was kept in the house and received from the operation of the business and that there was some jealousy between the defendant and his wife. It is not necessary for the State to prove a motive or motives, provided it has proved the three essential elements of the offense which I have set forth above, beyond a reasonable doubt, that is, that the killing was wilful, deliberate and premeditated. It is murder in the first degree regardless of the motives but motive or
20 motives may be a circumstance giving point and direction to other considerations. Intention to take life may be presumed from the use of a deadly weapon, since the presumption is that a person using a deadly weapon intends to execute the work which the weapon is intended to accomplish. The State contends in this case that the defendant owned the Iver Johnson revolver and used such revolver in bringing about the death of his late wife, Ada Danser.

30 Now, the defendant, Edwin Danser, tells you on the stand that he did not shoot his wife; that on the night in question or, more specifically, on the early morning of June 5th of this year, while he was in the house, he went to get a drink of water, that he heard some shots, that it was dark in the house and when he got into the room where his wife had previously been in the bed he found her on the floor in about the same position testified to by the other witnesses, except he says that it is his recollection that her leg was not up under her as in the photograph and that she might have been in a little different

angle and her head more in the center. He said that he turned on the light and he knelt down beside her head and discovered that she was dead; that he attempted to speak to her a number of times while he was kneeling there but does not remember what he said. Mr. Danser, the defendant, says that he and his wife quarreled but that they were very friendly, that he had bought an automobile for her a short time before this shooting and that he also gave her \$300 towards the purchase of a diamond ring. The defendant says he went to the State Hospital to please his wife as well as rid himself of the drinking habit and his wife promised to forgive him for an earlied spat that they had had. He said that he never deliberately struck his wife, although they might have had some arguments. He says that on the day before the shooting he had some drinks after he had had an accident to the newly purchased car he had bought for her but not enough drinks either in number or quantity to make him drunk; that night he went to bed in No. 3 cottage and the reason he went to bed in this cottage was so as to be available for tourists who might call at the place during the night; that his wife was in the main building of the house; that he was awakened earlier in the evening by a man who had gone into a ditch and that shortly afterwards he went into the house where his wife was staying. He says that he does not remember having said to his wife, as testified by the Hoelins, "We might as well settle all this," or words similar. Mr. Danser denies having any serious quarrel with his wife that evening except over the car that was damaged by him that day and about paying a taxicab man for services that he did not render. He says that he went into the house where his wife was because he found that Miss Mattson was not with her and when he found that out he did not want to leave her alone. He says that his wife was lying on the bed near the window and that he sat on the daybed. Danser said that the Hoelins were camped right back of the room in which they both were; that the window in this room may have been opened because it was

a very warm night; that he and his wife talked about the man running into the ditch and about Nancy not coming over to the house with Mrs. Danser, to sleep with her; that he dropped off into a doze and then woke up to get some lunch; that he went into the kitchen, where he remained for fifteen to twenty minutes and had a sandwich and a drink; that he went back on the couch and his wife started bothering him about the car which he had recently purchased and which he had wrecked or damaged that day. He said that she was the aggressor in the argument that evening; that she scolded him for drinking again; that later he went to get a drink of water and told his wife he was going to get a drink of water; that he told his wife he would have the car repaired, brought home and locked up and that no one would use it; that all during this conversation the room was in darkness; that as he was feeling his way along the couch in the room, going to get a drink of water, and as he was about to enter the door, two shots rang out, 20 he saw two flashes, then a third shot that was muffled, different from the other two. He then went back into the room, put the lights on and found his wife's body on the floor, knelt down and found her dead. He said he went to the telephone, that he found it busy, that he hung up the receiver, then went outside to call Miss Mattson. The defendant's story is that as he was leaving the room his wife shot at him twice, missed him and the third bullet she used on herself to commit suicide. The defendant says he thinks his father gave 30 him the gun that was used that night, many years ago, but that he kept it in the house, in a box, for protection only in case of a hold-up or robbery.

Witnesses were offered by the defense, on Wednesday afternoon after Mr. Danser left the stand, who knew the deceased Mrs. Danser very well and the first witness, Mrs. Bartie, said that Mrs. Danser had told her that "If Ed,"—referring to the defendant,—“ever gets out and gets drunk and wrecks my car, I will shoot him.” This same witness said that Mrs. Danser had

stated just a few days before the shooting that Ed, referring to the defendant, was terribly nervous but that she would have to put up with it for a while. Mrs. Barrett, the last witness who testified on Wednesday afternoon, stated that she worked at the Danser home from the middle of August, 1934, until January of this year, 1935; that she was hired by Mrs. Danser and was very friendly with her. This witness testified that on a number of occasions the deceased Mrs. Danser told her that she was going to kill herself because of the way Ed, the defendant, carried on; that Mrs. Danser suffered from fits of melancholy and despondency. This same witness stated that Mrs. Danser was addicted to drink and frequently provoked quarrels with her husband. This morning the defendant offered a witness, Marie Fagan, who testified that she worked at the Danser home the latter part of last year and early this year; that she knew Mrs. Danser to be irritable and this was largely due to Mr. Danser's drinking habits; that Mrs. Danser was also irritable because of the damage to her automobile and she said on this occasion, "I cannot stand this; I am going to kill myself." Eldridge Bevis testified this morning that Mrs. Danser, the deceased, said the day before the shooting, "If Ed starts drinking again, I shall kill myself;" that she was crying and upset when she said this. Borden Danser testified about the revolver this morning and he said that some three or four years ago Mrs. Danser, the deceased, took poison, but, of course, recovered. All this testimony was given to show you that Mrs. Danser had expressed a desire to take her life and did actually commit suicide that morning.

Now, Ladies and Gentlemen of the Jury, if you find the deceased Mrs. Ada Danser came to her death as a result of her own act, that is, by suicide, then, of course, the defendant is not guilty of the crime charged and you should so declare by your verdict.

If, however, you find beyond a reasonable doubt that the defendant shot his wife, Ada Danser, as contended

by the State of New Jersey, and such shooting was done wilfully, deliberately and premeditatedly, then you may find the defendant guilty of murder in the first degree.

If you find beyond a reasonable doubt that the killing of Mrs. Danser was done by her husband, Edwin Danser, the defendant herein, but that such killing was not deliberate, wilfull and premeditated, then you may find the defendant guilty of murder in the second degree. Murder in the second degree differs from murder in the
10 first degree in that the murder or killing was done without premeditation, wilfullness and deliberation. So I say that if you find beyond a reasonable doubt the defendant, Edwin Danser, shot his wife without wilfullness, premeditation and deliberation, then it is murder in the second degree.

If, however, you find beyond a reasonable doubt that the defendant, Edwin Danser, shot his wife without malice and that such killing was not deliberate, wilfull or premeditated but was the result of sudden transport of
20 passion or in the heat of blood, then you may find the defendant guilty of manslaughter. Manslaughter differs from murder in the second degree in that in this crime the killing is done without malice and upon reasonable provocation; in other words, manslaughter is the killing of a person upon a sudden outburst of passion or temper or in heat of blood and upon reasonable provocation and without malice. If you find beyond a reasonable doubt, under the testimony in this case, that the defendant, Edwin Danser, shot and killed his wife, there is very little
30 if any testimony, as I recall it, where you can find it was done with provocation on Mrs. Danser's part and without malice. Even though you find, under the testimony, that the defendant and his wife had some words, and the argument waxed hot, this is not such provocation within the meaning of the law to reduce a killing from murder to manslaughter.

The defendant says that he did not shoot his wife and the State says that he did. If he did not do it, he is not guilty and, if he did do it, the State says he did it with

wilfulness, deliberation and premeditation, in which case it is murder in the first degree; or, if he did it without deliberation, premeditation and wilfulness, it is murder in the second degree.

Again I say to you if you find that the defendant, Edwin Danser, did not shoot or kill his wife, as he claims and as testified to, you will find him not guilty.

Let me say a word about character witnesses, a number of whom were put on and offered on the part of the defendant. Our law says that the good or bad character 10 of a person charged with crime is never presumed. A man is neither of good character nor is he of bad character. We might say that his character is neutral. However, a person accused of crime may offer evidence of his good character or reputation for the qualities which would render it improbable or unlikely that he would commit the offense with which he is charged. In other words, testimony of a man's good character goes into the case to raise a reasonable doubt in your minds whether or not he 20 would have committed the offense with which he is charged and so lead to an acquittal. If there is engendered a reasonable doubt thereby, the defendant is entitled to an acquittal. You should consider the fact, where it is a fact, that some of the witnesses in this case have been convicted of crime, and to determine whether or not their credibility has been affected thereby, and where it appears that witnesses have made contradictory statements, you should consider that fact and determine their credibility as affected thereby.

Now, Ladies and Gentlemen of the Jury, as I said be- 30 fore, you are the sole judges of the evidence, of the weight of the evidence and of the credibility of the witnesses. It is for you to say who tells the truth in the matter you have heard and, by the same token, it is for you to say who is not telling the truth. You may believe a witness in whole or in part. You sit here day after day and see the witnesses and hear the evidence from the lips of the witnesses, you have an opportunity to see their actions, their demeanor and hear their voices on the

witness stand, and you give to their testimony the value you feel it is entitled to.

Ladies and Gentlemen, in conclusion, if you find that the killing was committed beyond a reasonable doubt by the defendant and that it was wilfull, premeditated and deliberate, then it is murder in the first degree.

10 If you find that the killing was committed beyond a reasonable doubt by the defendant but that it was not wilfull, premeditated and deliberate, then it is murder in the second degree.

If you find beyond a reasonable doubt that the defendant shot his wife while in the heat of passion or hot blood and without malice and on provocation induced by the wife, then it is manslaughter, although as I have previously pointed out to you there is very little, if any, evidence on which you could base a verdict of manslaughter.

20 If you find that the defendant did not kill or shoot his wife but that she came to her death by other means, then you will acquit the defendant and find him not guilty.

If you find the defendant guilty of murder in the first degree, you may, if you see fit and by your verdict and as part thereof, recommend imprisonment at hard labor for life. If you return a verdict of murder in the first degree and nothing else, the punishment which would be inflicted on that verdict would be death.

30 If you desire to return a verdict of murder in the first degree coupled with imprisonment for life, then you must so put it in your verdict, because the law reads that 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 part thereof 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.

Now, Ladies and Gentlemen of the Jury, that completes my charge.

Judge Ware has asked me to charge you what he conceives to be certain statements of law and I shall now go over them.

I will refuse request No. 1 because I think it has been covered.

I will refuse No. 2 because I think it is covered.

I will refuse No. 3 because I think it is covered.

I will also refuse No. 4 because I think it is covered. 10

Judge Ware has asked me to charge the following and I so charge you :

"The defendant, under our statute, is allowed to testify under oath in his own behalf and it is the duty of the jurors, when he has done so, to give his testimony such weight as in view of all of the facts and circumstances shown it shall appear to them to be entitled to and his testimony is to be tested the same as that of other witnesses. If rational, natural and consistent as in similar cases of such kind, it may outweigh the testimony of all other witnesses." I so charge you. 20

Request No. 6 I will deny.

Request No. 7 I will deny because it is covered.

Request No. 8 I will deny because it has been covered fully and accurately.

Now, Ladies and Gentlemen, before retiring it will be necessary to select but twelve of your number who will go to the jury room to pass upon this matter and to bring in a verdict. In accordance with the Statute of 1935, the Clerk of this Court, Mr. Ballinger, will, in the presence of the Court, place the names of all the fourteen jurors who are in the jurybox on slips folded so as to conceal the names thereon, in a suitable box and shall draw twelve names therefrom, which twelve names so drawn shall be the persons who will proceed to the juryroom, to remain locked up and kept together as provided by law until they 30

arrive at a verdict in this case. The first name drawn from the box shall serve as foreman. The two names who remain in the box, after the other twelve are drawn, they may go and their services will be no longer needed for this trial. Mr. Ballinger, will you proceed to do that as I request?

Mr. Ballinger: (The County Clerk): Yes.

No. 1 is Mrs. Mary E. Driver.

10 The Court: No. 1 is designated as foreman, in accordance with the statute.

Mr. Ballinger: No. 2 is Earl Matlack.

No. 3, Mrs. Clarence Henderson.

No. 4, Mrs. Joseph Breen.

No. 5, Mrs. Elsie Brayerton.

No. 6, John Franklin.

No. 7, James O'Brien.

20 No. 8, Edward Hitchner.

No. 9, Moses Paulding.

No. 10, Mrs. Garfield Biddle.

No. 11, William J. Grosscup.

No. 12, Charles Hendrickson.

The Court: I do not think you need read the two others.

Mr. Ballinger: The two remaining names are Grover Justice and Houston Toulson.

30 The Court: And now, Ladies and Gentlemen, you twelve whose names were drawn in accordance with the statute will proceed to the jury room and there you will remain together and be locked up until such time as you arrive at a verdict. The first name, of course, will act as foreman. I have instructed the Sheriff to see that you are provided with dinner or supper, whichever you choose to call it, at half past five. I also understand you will be provided with proper and suitable quarters up-

stairs and things will be pleasant for you. The Court will remain here and take the verdict whenever the jury is ready. The Exhibits will be taken to the jury room with the jurors.

Judge Ware, do you desire to have some exceptions noted?

Mr. Ware: Yes.

The Court: Do you want it done with the jury in the 10 room?

Mr. Ware: Well, no, I do not know.

The Court: All right, those twelve who were drawn may proceed. The other two will not be required for service in this case. The Court desires to express its appreciation to all fourteen of you. The constables ought to be sworn before they go out.

Mr. Ballinger: I have sworn them.

20

The Court: Have you sworn them?

Mr. Ballinger: Yes, two men and two women, they have all been sworn.

The Court: Very good.

(The jury retires.)

30

DEFENDANT'S EXCEPTIONS

Mr. Ware: The defendant excepts where the Court says that the State has offered evidence that the defendant killed his wife, and then follows the particulars.

Also, the State contends that the Iver-Johnson revolver with which she was killed was the property of Danser.

10

And Dr. Dunn said that Mrs. Danser could not kill herself, except by pulling the trigger with her thumb.

Also, where the Court said the State contends that a revolver fired by the defendant would travel upward.

Where the Court said the State contends that the killing was wilful, deliberate and premeditated.

Also where the Court said that it is the contention of the State that the motive of the killing was to get control of her money and to get control of the business.

20

Also where the Court said in describing the fact that words were used between husband and wife, said that this is not such a provocation as to reduce the killing to manslaughter.

Also where the Court said the Jury should consider the instances where witnesses have been convicted of crime, or have made contradictory statements.

30

Also a general exception to the charge as a whole.

And also to the refusal of the Court to charge requests Nos. 1, 2, 3 and 4, except as already charged.

Also the refusal of the Court to charge request No. 6, and the refusal to charge requests Nos. 7 and 8, except as already charged.

The Court: You may have such exceptions, Judge.

DEFENDANT'S REQUESTS TO CHARGE

1. The greater part of the evidence produced by the state is circumstantial. There is no direct or positive evidence that the defendant committed the crime charged. And to warrant a conviction on circumstantial evidence each fact necessary to the conclusion sought to be established must be proven by competent evidence beyond a reasonable doubt; and all the facts necessary to such conclusion must be consistent with each other and with the main fact ought to be proved, and the circumstances taken together, must be of a conclusive nature, leading on the whole, to a satisfactory conclusion, and producing in effect, a reasonable and moral certainty that the accused alone committed the offense charged. 10

(*Colbert v. State*, 125 Wis. 423, 104 N. W. 61)

2. The mere union of a limited number of independent circumstances, each of an imperfect and inconclusive character will not justify a conviction. They must be such as to generate and justify full belief according to the standard rule of certainty. 20

(*Ibid.*)

3. It is not sufficient that they coincide with and render probable the guilt of the accused, but they must exclude every other reasonable hypothesis. No other conclusion but that the guilt of the accused must fairly and reasonably grow out of the evidence, but the facts must be absolutely incompatible with innocence, and incapable of explanation upon any other reasonable hypothesis than that of guilt. 30

(*Ibid.*)

4. In order to convict the defendant upon this class of evidence, you must be satisfied beyond a reasonable doubt, that each material fact or necessary link, in the chain, has been proven beyond a reasonable doubt. And

if you have any reasonable doubt about any one of the material facts or links constituting the chain of circumstances, then you should acquit the defendant.

(*Peo. v. McArron*, 121 Mich. 1, 79 N. W. 944)

6. Evidence of good character is always receivable in a court of law, where a person is charged with the commission of a crime. And sometimes it proves a very important part of the testimony, as, for instance, in a case
10 that depends entirely upon circumstantial evidence. In such cases, the testimony might be very important. Sometimes in such a case the testimony of good character would turn the scale in favor of the defendant.

(*Grabowski v. State*, 126 Wis. 44, 105 N. W. 806)

7. Reasonable doubt is not a mere possible doubt. It is that state of the case which after the entire comparison and consideration of all the evidence, leaves the
20 minds of the jurors in that condition that they cannot say that they feel an abiding conviction to a moral certainty, of the truth of the charge.

(*State v. Linker*, 111 Atl. 35)

8. In all criminal trials, it is the right of the accused to have all the relevant testimony, including that relating to his good repute, considered by the jury, and if, on such consideration, there exists reasonable doubt of his guilt, even though that doubt be engendered merely by
30 his good reputation, he is entitled to an acquittal.

(*Baker v. State*, 53 N. J. L. 45)

UPON THE RETURN OF THE JURY

(Roll called.)

The Clerk: Have you agreed upon your verdict?

The Foreman: We have.

The Clerk: How say you, Mr. Foreman?

The Foreman: We find Danser guilty of murder in 10
the first degree, with the recommendation of life im-
prisonment.

The Clerk: And so say you all?

The Jurors: Yes.

The Court: You desire to poll the jury, Judge Ware?

Mr. Ware: Yes, they might as well.

The Clerk: Mrs. Driver?

20

Mrs. Driver: Guilty.

The Court: The Clerk now is calling on each Juror
to give the verdict individually.

Mrs. Driver: Guilty of murder in the first degree,
with life imprisonment.

Mr. Matlack: Guilty, first degree, life imprisonment,
hard labor.

Mr. Henderson: Guilty, murder, first degree, with 30
life imprisonment and hard labor.

Mrs. Breen: Guilty, first degree, life imprisonment.

Mrs. Brayerton: Guilty, first degree, life imprison-
ment.

Mr. Franklin: Guilty, murder, first degree, hard
labor.

Mr. O'Brien: Guilty, first degree, hard labor.

Mr. Hitchner: Guilty, first degree murder, hard labor.

Mr. Paulding: Guilty, first degree, hard labor.

Mrs. Biddle: Murder, first degree, life imprisonment with hard labor.

Mr. Grosscup: Murder, first degree, life imprisonment with hard labor.

10 Mr. Hendrickson: Guilty, first degree, life imprisonment, hard labor.

The Court: Ladies and gentlemen, the Court again wishes to express its thanks. You have done what is a very hard job splendidly and well. Thank you. You are discharged.

The Prosecutor: I ask for the imposition of sentence.

The Court: The defendant will rise.

20 (Defendant stands.)

The Court: Edwin Danser, a Jury has convicted you of murder in the first degree, with the recommendation for life imprisonment. Upon this conviction, the sentence of the law is that you be confined in the State Prison, at Trenton, New Jersey, at hard labor, for the term of your natural life.

Court is adjourned.

30

I hereby certify that the foregoing is the entire record of the proceedings had upon the trial of the State of New Jersey, against the within-named defendant, Edwin Danser, sur indictment for murder.

F. F. NEUTZE,
Judge.

COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY,	}	IN ERROR TO THE	}	
Defendant in Error,		SALEM COUNTY		
vs.		COURT OF OYER		
		AND TERMINER.		
EDWIN DANSER,	}	ASSIGNMENTS OF	}	10
Plaintiff in Error.		ERROR.		

And now, on this ninth day of January, A. D. 1936, comes the said defendant, Edwin Danser, by Henry Burt Ware, his attorney, and says that in the record and proceedings aforesaid, and also in the matters recited and contained in the bills of exception, and also in the giving of the verdict and judgment aforesaid, there is manifest error in this, to-wit:

1. Because the State was permitted to ask the witness, Emilia Hoelin, over the objection of the defendant, the following question, "Did your son at that time say in Mr. Danser's presence at the Coroner's inquest that he had heard Mr. Danser say 'Die, God damn you, die?' ", which objection was overruled, and an exception taken and allowed accordingly. 20

2. Because the State was permitted to ask the witness, Helen Sparks, over the objection of the defendant, the following question, "when was it you had seen him strike her?", and when the witness replied "1933", and the objection was renewed, it was overruled, and an exception taken and allowed accordingly. 30

3. Because the State was permitted to ask the witness, Helen Sparks, over the objection of the defendant, the following question, "From that time on down to June 3rd have you heard numerous quarrels between Mr. Danser and his wife?", which objection was overruled, and an exception taken and allowed accordingly.

4. Because the State was permitted to ask the witness, Helen Sparks, over the objection of the defendant, the following question, "What else have you seen happen between Mr. and Mrs. Danser in 1934, up to the time the last visit you were there, as far as abuse or threats on the part of Mr. Danser against his wife", which objection was overruled and an exception taken and allowed accordingly.

10 5. Because the Court permitted the same witness's answer to the question to stand after motion had been made by defendant to strike out the same, which motion was overruled and an exception taken and allowed accordingly.

20 6. Because the State was permitted to ask the witness, Helen Sparks, over the objection of the defendant, the following question, "Did he make any statement as to his stay at the hospital, what he thought of it, or what would happen to him or Mrs. Danser if he returned to the hospital?", which objection was overruled, and an exception taken and allowed accordingly.

7. Because the State was permitted to ask the witness, John Johnson, over the objection of the defendant, the following question, "Did you ever hear that Mr. Danser had been convicted in this court for the illegal sale of liquor?", which objection was overruled, and an exception taken and allowed accordingly.

30 8. Because the State was permitted to ask the witness, Charles Locuson, over the objection of the defendant, the following question, "If he has committed the things I have just stated to you, to you think the man has a good reputation after those things?", which objection was overruled, and an exception taken and allowed accordingly.

9. Because the Court on motion of the State struck out the testimony of the witness, Harry Seehousz, after objection had been made by the defendant to the motion,

which objection was overruled, an an exception taken and allowed accordingly.

10. Because the Court on motion of the State struck out the testimony of the witness, John Layton, after objection had been made by the defendant to the motion, which objection was overruled, and an exception taken and allowed accordingly.

11. Because the Court on motion of the State struck out the testimony of the witness, J. Summerill Davis, 10 after objection to the motion had been made by the defendant, which objection was overruled, and an exception taken and allowed accordingly.

12. Because the Court on motion of the State struck out the testimony of the witness, Edward Summerill, after objection to the motion had been made by the defendant, which objection was overruled, and an exception taken and allowed accordingly.

13. Because the Court permitted to remain in the record that portion of the testimony of Emilia Hoelin which is the subject matter of the First Assignment of Error, from the time it was given before the jury on December 3rd until December 6th when the same was stricken from the record by the Court as having been inadmissible in the first instance; but such striking from the record was done by directing the jury's attention to such other portions of witness's testimony, as to render their prominence to the jury, in all which there was error, to the manifest injury 20
30 of the defendant.

14. Because the Court refused to direct a verdict of not guilty as to the defendant after the close of all the evidence, after motion to that effect had been made by the defendant, which motion was overruled, and an exception taken and allowed accordingly.

15. Because the Court refused to direct a verdict of not guilty as to the defendant on the charge of murder

in the first degree after the close of all the evidence, after motion to that effect had been made by the defendant, which motion was overruled, and an exception taken and allowed accordingly.

10 16. Because the Court refused to direct a verdict of not guilty as to the defendant on the charge of murder in the second degree after the close of all the evidence, after motion to that effect had been made by the defendant, which motion was overruled, and an exception taken and allowed accordingly.

17. Because the Court refused to charge the request entitled No. 1, when properly moved by the defendant at the close of all the testimony and before summation had begun.

20 18. Because the Court refused to charge Request No. 2, when properly moved by the defendant at the close of all the testimony and before summation had begun.

19. Because the Court refused to charge Request No. 3, when properly moved by the defendant at the close of all the testimony and before summation had begun.

30 20. Because the Court refused to charge Request No. 4, when properly moved by the defendant at the close of all the testimony and before summation had begun.

21. Because the Court refused to charge Request No. 6, when properly moved by the defendant at the close of all the testimony and before summation had begun.

22. Because the Court refused to charge Request No. 7, when properly moved by the defendant at the close of all the testimony and before summation had begun.

23. Because the Court refused to charge Request No. 8, when properly moved by the defendant at the close of all the testimony and before summation had begun.

24. Because the charge of the Court taken as a whole was improper and erroneous in law in that it stressed not the evidence but the "contentions" of the prosecution, and the law of homicide as based thereon; in which there was manifest error to the injury of the defendant, and to which an exception was taken. 10

25. Because the Court charged that "the State has offered evidence to prove the defendant did kill and murder his wife, Ada Danser," in which there was manifest error to the injury of the defendant, and to which an exception was taken.

26. Because the Court charged in language that assumed it had been proven "that the deceased woman could not and would not have the strength enough to pull the trigger except by pulling the trigger with her thumb", in which there was manifest error to the injury of the defendant, and to which an exception was taken. 20

27. Because there was manifest error in this where the Court charged the jury "The State contends that the bullet from the revolver would travel upward", to the injury of the defendant, and to which an exception was taken.

28. Because there is manifest error in this where the Court charged the jury that "the State contends that all of this and other testimony which I need not quote showed that the defendant killed his wife, and that such killing was wilfull, premediated and deliberate." 30

29. Because there is manifest error in this where the Court said "that the defendant and had some words, and the argument waxed hot, this is not such provocation within the meaning of the law to reduce a killing from

murder to manslaughter", to the injury of the defendant, and to which an exception was taken.

30. Because there is manifest error in this where the Court in its charge to the jury said, "You should consider the fact where it is a fact, that some of the witnesses in this case have been convicted of crime, and to determine whether or not their credibility have been affected thereby, and where it appears that witnesses have made contradictory statements, you should consider that fact and determine their credibility as affected thereby," to the injury of the defendant, and to which an exception was taken.

31. Because for other manifest and obvious defects in the record aforesaid, the same is without sufficient warrant in the law to entitle a judgment for murder in the first degree against the defendant and in favor of the State of New Jersey.

20

HENRY BURT WARE,
Attorney for Plaintiff in Error.

[ENDORSED]

COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY,
Defendant in Error,

vs.

30

EDWIN DANSER,
Plaintiff in Error.

IN ERROR.

ASSIGNMENT OF ERRORS.

HENRY BURT WARE, Atty.

Filed January 9, 1936.
THOMAS A. MATHIS, Clerk.

COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY,	}	IN ERROR
Defendant in Error,		
vs.		REASONS FOR
EDWIN DANSER,		REVERSAL.
Plaintiff in Error.	)	

10

And now, to wit, on this ninth day of January, A. D. nineteen hundred and thirty-six, comes the said Edwin Danser, by his attorney, Henry Burt Ware, and says that in the record and proceedings aforesaid, and also, in the giving of judgment aforesaid, there is manifest error, and the said Edwin Danser says the judgment should be reversed, and assigns the following reasons:

1. Because the Court charged the jury that there was evidence that the deceased came to her death by the act of the defendant. 20

2. Because the Court charged the jury that there was evidence that the defendant, wilfully, deliberately and premeditatedly killed the deceased.

3. Because the Court submitted to the jury that there was evidence on which a verdict of murder in the first degree could be based.

4. Because the Court charged the jury that there was evidence that the defendant had threatened the life of the deceased. 30

5. Because the Court charged the jury that the revolver with which the life of the deceased was taken was the property of the defendant.

6. Because the Court charged the jury among other things that the defendant kept this revolver in a box.

7. Because there was no evidence of any kind that the deceased came to her death as the result of a gunshot wound at the hands of the defendant.

8. Because the Court permitted a conviction of the defendant to be had on a case made up by the prosecution making its proofs wholly upon deductions of witnesses based on the statement of the defendant that when the shots were fired in describing the position of his wife in the room, said "I do not know but believe she was in bed."

9. Because the Court in its charge to the jury submitted the case for its findings on the testimony of certain witnesses on theories advanced by them based entirely on the statement of the defendant that when the shots were fired, he, the defendant said, in speaking of the position of the wife, in the room, "I do not know but believe she was in bed."

10 20 10. Because the Court in its charge to the jury, charged that the evidence of Doctor Dunn to the effect that he was unable to pull the trigger of the revolver, should be taken as constituting the contention of the prosecution that the deceased did not come to her death as the result of suicide.

11. Because the Court in its charge to the jury directed its attention to the evidence of one Ruggiero to the effect that it would have been impossible for the deceased to have killed herself.

30 12. Because the Court permitted the case to go to the jury to determine the defendant's guilt of murder in the first degree, wholly upon the theories of the prosecution of how deceased could have committed suicide from defendant's explanation where his wife was when he the defendant was in the act of leaving the room.

13. Because the Court charged the jury among other things that they could consider the evidence that the defendant desired to get control of the money which was

kept in the house and received from the operation of the business.

14. Because the Court charged the jury among other things that there was some jealousy between the defendant and his wife.

15. Because the Court submitted to the jury contentions of the prosecution and without regard as to there being any evidence of such contentions, and on which the jury might predicate its findings. 10

16. Because the Court in its charge to the jury submitted the case for its findings not on the whole evidence but on the testimony of certain witnesses alone.

17. Because the case of the prosecution ignored the fact that the deceased had been found lying on the floor immediately after her death and in close proximity to the revolver, as well as the evidence of the witness, Doctor Dunn in his explanation of how a person shot as was the deceased, would act in respect to her falling after death, and the position of the body on the floor, all which was ignored by the Court in its charge to the jury. 20

18. Because there was no evidence of any kind, and without regard to the degree of homicide, that the deceased came to her death at the hands of the defendant.

19. Because the Court after certain witnesses had testified to the good reputation of the defendant as a quiet, peaceful man, struck from the record their testimony on the ground of their incompetency to testify. 30

20. Because the testimony in the case being largely circumstantial in its nature, the facts necessary to the conclusion sought by the prosecution were not consistent with each other, and with the principal contention that the defendant alone killed his wife, and did not in reaching such a result produce thereby an effect to a reasonable and moral certainty of the guilt of the defendant.

21. Because the circumstances in the case did not render probable the guilt of the defendant rendering the facts incompatible with innocence and incapable of any other explanation than that of guilt.

22. Because the circumstantial evidence in the case on which the prosecution was based and predicated, did not exclude the hypothesis of the defendant's innocence, and was therefore a fair and reasonable conclusion on the whole body of the evidence.

- 10 23. Because upon the entire record of the proceedings removed to this Court on the writ of error, and being examined, it does not disclose such a case of fact as to warrant a finding of murder in the first degree.

HENRY BURT WARE,
Attorney for Plaintiff in Error.

[ENDORSED]

20 COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY,
Defendant in Error.

v.

EDWIN DANSER,
Plaintiff in Error.

On Error

30 REASONS FOR REVERSAL.

HENRY BURT WARE, Att'y.

Filed Jan. 9, 1936.

THOMAS A. MATHIS, Clerk.

COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY,	}	IN ERROR TO THE
Defendant in Error,		SALEM COUNTY
vs.		COURT OF OYER
EDWIN DANSER,		AND TERMINER.
Plaintiff in Error.	}	JOINDER IN ERROR.

Now comes the defendant in error by its Prosecutor 10
of the Pleas for the County of Salem, and says that it
has inspected the errors assigned by the plaintiff in error,
as well as the reasons assigned for reversal, and alleges
that no errors have been committed, as fully appears by
the record returned by the writ in this cause; and there-
fore, it prays that the conviction and all things touching
the same may be affirmed.

WILLIAM A. W. GRIER,
Prosecutor of the Pleas of the County of
Salem, Attorney for the Defendant in 20
Error.

[ENDORSED]

COURT OF ERRORS AND APPEALS.

THE STATE OF NEW JERSEY,
Defendant in Error.

v.

EDWIN DANSER, 30
Plaintiff in Error.

In Error

JOINDER IN ERROR.

W. A. W. GRIER,
Prosecutor of the Pleas
Atty. for Defendant in Error.

Filed Jan. 9, 1936.

THOMAS A. MATHIS, Clerk.

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NEW JERSEY COURT OF ERRORS AND APPEALS

THE STATE OF NEW JERSEY,	}	IN ERROR TO THE	
Defendant in Error,			SALEM COURT
v.			OF OYER AND
EDWIN DANSER,			TERMINER.
Plaintiff in Error.			

BRIEF OF PLAINTIFF IN ERROR

Plaintiff in Error was convicted in the Salem Oyer and Terminer of murder in the first degree, growing out of the death of his wife, with a recommendation of life imprisonment. Thirty-two assignments of error and twenty-four reasons for reversal are noted, several of which are duplicatas, a number of them may be considered together, and others are abandoned as part of this appeal. The entire record under Section 136 of the Criminal Procedure Act is brought by the writ, the certificate of the presiding judge appearing on page 394 of Case, lines 30 to 38.

Assignments 14, 14½, 15, 16, and Reasons 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 18½, 20, 21, 23, may be considered together in bringing up the question, was the finding of murder in the first degree warranted on the weight of the evidence as provided by the statute of 1921. Was there any evidence to show a willful, deliberate and premeditated killing in the language of the indictment, or as provided for by Section

36 of our Crimes' Act, such a homicide as constitutes a willful, felonious one with malice aforethought? Was there any evidence of premeditation indicative of a mental entertainment of a design to kill in the language of *State v. Mangano*, 77 L., 500, and which in the case of Agnew, 10 N. J. L. J., 165, was denounced as the essence of this kind of killing; or at the most and really as forcing the result, was not the situation, one where the mental state of the accused was incapable of deliberation and premeditation as in *State v. Close*, 148 Atl., 764.

Our thought of murder of this nature contemplates the killing of another with a sedate, deliberate mind and formed design which may be manifested by circumstances disclosing the intention or design such as antecedent menaces or threats, a former grudge or ill-will towards the deceased. All of the isolated instances laboriously produced to show such a state of mind were of a period long past, and while admissible for what they were worth, their effect is neutralized by the inescapable fact that these people lived together in the main harmoniously, that the accused was in the habit of making presents to his wife, that she visited him at the State Hospital, and that the worst construction that could be placed on the words that passed between them on the night of the catastrophe, was some words concerning the State Police being allowed to frequent the tavern. If the wife was so aroused over her husband drinking then the situation was as in the *Close* case, one showing an absence of deliberation and premeditation. It is obvious that the only first-handed evidence in the case showing the mental state of the deceased as indicative of suicide, that is the evidence given by Edna Barrett (Case p. 302-316), Marie Fagen (Case p. 316-323), Hilda Bartie (Case p. 295-302) and

Eldridge Bevis (Case p. 323 to 330) was wholly disregarded and without any apparent reason.

Under the reason "that the verdict of murder in the first degree was against the weight of the evidence," and bearing in mind the several judicial pronouncements that this point invoked under the statute of 1921, the Court is not required to pass on the question "whether it was beyond a reasonable doubt" or whether the "Court if deciding the matter in the first instance, might have found a different result," we still feel that this case was without the proofs from which a fair reading of the testimony would give rise to a feeling that the death of the deceased was the result of a willful, deliberate and premeditated killing at the hands of another. While it is not sought to have the Court pass upon any disputed evidence, and not unmindful of the rule aimed at the verbosity of counsel, yet bearing in mind that this is a homicide case, that the evidence is meagre in its quantity and generally circumstantial in its nature, we feel that it should be commented on as this point is considered.

It is admitted that on several occasions the plaintiff in error quarrelled with his wife, which resulted in a magistrate holding him under a peace bond. But it is pointed out this evidence went back a number of years and is too remote. As against any inference of ill-will that this gives rise to, plaintiff in error at the beginning of 1935, bought his wife an automobile, and that to please his wife, he voluntarily went to the State Hospital the same year for the drink treatment, that he was visited there by his wife, and that he agreed to buy her at this time a valuable diamond ring. That any trouble between them was due to his having broken her automobile the

afternoon of her death. It is true that she was greatly angry with him for having again drank to excess. The prosecution charged this, and yet such being the case why was the evidence of Eldridge Bevis, *supra*, rejected. This man was the only person who talked to her on that day and who said she told him not once but twice that if her husband had started drinking again she intended to kill herself.

There is no testimony to connect the plaintiff in error with the revolver which was loaned to both husband and wife a number of years ago for protection from hold-ups. Indeed all the testimony in the case was that the wife exercised ownership and control over it. That she kept it concealed wrapped in oily rags in a compartment in the chiffo-robe, that on one occasion she had it repaired and cleaned, (Florence Hawn, Case p. 144, l. 20 to 25), (Helen Sparks, Case p. 172 to 174) and further the undisputed evidence was that during the early part of 1935, she had shown it to Edna Barrett and Marie Fagan (Case p. 302, 316) accompanied with language to the effect that if the occasion arose she might use it to end her life.

An important piece of evidence claimed by the prosecution was that of Emilia Holien (Case p. 96, l. 1 to 10) who testified that after hearing two reports of a revolver, she heard plaintiff in error say "Die, God damn you, die." Her husband, Theodore Holien who was awake and heard the revolver reports, did not hear this from the same point, but did hear plaintiff in error say "Ada, why did you do this?" (Case p. 117). These parties all agreed that the husband and wife were arguing, and the tent was only three feet from the house.

Several witnesses testified to quarrels between husband and wife, in which they pictured the husband as the aggressor, but the weakness of all this testimony lay in the fact that it was in the remote past, and parties seemed to live amicably down to the time of the wife's death.

Above everything else the piece of evidence that was stressed the strongest against the plaintiff in error that from the very entrance of the State Police in the matter, at the Coroner's inquest, and all through the trial, was that he said in answer to the question where was his wife, when as he started to go into the store room to get a drink of water, and the two shots rung out followed by a muffled one, that she was "I believe lying on the couch." (Case p. 283, l. 1-20), (Case p. 178, l. 1 to 6) and despite this, the fact is it was not rebuttal (Case p. 369, l. 34 to 37), or again "I don't know but I believe she was lying on the bed."

This explanation of the plaintiff in error is the whole keystone of the prosecution's case. They produced evidence showing the marks in the wall and on the table of the bullets, and then sought by evidence from high-powered experts that it was physically impossible for the deceased to have discharged the revolver while lying on the couch from that angle to have struck the places of lodgement. With that we do not seriously disagree. But the fallacy of the conclusion that the deceased did not discharge the revolver, lies in the fact that this explanation of the plaintiff in error was at the most a mere belief as he was without knowledge of the fact. The room was in darkness at a late hour of the night, if the prosecution is correct, he had been drinking to excess, he had been sitting in a chair, smoking, occasionally get-

ting up, and carrying on a conversation with his wife, whom he assumed was lying on the couch. When he got up to leave the room, and while in the act of leaving it, his back was turned to the room, as well as to his wife, and it was physically impossible for him to see where she was. (Ditzell, Case 39 l. 30 to 37). There is an outstanding physical fact that negatives this assumption, and that is the fact that the deceased was found dead on the floor of the room, with a lighted flash-light under her body. It is agreed that if she was shot while lying on the couch her body would not have been found on the floor. The wound on the body of the deceased, HAD A SMUDGE OR POWDER MARKS AROUND, INDICATING THAT THE WEAPON WITH WHICH IT WAS INFLICTED MUST HAVE BEEN HELD WITHIN A FEW INCHES OF THE BODY, AND OPEN TO THE INFERENCE THAT IT WAS SELF-INFLICTED AS WELL AS THAT OF AN ASSAILANT. Among other evidence offered is the fact that the plaintiff in error sent word at once to the State Police Barracks, informing them of the affair, made an immediate statement which was never materially changed, as well as testified at the Coroner's inquest. Another curious angle in the case is that he called the Sheriff on the telephone a short time before his wife met her death, which is hardly indicative of one who is contemplating murder.

It is submitted that this statement of the case of the prosecution falls short of a case on which a willful, deliberate and premeditated killing can be sustained.

It is submitted that the statute of 1921 put back in

our Criminal Procedure Act the same situation that heretofore obtained in appellate proceedings where the whole record is brought up with the writ of error. And that the situation in the case at bar is as lacking in substantive force as is disclosed in *Kohl v. State*, 59 *Law*, 445, which lead to a reversal on the lack of proof.

In *State v. Lanto*, 98 *N. J. L.*, 401, Mr. Justice Kalisch in a searching review of a conviction for rape reversed the conviction under this provision of the Criminal Procedure, and his review and findings are upheld by this Court in 99 *N. J. L.*, 94.

Now it is contended that this conviction rests not upon facts from which a legal inference can be drawn but upon a statement of the plaintiff in error which can be viewed as no more than mere guesswork, and on which a superstructure of hypothesis to show guilt has been built by experts.

The facts alleged as the basis of any legal inference must be clearly proved, and beyond reasonable doubt connected with the *factum probandum*.

Wills on *Cir. Ev.*, 287.

There being no direct evidence against the plaintiff in error it must follow the prosecution must necessarily rely upon circumstantial evidence in the record as its basis for the belief that he is guilty. It follows therefore that this evidence must be found in some act or statement of the plaintiff in error which constitutes the foundation from which the propositions advanced by the prosecution's experts derive their authority. This can only be predicated upon the explanation of the plaintiff in error that his wife was on the couch when the shots were fired. And this in the doctrine of circumstantial

and presumptive evidence could only be termed as proof by falsehood. In Mr. Lawson's work on Presumptive Evidence on page 530 as one of the Presumptions in Disfavor of Innocence, is laid down as Rule III

"The fact that the accused has given false, inconsistent or contradictory accounts of the circumstances of the crime or of his relation to the act, raises the presumption that he is the criminal."

Applying the test laid down by Wills on Circumstantial Evidence "in order to justify the inference of guilt the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation upon any other reasonable hypothesis than that of guilt." Page 300.

Where therefore under the facts is this hypothesis the only tenable inference? When a man in a seriously upset, nervously unstrung situation as was the plaintiff in error when asked about his wife's position at the time of the tragedy says that he doesn't know but believes that she was lying on the couch, he is saying not much more than that he does not know exactly where was her position. And when the fact is considered as to the darkness of the room and the very probable status of the plaintiff in error as to a state of intermittent somnolence at the time, as well as the fact they found her lying dead on the floor, which could not have been produced if shot on the couch, it could not be such a physical condition that was reasonably capable of furnishing the incentive to and basis of falsehood. Certainly he was not within the rule laid down by Lawson, *supra*. And if not a false statement then all proofs thereunder, the inferences, and contentions of the prosecution are insufficient to warrant a finding of murder in the first degree.

Furthermore the connection of the plaintiff in error

with the revolver, if any there be was only in the remote past, and during the past two years it had been in the possession of the wife, and the argument that he must have known where his wife kept it, is not such an inference under the law of circumstantial evidence that can redound to a defendant's guilt more strongly than does the presumption of innocence.

The evidence of Mrs. Holien we assume was intended to show deliberation. As against such argument the prosecution had all through the case endeavored to show that the plaintiff in error was recently released from the State Hospital, that he had again relapsed into drinking, and that his state of mind was that of a man crazed with drink. Is such a contention logical when the Holiens both testify that he said after the shooting, "Ada, why did you do it," as connoting a clear, comprehensive mentality, from which the remark in question is only indicative of one of two inferences, that the remark was only a cold, sinister, calculating mind, which has no basis in fact; or else it was a cry from the heart of one who is suddenly confronted with a tragedy.

It is respectfully submitted that the mere question of whether there was evidence on which a finding of guilt can be supported was and is not the sole question of this inquiry; but whether there was evidence that the defendant willfully, deliberately and of his malice aforethought killed the deceased. There are several degrees to an unlawful killing, and it would seem that a finding of the nature of the present case is indicative that the essentials of a first degree were not considered, and certainly not in the sense of a consideration whether the proof offered was beyond a reasonable doubt; but on

the contrary such a finding that is against the weight of the evidence as to give rise to the inference that it is the result of mistake, passion, prejudice or partiality. *State v. Karpowitz*, 98 N. J. L., 546.

Assignments of Error Numbers 9, 10, 11, 12 bring up for review the action of the trial court in striking and expunging from the record the testimony of Edward Summerill, Harry Seehouz, John Layton and J. Summerill Davis, (Case p. 246-350; p. 355 to 357; p. 360 to 363 and 363 to 365) all of whom had qualified as men of standing in the neighborhood where the plaintiff in error lived, who knew other people who knew him, that they knew his reputation for peace and harmlessness in the neighborhood where he lived to be good, and based it on the fact that they had heard nothing against him. In cross-examination it was sought to show that they had never heard the reputation of the plaintiff in error discussed for the quality in question, and assumed from lack of criticism that it was good, and that was based on what they thought. While it is true that evidence of reputation is the estimate he is regarded in his own community in the judgment of others, the determination of that estimate can only be found in the view of those persons who are acquainted with him, with others who knew him, and who after a number of years on the basis of his acquaintance, opportunities of knowing him, and above all the outstanding fact that he has heard nothing against him, assume that such reputation is good. It necessarily has to be his opinion inasmuch as he has heard nothing against him relative to the peculiar quality interwoven from the nature of the crime charged, it follows as a matter of logic and common sense, that it becomes his own finding as the estimate of the neighborhood. The

objection to this can be based only on a system of casuistry that can appeal only to the pedant, and certainly not to common sense.

In *Regina v. Rowton*, 10 *Cox's Crim. Cases*, p. 25, 34, Sir Alexander Cockburn, admitted the competency of the evidence of a witness who should say "I never heard anything against the character of the person of whose character I come to speak," declaring that "although given in the negative form such testimony as is the most cogent evidence of a man's good reputation, because one's character does not get talked about until there is some fault to be found with it."

In *People v. Davis*, 21 *Wend.*, 309, Chief Justice Nelson, afterwards Justice of the United States Supreme Court, said "Character is proved by reputation, and evidence that those who have known the man in the community have never heard anything against him relative as a peaceable man, is evidence of good reputation in that respect."

To the same effect is cited *Edington v. U. S.*, 164 *U. S.*, 361; *People v. VanGraasback*, 189 *N. Y.*, 408; 82 *N. E.*, 718; 3 *Wigmore on Evidence*, 1986; *Holmes v. State*, 88 *Ala.*, 2629; *Clifford v. State*, 148 *Ill.*, 173; *Wharton on Crim. Ev.* (11th Ed.), Vol. 2, p. 374, Sec. 334.

And the very recent case of *State v. Baldanzo*, 106 *N. J. L.*, 498, decided by this Court where practically the same situation resulted in a holding by this Court adverse to the judicial ruling raised by these assignments of error.

Assignments of Error 7 and 8 bring up for review certain questions to the witnesses, John Johnson and

Charles Locusson (Case p. 339, l. 29 to 37, and p. 340, l. 1 to 15, and Case 334, l. 1 to 38, and p. 345, l. 1 to 4), on cross-examination to the effect if witness ever heard accused had been convicted of the illegal sale of liquor nearly 20 years before, as well as the hypothetical question if witness knew what was testified in this case, would he still say he possessed a good reputation. To the first proposition the first question was irrelevant to the inquiry in question i. e., the reputation of the accused for peace and quietness, for which it would seem from the standpoint of logic might be possessed by one without regard to his violation of the excise laws. The answer to the second question permitted is that the witness was called to testify to a situation in *esse*, as he found it as of the time he was so testifying, and not on a hypothesis based on matters alleged to exist in the case, which could only be answered by one qualifying as an expert in metaphysics. It would seem that the situation in question was so patently erroneous as not to require any citation of precedent.

Assignments of Error 1 and 13, bring up for review a situation disclosed on pages 108 to 111 of the State of the Case, and on page 366 of the Case, lines 1 to 28.

The first of these assignments deals with the Court permitting the witness, Emilia Holien, to be asked a question that was rankly hearsay, but of a highly material nature as what another witness had testified to on another occasion. This occurred on December 3rd, and was objected to for that reason and an exception taken to it. Later, and on December 6th, the Court reached the conclusion that the matter was objectionable, and that the objection was well taken, and struck it from the record.

The vice of this consisted in the Court having permitted the matter to have remained with the jury for over three days before expunging it from the record. It follows obviously that if the matter was so bad that the Court on its own initiative after three days took this action, the harm that had occurred during this period it was before the jury must have worked the plaintiff in error manifest injury.

In *Barth v. State*, 39 Tex. Cr., 381; 75 Am. S. R., 955, and decided in June, 1898, the defendant was charged with the murder of his wife. An alleged statement of the defendant to a doctor was admitted over objection of the defendant. After an interval of 20 minutes, the Court on its own motion informed the jury that the evidence was inadmissible, and that he withdrew such testimony from them, and they should not consider it in the case. The Court of Criminal Appeals, however, said "But it is said that the error of the Court in admitting this testimony is cured by the subsequent exclusion thereof and withdrawal by the Court of said testimony from the consideration of the jury. This question has been before the Courts of this State in a number of cases. See *Railway v. Levy*, 59 Tex., 542; *Miller v. State*, 31 Tex. Cr. Rep., 609. We think the true rule on this subject to be, if the testimony is not of a very material character it may be withdrawn by the Court, and the error thus cured, but if, on the contrary, the evidence was of a material character and was calculated to influence or affect the jury the withdrawal of the same from their consideration would not heal the vice of its admission. As was said in *Railway v. Levy*, *supra*, "it is true that the admission of such kind of testimony which a jury is afterwards directed not to consider, may not be sufficient for a reversal,

but we are of the opinion that where, in cases like the present, evidence which is calculated to arouse the sympathies of the jurors in favor of the party who offers it, and to arouse the feelings of the jurors against the opposite party, is erroneously permitted to go before the jury, it is ground for reversal." If this is a good rule in civil cases, by a stronger reason it ought to be the rule in criminal cases. In our opinion the statements made by the defendant were of a material character. Indeed the testimony elicited from McDougal was the strongest evidence the State had to prove express malice, and we do not believe that the withdrawal of this testimony by the Court could eradicate its effect from the minds of the jury."

In the only case in New Jersey, on this subject, *State v. Andoloro*, 108 *Law*, 47, on page 50 of the reported case it appears that the evidence attacked was "immediately following their admission they were stricken from the record as illegal on motion of the defendant, and the jury was instructed to disregard them," the appeal Court holding that the evidence was "so eradicated from the case that their admission could not have injuriously affected the defendant." This is quite different from the case at bar, where the same was permitted to remain with the jury for three days, it was highly material, and so greatly viewed so as making proof of express malice that the prosecution had brought the witness from Minnesota to testify. It is submitted that this situation was of injury to the plaintiff in error.

Assignments 2 to 6, inclusive, have reference to a series of questions propounded to the witness, Helen Sparks, and while they were objectionable from the

standpoint of being too general and remote, they are abandoned as part of this appeal.

Reason 4 is aimed at that portion of the charge of the Court where it assumes that there is evidence that the defendant had threatened the life of the deceased. There is no evidence of that whatever, and it is based wholly upon a construction placed upon what the Court in its charge termed as "contentions of the prosecution." At the most this could only refer to the efforts and arguments of the prosecution to bring about a certain result, and falls short of proof. This was misleading and unquestionably was provocative of injury to the defendant.

Reasons 5 and 6, to the effect that the weapon was the defendant's and kept by him in a box, had no basis in fact. On the contrary, the proofs were that the weapon was kept hidden by the wife, who assumed a property interest therein. (Case p 380, l. 25 to 28).

Reason 10 refers to the testimony of Doctor Dunn, to the effect that he could not pull the trigger of the revolver, while in a certain position, as indicative that suicide was not the cause of the death of the deceased. Case p. 79 to 84). The witness denied that he was an expert, and the basis of his testimony on this phase was wholly that of a layman and wholly speculative and certainly not to be taken in a serious way. Further, it was based on the idea that the act of suicide was committed while deceased was lying on the couch, which was based on the idea transmitted from the remark of the plaintiff in error, that when he left the room or rather was in the act of leaving it, he imagined his wife was still on the couch. We have argued this matter already in the brief. We feel that the Court in charging in this regard conveyed the idea that

the matter in question was a matter of proof, whereas at its most it could be nothing but a theory.

The same argument refers to that portion of the charge of Court where the Court directs the attention of the jury to the testimony of Ruggiero (Case p. 377, l. 25 to 29), which at the most was a theory, and an undue prominence was given to it.

Reasons 13 and 14 are directed to that part of the charge (Case p. 380, l. 10 to 13) where the Court directed the attention to the jury that it was claimed defendant's motive was to get possession of money, and that there was jealousy between the parties. There is not a scintilla of evidence in the proofs for the Court to incorporate such matters in its charge. It has no basis in fact. It is needless to remark that this could have had no other effect than be of injury to the plaintiff in error.

By Reason 17, it is claimed that the Court in its charge ignored that part of Doctor Dunn's testimony (Case p. 85, l. 20 to 38; p. 86, l. 1 to 19) which was to the effect that the body of the deceased after death was consonant with the claim of suicide as well in that disputed situation in regard to the position of the revolver. Despite this the Court stressed in its charge (Case 377, l. 5 to 12), that the position of the revolver would not be consonant with suicide.

By Assignment 24 it is pointed out that the Court all through its charge on pages 375, 376 and 377 of the State of the Case, did not in referring to the testimony recite the evidence, but made use of the expression as the claim or contention of the prosecution, in the language of "The State claims," "the State contends," etc., all of which conveyed to the jury that the several "claims" or

"contentions," represented proofs, as by way of illustration, Assignment 25, that the "defendant had killed and murdered his wife," Assignment 26, that the "deceased woman could not and would not have the strength to pull the trigger except by pulling the trigger with her thumb."

Assignment 27 "that the bullet from the revolver would travel upward."

Assignment 28 "the State contends from this and other evidence, etc., that the defendant killed his wife, etc."

It would seem obvious that the method employed by the Court to review the evidence by expressing not just what the witness said was in effect to convey to the jury a judicial affirmance to the claims of the prosecution, and to take away from the jury its absolute province to pass upon questions of fact. If it was the intention of the Court to merely express these matters in the sense of criminal pleadings, it certainly employed a most unsatisfactory method, and one that must have conveyed to the mind of a layman, that the matters referred to were proven facts, otherwise they would have not been singled out by the Court to refer to them in a way as to connote judicial approval.

It is no doubt elementary that where the judge in charging the jury in a criminal case, that the testimony shows a certain state of facts prejudicial to the defendant to state the testimony is one thing, to declare what it shows is another and a very different thing. It is for the jury exclusively to determine what the testimony shows. *Peo. v. Casey*, 65 Cal., 200.

The Court is expressly forbidden to charge the jury on questions of fact. *Thompson on Trials*, Sects. 2280 to 2282.

Assignment 30 directs attention to that part of the charge of the Court (Case p. 385, l. 23 to 29), where the Court directs the jury to consider the fact that "some of the witnesses in this case have been convicted of crime" and "where it appears that witnesses have made contradictory statements," and "you should consider that fact and determine their credibility as affected thereby."

We feel that was an unfair attack on some witnesses of the defendant, who had been the subject of an unsuccessful attack on the part of the prosecution, and practically conveying to the jury that the Court viewed their credibility in a doubtful light, and for the jury to take notice thereof. It would seem that this was an invasion of the province of the jury and the weight of the evidence given by the witnesses of the defendant. It is a rule applicable alike in civil and criminal cases, that it is error for a judge to directly or inferentially to express an opinion to the jury or in their hearing as to the credibility of a particular witness, or as to the weight they should attach to his testimony. *Rice v. State*, 3 *Texas App.*, 451; *Com. v. Barry*, 9 *Allen (Mass.)*, 276; *Thompson on Trials*, Sect. 2421. This part of the Court's charge follows as a matter of sequence immediately where the Court was dealing with witnesses as to reputation, and it might seem as though it was dealing with this phase of the case. At any event there would not seem to be any basis in fact for this attack, but it cannot be viewed in any other way except as an injury to the defendant in the submission of his defense.

Lastly, plaintiff in error, directs attention to the Assignments of Error 17 to 22 inclusive, referring to the refusal of the trial Court to charge certain requests to

charge submitted to the Court, and principally refused except as having already been covered with the exception of Request No. 6 which the Court denied outright. These requests are contained on pages 391 and 392 of the State of the Case, and their denial by the Court is to be found on page 387. We do not think the matters contained in these requests were fully covered by the charge. We say this in particular with the first four requests dealing with the subject of circumstantial evidence. As has been remarked before the State sought to show the guilt of the defendant on evidence wholly circumstantial in its nature, the direct evidence being very meagre. In dealing with the circumstantial evidence it was the argument of the defense, that the inference claimed therefrom by the prosecution was a forced one, in that many of the series of facts and circumstances were inconsistent with each other, and that taken as a whole, they did not exclude the hypothesis of innocence; and that the defendant was entitled to have the benefit of every reasonable doubt not only on the whole case, but upon each fact necessary to the conclusion sought to be established. In dealing with this question it must always be borne in mind that the keystone of the case for the prosecution were the idle and foolish words of the defendant in trying to answer the question where his wife was at the time he sought to leave the room of darkness when the shots rung out, "that he did not know but believed she was on the couch." Of course he did not know as it would have been beyond the ability of anyone under similar circumstances to have answered positively and exactly. On this basis the prosecution builds up its case that the deceased woman could not have fired from the couch as the angle from which the shots were fired could not have been the couch

to have found lodgement in the wall and table; that she could not, as a matter of argument, have shot herself while lying on the couch on account of the geography of the wound. As against this from the prosecution's own case is the blackened surface of the woman's night-gown showing the weapon must have been held close to the body, the fact the body was on the floor and could not have reached this resting place if shot on the couch; that there must have been three shots fired, although the Holiens heard but two, and above all the remark the accused was heard to make, "Ada, why did you do this?" Further, it may be remarked, was the strange call on the telephone by him to the Sheriff of the county, and his having the alarm sent to the State Police, courting a full inquiry and testifying at the Coroner's inquest. From the record in the case it may be gleaned that the accused was no mental type, the cold, calculating, intelligent fellow, but a person who principally sinned against himself by his inordinate indulgence in drink, and these factors are not in accordance with one of this type.

We dwell upon these matters for the reason that the requests to charge were important and pertinent in this regard as requiring in the proof by circumstantial evidence, that the right of the accused to have the benefit of a reasonable doubt on every material fact and factor in the alleged chain of circumstantial evidence shown, that all these facts and factors must be consistent with each other, and the whole pointing only to the inference of guilt and not susceptible of any other reasonable explanation and above all of innocence. We say that the proofs submitted by the prosecution were not exclusive of the innocence of the accused, and that the charge did not fully and specifically deal with these questions. For

this reason the defendant was entitled to have these instructions charged on these points, and the Court's refusal so to do constituted error.

The several other Assignments of Error and Reasons not specifically dealt with by number in this brief where from their nature they may bear some relation to some other Assignment or Reason argued herein may be taken to be included therein. Otherwise, they be considered as having been abandoned.

THE JUDGMENT OF THE SALEM OYER AND
TERMINER SHOULD BE REVERSED.

HENRY BURT WARE,
Attorney for Plaintiff in Error.

F. NEWLIN ACTON,
Of Counsel with Plaintiff in Error.



NEW JERSEY COURT OF ERRORS AND
APPEALS.

THE STATE OF NEW JERSEY,
Defendant-in-Error,

v.

EDWIN DANSER,
Plaintiff-in-Error.

IN ERROR TO THE SALEM COURT OF OYER AND
TERMINER.

BRIEF OF DEFENDANT-IN-ERROR.

Plaintiff-in-Error was convicted in the Salem Oyer and Terminer of murder in the first degree, growing out of the death of his wife, with a recommendation of life imprisonment.

The plaintiff-in-error and his wife, the decedent, lived in a property situate at the corner of what is known as Harding Highway and Auburn Road in the Township of Upper Penns Neck, Salem County, New Jersey. The property, as will appear from the exhibits marked in evidence, consisted of

a filling station, a taproom, dwelling and in the rear of the property four tourists cabins. The entire front of the building facing on Harding Highway was used as a taproom. In addition to the taproom there was a kitchen and dining room and a small bedroom. The bedroom was on the Auburn road side of the house and was approximately 10x11 feet. On the Auburn Road side of the bedroom in the corner was a couch upon which Mrs. Danser slept. Directly opposite the couch and about six feet from the foot of same was an open doorway leading into the taproom, or store as it was more frequently called in the case. There were curtains suspended from the top of the open door and to the right thereof along the wall was a day-bed and also a bureau. There were also two pieces of heavy furniture in this small room. There was also another door opposite the Auburn Road side of the house which led into the dining room, and just inside of this door was a switch where the light could be turned on.

The uncontradicted testimony shows that for some time the plaintiff-in-error and his wife had arguments. On several occasions the plaintiff-in-error became so abusive that his wife had him arrested. About one month prior to the commission of the crime the plaintiff-in-error voluntarily entered the State Hospital in an effort to be cured of the drink habit. He had been home from the hospital about ten days prior to the shooting. The afternoon before the shooting, namely, June 4th, plaintiff-in-error took his wife's car and started to

Brief of Defendant-in-Error

ride around the country. According to his testimony he stopped at a road house somewhere in the vicinity of Bridgeport, Gloucester County, New Jersey, and there had two or three drinks of liquor. Shortly thereafter when he was proceeding in the car along the River Road he had an accident and the car was quite badly damaged. As a result of this accident he was arrested, taken before a Magistrate and fined. Meanwhile, in some manner which is not clear by the testimony, the decedent learned of the accident and procured a friend of hers to drive her to Bridgeport to get her husband. Apparently the decedent was quite angry because of her husband starting to drink again and also smashing up her car, and there was considerable argument between the two of them. Upon arrival back at the taproom and filling station more or less argument occurred until around nine o'clock in the evening. At that time a family of tourists by the name of Holien from Minnesota drove into the rear of the property and asked permission to put up a tent to camp there during the night. The plaintiff-in-error went out and showed them where they could put up their tent, which was just a few feet from the rear of the house. Plaintiff-in-error then went into the kitchen, sat down at a table and had some supper, which his wife had prepared, she standing by the table and he still continuing the argument. At about ten o'clock in the evening, the taproom still being open, plaintiff-in-error went over to one of the tourists cabins in the rear of the property to go to bed. Somewhere in the neighborhood of

1 A. M. he was aroused by a noise out in the road, went out, discovered the witness, Leslie Cole, in driving from the Harding Highway into the Auburn road had gotten off the road with his truck into a ditch and could not get out. The witness, Cole, was employed in a garage about a mile and a half from the Danser property and went into the Danser property to telephone back to the garage and then left. Sometime thereafter plaintiff-in-error left the tourist cabin and went to the rear door of the house where he banged on the door, which was opened by the deceased. Before he entered the house plaintiff-in-error in a loud and angry voice, heard by the Holiens, said, "We might as well have this out right away." (Case, p. 95, ll. 10 to 30.) He then went on into the house and into the small bedroom where the argument continued. After a time things quieted down and according to the testimony of the plaintiff-in-error his wife was lying on the couch where she regularly slept and he lay down on the day-bed. Around 3 A. M. plaintiff-in-error testified that he became thirsty, got off the day-bed where he was lying, and started to go through the open doorway into the store to get a drink of water. He testified that as he reached the doorway, which would only necessitate him taking three or four steps, and in a darkened room where there was no light, suddenly two, and he thought possibly three shots rang out. He further testified that when he started into the store his wife was still on her couch. He then stated that he immediately retraced his steps and went over to the door leading into the dining room and turned

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on the electric light and saw his wife lying on her back on the floor. As will be seen by examining Exhibit S4, there was a rag lying on the deceased's left-hand side opposite her knee, and the testimony of LeRoy Dietzel (Case, p. 17, l. 30; p. 18 to l. 30), was that he picked the revolver up right next to the rag and to identify the spot he placed there a pad, shown in the picture. There was also another oily rag near the door leading from the bedroom to the dining room, which the witness testified was about nine feet from where the deceased's head lay.

Right after the shots were fired Emelia Holien, one of the tourists who was in a tent about eight feet from the rear of the house, heard plaintiff-in-error in an angry voice say, "Die, God damn you, die" (Case, p. 96, l. 10). Immediately after hearing this she testified she heard the shots in rapid succession and then everything was quiet for at least ten minutes. At the expiration of that time Theodore Holien testified that he heard plaintiff-in-error say, "Ada, why did you do it?" (Case, p. 117, l. 5). Theodore Holien's testimony on that point is that approximately ten minutes had elapsed between the time he heard the shots and heard the remark made by the plaintiff-in-error of "Ada, why did you do it?"

It is to be noted that plaintiff-in-error testified that when the shots were fired he was in this open doorway just a few feet from the couch upon which his wife was lying. One bullet went through the open door leading into the store at the point where the plaintiff-in-error claims he was standing (Case,

p. 32, ll. 1 to 30). It is also to be noted that there were no bullet holes in the curtains in this door and it would have been next to impossible for a bullet to have been fired and lodged where it did in the wall in the store without going through the curtains or hitting the plaintiff-in-error.

Plaintiff-in-error at first made the statement that he retraced his steps and went over and turned on the light. When his attention was called to the fact that he could not possibly have done this without stepping on or over his wife, he then said that he went into the store across the front of the house, around through a hallway into the kitchen and then into the dining room and then turned on the light in the bedroom and saw his wife lying in the position indicated by Exhibit S4. The deceased was lying flat on her back by the side of the day-bed upon which plaintiff-in-error claims that he had been resting and in the direct line of her head in the baseboard of the wall at the foot of her couch was another bullet lodged.

The testimony of Frank Ruggerio, a Detective of the New Jersey State Police (Case, pp. 178-179), shows that it was impossible for the decedent to have fired a revolver herself and have one bullet lodge in the baseboard in the bedroom near where she was and another in the wall of the store.

The fallacy of the contention of plaintiff-in-error that his wife committed suicide would probably best be shown by exhibits showing the location of the furniture in the room, the day-bed and cot and places where the two stray bullets lodged, which

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exhibits were admitted in evidence and are produced here.

Dr. James S. Dunn testified that he arrived at the Danser property on the morning of June 5th, 1935, at about 5:40 A. M. (Case, p. 76, ll. 20 to 30). On pages 78 of Case to 81, the witness described the gun-shot wound in the chest of the decedent and told of his experience and that in his opinion it would be impossible for the decedent to have fired the fatal shot herself. Counsel for plaintiff-in-error refer to this testimony on page 15 of their brief as being "wholly that of a layman and wholly speculative and certainly not to be taken in a serious way." They do not, however, refer to the testimony at all of Captain William A. Jones on pages 64 to 72 of the Case. This witness qualified as a firearm expert and was a member of the New York Police Department for thirty-two years and described (page 65 of Case) how he was instructor of pistol practice of the New York Police Department, the various duties he performed, his connection with the District Attorney's Office for consultation on firearm cases; that he had made thousands of investigations, of his study of powder stains on bodies and clothes and the markings of bullets and on shells, and in a very thorough and comprehensive manner qualified himself as an expert. Witness was shown the two slugs of bullets taken from the baseboard of the bedroom and the wall of the taproom and also the bullet removed from the body of Ada Danser, the three empty shells and the nightgown taken from the body of Ada Danser, and he then testified as to

the tests which he made with the same gun which was found by the body of Ada Danser. At page 69 of Case, lines 10 to 20, witness testified that the bullet taken from the body of Ada Danser showed positively that it was fired from the revolver which was in evidence. At page 71 of Case, the witness testified as to the distance from the body that the fatal shot was fired and at line 22 testified that the person who fired the shot had to fire it straight, and at line 34 that it couldn't be turned right or left.

On page 75 of Case the following testimony was given by Captain William A. Jones:

“Q. I show you the gun, Captain, take that gun in question, how many pounds pressure is necessary to pull that trigger, straight on?

A. I have got to guess at this, now, well, about five and a half or six pounds, that way, by cocking it. By pulling the trigger it will run around eight or ten pounds.

Q. Now, if the hand is turned, that relaxes the muscles, does it not?

A. If you flex the wrist it destroys the power of the trigger finger, I couldn't —

Q. Destroys the power of the trigger finger?

A. Yes.

Q. And if you turn around straight you can't pull with the trigger finger?

A. No, sir.

Q. That's correct, is it?

A. Yes, sir.”

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It is to be noted that the wound was on the left-hand side in the chest about an inch or so inside the nipple line and about the level of the tenth rib (Dr. Dunn, Case, p. 78).

It is the contention of the defendant-in-error that from the testimony of Dr. Dunn and the testimony of Captain William A. Jones that it would have been impossible for the deceased, who was right-handed, to have inflicted the fatal wound in the manner described, and it is admitted by plaintiff-in-error that he and his wife were the only persons in the house at the time of the shooting.

It is also to be noted that some few years before the shooting, Borden Danser, father of the plaintiff-in-error, had given him the revolver which was used in the shooting and which revolver was kept in a drawer in the bedroom where the shooting occurred. This revolver was found on the floor on the left side of decedent and near the doorway leading from the bedroom into the dining room was found an oily rag.

LeRoy Dietzel testified to the precaution used in picking up the revolver and wrapping it in paper for taking finger prints (Case, p. 17, l. 10).

The testimony shows that the revolver in question was kept in a drawer wrapped in a rag, the same as the rag found on the floor near the dining room door.

The revolver was turned over to Joseph A. Camp, who was finger print man in the State Police (Case, p. 55). The witness testified that he checked the gun over for finger prints and found none. It is apparent that the oily rag was used to wipe off the gun so

that no finger prints could be observed and it would have been impossible for the decedent to have done so. The more reasonable proposition would be that after the shots were fired, and during the interval of at least ten minutes before the plaintiff-in-error said, "Ada, why did you do this," that the plaintiff-in-error was doing some serious thinking and that he thoroughly wiped off the revolver with the rag, which was found nearby, and after thinking things over he made the statement which was heard by the witnesses out doors.

The plaintiff-in-error tries to show that it is the contention of the State that when this shooting occurred that the plaintiff-in-error was very much befuddled as the result of drinking. As a matter of fact, the testimony of the plaintiff-in-error was to the effect that he had two or three drinks sometime in the afternoon of the preceding day and from the afternoon preceding until the time of the shooting he had not had over six or seven drinks over that long interval.

The testimony of Theodore Holien (Case, p. 114, ll. 10 to 20), was to the effect that he had no difficulty in talking to the plaintiff-in-error and that the plaintiff-in-error talked coherently and made all arrangements with the witness. He apparently must have been in full possession of his faculties but because of the frequent arguments with his wife and his fear of her having him re-committed, he determined, as has been adverted to, to end the whole matter that night, and after he had fired the three shots, one of which proved fatal, he then attempted to conceal whatever evidence he could that might implicate him.

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It is respectfully submitted that there was no reversible error in any portion of the Court's charge and that the evidence produced in this case fully justified the conviction of the plaintiff-in-error and that the said conviction should be sustained.

Respectfully submitted,

W. A. W. GRIER,

Prosecutor of the Pleas and Counsel of the Defendant-in-Error.

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