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Volume 11, 1954 Trial Transcript: Defense Witnesses; Testimony of Dr. Sam Sheppard

Cuyahoga County Court of Common Pleas

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Thursday Morning Session, December 9, 1954, 9:15 o'clock a.m.

MR. GARMONE:

Mr. Stawicki.

Thereupon, further to maintain the issues on his part to be maintained, the Defendant called as a witness LEO STAWICKI, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF LEO STAWICKI

By Mr. Garmone:

Q Will you state your name, please, to the Court and jury?

A Leo Stawicki.

Q What is your first name?

A Leo.

Q Leo Stawicki?

A Yes, sir.

Q Where do you live, Mr. Stawicki?

A 4511 East 49th Street, Cuyahoga Heights.

Q Cuyahoga Heights, Ohio?

A Yes.

Q Who do you live with there?

A My wife and three children.

Q How many children do you have altogether?

A Three.

Q Are you employed?

A Yes, sir.

Q Where are you employed?

A American Steel and Wire.

Q How long have you been in the employ of the American Steel and Wire?

A 26 years.

Q And in what division?

A In the coarse wire bundling.

Q And where is that located in Cuyahoga County?

A Well, 49th and Harvard. It runs from 49th to 42nd and Harvard.

Q Now, Mr. Stawicki, on the 3rd day of July, did you and some other people go somewhere?

A What day was that?

Q On the 3rd of July, did you and some other people go somewhere?

A Yes, sir. I went fishing with two of my brothers and myself.

Q And where did you go fishing?

A Well, we were heading for Edgewater Park, but the lake was too rough, so we decided to go to Johnson's Island in Sandusky Bay.

Q And what time did you arrive at Johnson's Island in Sandusky Bay?

A Oh, I believe we got there about 5:30, six o'clock.

Q And how long did you remain?

A We stayed till 12:30 we left.

Q Were you successful in catching any fish that --

A Not too good. That's why we left.

Q The fishing was not too good, is that right?

A No. We got about nine, I believe, between three of us, and that was poor.

Q Now, then, after you left Johnson's Island in Sandusky Bay, did you start back toward the City of Cleveland?

A Yes, sir.

Q And will you tell the jury which route you took back from Johnson's Island, please?

A Well, that's Routes 2 and 6. That runs through Avon, Bay Village, up in through there.

Q Did you on your return trip -- withdraw that.

On the return trip you would be travelling in an easterly direction, is that correct?

A Yes, sir.

Q Did that bring you through the Village of -- the City of Bay Village?

A Yes, sir.

Q Now, what was the approximate time, to the best of your recollection, that you were coming through the City of Bay Village?

A Well, I figure it would have been around quarter after two

to 2:30.

Q And did you see somebody on the road?

A Yes. I seen a stranger standing alongside of the road in the driveway.

Q And what side of the road was he on?

A On the left side from my side.

Q Would that be the side closest to the lake?

A Yes, sir.

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Q Did I ask who was in the car with you at the time?

A You did once before.

Q Who was in it?

A It was two brothers of mine.

Q And you were driving the automobile?

A I was driving.

Q Now, when you first observed this man that you say was standing in the driveway next to a tree, how far were you from him?

A Well, when I first noticed him and my headlights hit him, it could have been a hundred, a hundred and fifty feet. Till I passed him up it probably would be 10, 12 feet.

Q And then the next time you saw him --

A Was 10 or 12 feet before I passed him.

Q 10 or 12 feet. Can you now give a description of the man that you saw standing where you said he was standing?

A He had a kind of a long face on him, with bushy hair. That's what made his face look so long with that hair just standing right up on his head.

Q Are you able to determine now for the consideration of the jury what his height was?

A Oh, I figure around six foot.

Q Are you able to state, to the best of your recollection, what his weight was?

A Well, I figured -- he seemed to be a little wider in the

shoulders than I am, and I average around 180, so I figured him around 190 pounds.

Q Now, as you drove by the point where you saw this man, what is the fact as to whether you saw any lights in the immediate vicinity?

A No, I didn't see no lights around there. If there was street lights there, I haven't noticed. I went through there, oh, maybe hundreds of times, and I never noticed if there were street lights through that village or not, still don't know.

Q You saw no lights. What is the fact as to whether or not you saw any lights that would be behind the man that you saw standing?

A No. That's what Chief Eaton asked me, even then, when I made a statement, if I noticed --

THE COURT:

No. The question is --

listen to the question.

Q Did you see any lights behind the man?

A No, no lights.

Q Now, Mr. Stawicki, you stated that this was sometime between 2:15 and 2:30 in the morning of July the 4th, 1954, is that correct?

A Yes, sir.

Q When did you first tell anyone about seeing this man?

A Well, when I read about this in the paper Friday, well, I was talking to my wife about it, and I --

Q Don't tell us what you told your wife.

A Yeah. Well, I just figured that, according to what I seen in the paper --

MR. MAHON: Object to what he figured.

Q Don't tell us what you told your wife or what you figured. When did you --

THE COURT: When did you first talk to anyone about it? That is the question.

Q -- talk to anybody about this man?

A Well, I told that Saturday to Chief Eaton.

Q That would be the --

A The following week.

Q That would be about the 11th, is that correct?

MR. PETERSILGE: The 10th.

MR. GARMONE: The 10th?

Q The 10th of July. Now, between the 4th and 10th were you employed?

A No. I had my vacation.

Q And what, if anything, did you do between the 4th and 10th when you made the first statement about having seen this man?

A I had been out fishing all week.

Q Now, on the 10th of July, where did you go?

A To Bay View.

Q To the police station?

A Yes, sir.

Q And who did you talk with there?

A Chief Eaton.

Q Were there any other persons present when you talked with Chief Eaton?

A Well, there was a few of them there.

Q But your primary conversation was with Chief Eaton?

A Well, I talked with one of his deputies there first, and I told him why I came there, and he says he'll have to get the Chief.

Q Is Chief Eaton the first man that you told?

A No. There was another policeman there.

Q Another policeman?

A Yes.

Q But the first person that you told your story to was a member of the police department of Bay Village?

A Yes, sir.

Q And did you tell him in substance the story that you have just completed telling this jury?

A When I started talking to this policeman, why, this policeman told me not to say anything, there's reporters there --

MR. PARRINO: Object. Just answer
the question.

THE COURT:

Listen to the question.

Q Who did you tell your story to first?

A One of the policemen.

Q And then after you told this policeman your story did you tell it to some other person?

A Well, none others besides Chief Eaton, after --

Q Now, after you had finished telling your story to Chief Eaton did he take a statement from you at that time?

A Well, no. He took it after we come back.

Q After you came back from where?

A Well, he took me in his car and drove me to this place here, so I showed him where I seen this man.

Q Now, when he placed you in his car and drove you, in what direction did you travel on West Lake Road?

A We were going west.

Q That would be toward Lorain, Ohio?

A That's right.

Q And when you got to the point that you have described to the jury, did you point that out to Chief Eaton?

A I showed him where I seen the man.

Q Did you at that time know that that was the home that was occupied by the defendant, Sam Sheppard?

A No, I didn't.

Q Now, after you had pointed this spot out, there was some talk between you and Chief Eaton, is that right?

A Yes, sir.

Q What did he say to you?

A Well, he says, "We'll take a little ride down the road."

Q And how far down the road would you say he drove you?

A About a mile.

Q And after you had driven a mile down the road in a westerly direction, what is the fact as to whether or not he turned his car around?

A He turned his car around.

Q And then did you come back eastward on the same road?

A Come east on the way I drove.

Q And when you came back eastward, were you asked again to point out the spot?

A Yes. He says, "I'll take it a little slower now." He says probably I might be mistaken, and took it slower, and I said, "That's the place." The same place I showed him before.

Q Did you at that time know, Mr. Stawicki, that that was the home that was occupied by the defendant, Sam Sheppard?

A No, sir, I didn't know it was his home.

Q Now, after you had pointed out this home on the second occasion, did you then go somewhere with Chief Eaton?

A He took me back to the station.

Q And when he took you back to the station, did he take a statement from you?

A Yes, sir.

Q And you signed the statement? Did you or did you not?

A I don't remember if I did or not.

Q You don't remember whether you did or not?

A I don't remember that. But I believe I did, I believe I did sign it.

Q Did you tell him it was a maple tree?

A Yes. I told him there was three or four big maple trees there.

Q Now, Mr. Stawicki, will you tell the jury how you were able to determine that that tree was a maple tree -- I'll withdraw that.

You have testified to the Court and jury this morning that you have been in the employ of the American Steel and Wire for a period of about 26 years.

A Yes, sir.

Q Was there sometime during the course of those 26 years that you had other employment?

A Yes, sir. I worked in a lumber camp in New York State.

Q And what year was that?

A Oh, about 1930.

Q And how long were you engaged as a workman in this lumber camp in New York State?

A Seven months.

Q And was it on the basis of that experience that you were able to determine that the tree that you saw this man leaning against was a maple tree?

A Yes, sir.

Q Mr. Stawicki, I will ask you now to tell the Court and jury when you first learned that the home that sets behind this maple tree, in close proximity of the driveway that you have described, was the home that was occupied by the defendant, Sam Sheppard? When did you first learn that?

A The next day, I think it was Sunday, I read in the paper it was the doctor's house. I didn't believe it, it was his home, until I read about it.

Q Now, Mr. Stawicki, were you at any time shown any pictures by anyone?

A Just once.

Q And where were those pictures shown to you at?

A Central Police Station.

Q And who were they shown by?

A By one of the policemen there, plainclothesman, I don't know.

Q Now, you say that you were shown some pictures at the Central Police Station. How many pictures were you shown?

A I think he only showed me one.

Q And whose picture was that?

A It was the Sheppard brothers and the father.

Q The three Sheppard brothers and the father?

A They were all in one picture.

Q And those pictures that you viewed on that occasion did not correspond with the man that you had seen?

A No.

Q Now, coming back to the maple tree, what is the fact as to whether or not a man who would be travelling in a westerly direction on West Lake Road would be in a position to have seen the fellow that you have described to this jury?

A No, I don't think he'd see him.

MR. MAHON: Wait a minute.

I object to that.

THE COURT: The objection

will be sustained.

Q Well, Mr. Stawicki, will you, in your own words, describe to the Court and jury the exact location of this man in relation to the driveway that you spoke about?

A Well, he stood about two or three foot off the road in the driveway.

Q And what was his close proximity to the maple tree?

A Oh, about two feet away from it.

Q Two feet away. Now, are you able to state to the jury

the approximate roundness of the trunk of the maple tree?

A Oh, I think they're pretty close to three foot in diameter.

Q And was he west of the maple tree?

A West of the maple tree.

Q Now, coming back to the Central Police Station, you stated that you were asked to look at some pictures, and those pictures were of the defendant, his two brothers and his father. Were you shown any other pictures at that time?

A I don't remember if they did show me any others or not.

Q Was that the only time that you had been called to the Central Police Station, Mr. Stawicki?

A Yes, that's the only time that I was called there.

Q Now, do you remember the day about August 11th of this year?

A (No response.)

Q I'll withdraw that.

Were you ever brought to this building sometime in August?

A To this one here?

Q To view a line-up?

A County Jail, yes. Yes, I was here. I don't know what date, though.

Q You don't remember the date?

A No.

Q And where in this building were you taken to?

A I believe it was the fourth floor.

Q And was there a line-up made for you, Mr. Stawicki?

A Yes, sir.

Q You viewed that line-up?

A Yes, sir.

Q And did you pick anyone from that line-up?

A No, sir.

Q Were you at any time called to the Central Police Station to view any line-ups of any persons?

A No, not after that or before.

Q Now, in that line-up, was Sam Sheppard in it?

A Yes, sir.

Q I will ask you now, Mr. Stawicki, whether the man who you have described at the point that you saw him sometime between the hours of 2:15 and 2:30, the early morning of July 4, 1954, was this defendant, Sam Sheppard?

A No, sir. He's too bald for the man I seen there.

Q Mr. Stawicki, were you ever called as a witness before the County Grand Jury?

A No, sir.

Q Now, you have described the facial features of this man and the hair arrangement of him. Are you able at this time, to the best of your recollection, tell the Court and jury something about his clothing?

A Well, the shirt he had -- it wasn't a shirt, it didn't

look like a shirt to me. It looked more like a T-shirt, polo shirt or a sweat shirt. It had a full front on it. It was a light color, white or light gray.

Q Anything other about his dress that you observed?

A No. I mostly looked at his face.

Q You were looking at his face.

MR. GARMONE: That is all,
Mr. Stawicki. Thank you. You may have the
witness.

CROSS-EXAMINATION OF LEO STAWICKI

By Mr. Mahon:

Q Mr. Stawicki, you were fishing in Sandusky Bay?

A Yes, sir.

Q And you left there to return to your home, would you say, about 12:30?

A 12:30 it was, right on the head. I looked at the clock as I started the car up.

Q That was, you mean, right after midnight, is that right?

A Yes, sir, right.

Q And what kind of a night was it?

A Oh, the night was -- what I mean, fair, it didn't look like no storms or anything like that. It was a nice night.

Q Not raining?

A No, it wasn't raining. You could see pretty good because

I rode on the Bay, I had no spotlight, and I had been running the boat, and I could see where I had been going and everything, so the night wasn't, what I mean, too dark.

Q Kind of windy?

A Well, that's the reason we went out there fishing, it was windy and rough.

Q Was it kind of windy?

THE COURT: He asked you: Was
it windy?

A Yes, it was windy.

Q And when you left Sandusky Bay, you drove your car through to your home?

A Yes, sir.

Q On your trip from Sandusky to Bay Village, did you see anyone else alongside the road?

A Yes. Up through Sandusky area I seen probably nine, ten hitchhikers on the road, but they were mostly G.I.s, had uniforms on.

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Q Well, did you see any other people who were not hitchhikers?

A No.

Q How?

A No, sir. I seen no other people besides this one man.

Q That is, all the way from Sandusky to Bay Village?

A Yes, sir.

Q You didn't see any other --

A I didn't see anybody, that means on the highway.

Q No one on the highway?

A No, no one on the highway.

Q You are familiar with Bay Village?

A Oh, yes. I go fishing quite a lot to Avon, Huntington Park.

Q And you drive on that road, West Lake Road?

A Always take that road.

Q Many times, do you?

A Yes, most of the time.

Q And you have driven that road at night many times?

A Many times.

Q Are there any street lights on West Lake Road in Bay Village?

A Well, there is in some spots, but I can't say whether there is lights there or not. I haven't noticed.

Q And as you drive through Bay Village there are trees all along the highway there on both sides of the road?

A Both sides of the road, yes.

Q And they extend out over the street, over the roadway, do they not?

A Some places.

Q Branches?

A Yes, sir, some places.

Q And what kind of trees are they that are in that locality?

A There's all different kinds. I have seen poplar, maple and evergreens, and probably five, six, different kinds through there.

Q But on this particular night you saw some maple trees, is that right?

A Yes, sir.

Q How many maple trees did you see?

A Well, in this spot I think there are three or four right together.

Q Did you see any maple trees any place else?

A Oh, yes, but they are smaller than that, smaller trees, thinner in size.

Q These were the largest maple trees that you saw?

A They are large trees, yes, sir.

Q And how close were they together?

A Oh, I don't know. Maybe 20 feet, 15, 20 feet apart. There was about four in a row.

Q How far from the roadway are these maple trees?

A Well, they have a dirt shoulder there about six foot, or so.

and then the trees come right there. The trees come right over the road.

Q Well, the trunk of the tree, how far is that from the road?

A From the pavement it would be about eight feet.

Q Eight feet?

A About that, I imagine.

Q There is the paved highway, and then there is a dirt strip?

A There is a little dirt strip there.

Q And there is a ditch along there, is there --

A No, no ditch.

Q -- draining water?

A No ditch. Just a little shoulder runs off. No ditch. You can drive practically through there with a car if you want to ride the dirt.

Q Are there sidewalks there?

A No.

Q How?

A No. No sidewalks, that I know of.

Q Are there sidewalks on the --

A I think there's a sidewalk on the other side of the road.

Q There is a sidewalk on the other side of the road?

A The other side.

Q You had observed that, had you?

A I'm pretty sure I have seen that before, sidewalks through

there. One side has sidewalks.

Q That would be on the south side?

A Well, when I was coming east, well, that would be on the south side.

Q That is where the sidewalks are?

A Yes.

Q And on the north side of that road, are there sidewalks?

A There is no sidewalk there that I have noticed.

Q How?

A There is no sidewalk there that I have noticed.

Q And how fast were you driving through there?

A Well, I had been going about 35 to 40 miles, but probably I wasn't going that fast. Just as long as it took me to get home from there, close to three hours, and I was towing a boat. Towing a boat, you can't go too fast.

Q Well, might you have been going faster than that?

A Some places where there's wide roads -- there's nice roads some places, but through Lake Road in Bay View, that road ain't too good. It is a narrow road and a few bends through there.

Q Well, was there any traffic on the road at that hour?

A Well, at certain times -- at certain places there was, but not through Bay View. I didn't see no traffic there at all.

Q You didn't see any traffic at all going through Bay Village?

A No, sir, there was no traffic. I was riding the center

of the road, so there was no traffic.

Q How wide is the pavement there?

A The pavement is, I'd say, probably 30 feet.

Q And you say you were going 35 miles an hour?

A Well, about 35. Maybe not even that fast. I don't know.

Q And maybe faster?

A No, sir, not through there.

Q How?

A Not through that place, no, sir.

Q Is that because it is a narrow road?

A It is a narrow road.

Q Well, you had the entire road to yourself?

A Well, I had it to myself, yes, but still there's turns and that through that road, and you don't know what's coming, you know.

Q You say there are a lot of turns in the road?

A Oh, yes. There's quite a few turns through there.

Q Where are they?

A Well, there's a couple of turns -- there was one around Cahoon Park and in around Huntington Park there, and then you take around Avon, where you get off the wide road into this narrow road, there is a turn.

Q I am not talking about Avon. I am talking about Bay Village.

A Well, there's a few turns in that road.

Q Where is there a sharp turn in that road?

A Oh, I imagine about a mile past the Sheppard home.

Q Well, let's not imagine, now. Let's not imagine.

MR. GARMONE: Let him answer the question.

MR. MAHON: I am letting him answer.

A I'd say about a mile past the Sheppard home going west is a turn.

Q Is a sharp turn?

A Yes, pretty sharp. If there is anything coming you couldn't see it, unless you had been close --

Q About a mile which way?

A Going west.

Q Going west?

A Yes.

Q You mean west of the Sheppard home?

A Yes, sir.

Q Well, you had already passed that then, hadn't you?

A Yes, sir.

Q Well, from that curve on east, are there any sharp turns?

A Well, going at night like that, I don't like to go too fast because I don't know what's in front of me.

Q That is not my question, sir.

THE COURT: The question is:

Are there any sharp turns?

A Well, not from there to the Sheppard home.

- Q So you weren't bothered about turns to regulate your speed, were you?
- A Well, no, I didn't go any faster. I was going the same speed right along.
- Q You had the entire roadway to yourself, there wasn't any other traffic and you had a practically straight road, didn't you?
- A Yes.
- Q Is that right?
- A Yes, sir.
- Q And you don't know whether or not there were any street lights?
- A I don't know if there was any street lights there or not. I still don't know.
- Q Was the road dark?
- A I had lights on my car.
- Q Well, outside of your lights, the road was pretty dark, was it?
- A Well, it looked pretty light to me with my lights when I was driving.
- Q Well, if your lights had been turned out, the road would have been pretty dark, wouldn't it?
- A Well, I don't know. I didn't try it.
- Q Well, you were there, weren't you?
- A Sure.

Q Well, don't you know whether or not the road was dark or not?

A Well, I got bright lights on my car. You couldn't notice whether it was or not.

Q Well, up ahead of your lights, was it dark?

A I didn't notice.

Q You didn't notice that?

A No, sir.

Q Well, now, as you drove along there, you saw some man standing alongside of a maple tree, is that right?

A Yes, sir.

Q How close was he to the maple tree?

A He was standing on the side of the tree about two feet away from it right in the driveway.

Q And you made close observation of that, did you?

A I seen him pretty good.

Q And you saw him in the driveway?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q And how far back were you when you first saw him?

A When I first saw him?

Q Yes.

A When my lights hit him this side, about probably 100, 150 feet.

Q And as you approached him then, did you pay particular

attention to him?

A When I first seen him, I had been driving, I just kept looking at him till I --

Q Will you just answer my question, please?

When you first saw him and as you approached, did you keep your eyes on him?

A Yes, sir.

Q You did?

A Yes, sir.

Q And you observed him pretty close?

A Yes, sir.

Q And as you got up closer you still were looking at him?

A I still looked at him.

Q And was there any particular reason for that?

A Well, it looked like kind of suspicious to me seeing a hitchhiker standing in a driveway.

Q And what was suspicious about it?

A Well, I don't know. You just don't see anybody standing in a driveway that time of the night.

Q Well, how did you know he was a hitchhiker?

A Well, that's what I just thought, because I mentioned to my brother yet -- one of my brothers that was sitting in the back --

Q How did you know he was a hitchhiker?

A I seen him on the road. That's what I thought.

Q Well, he wasn't on the road, was he?

A Well, off the road about two feet in the driveway.

Q He was in a yard, wasn't he?

A Well, in the driveway, yes.

Q He wasn't out in the road thumbing a ride, was he?

A Well, as I was coming by --

Q Mister, was he out in the road thumbing a ride?

A In the driveway.

Q He was not out in the road?

A Not on the road, no.

Q Well, why do you say he was a hitchhiker?

A Well, I just thought.

Q You thought he was a hitchhiker?

A Yes, sir.

Q The man was just standing there?

A Just standing there.

Q And all of the time that you approached him from the 100 feet that you saw him, he didn't move?

A He didn't move. Just stood there and kept looking right at me.

Q Looking right at you?

A Looking right at me, but whether he seen me, I don't know, because I was behind the lights in the car. I don't know if he could see my face, but I seen him good.

Q You were that observant to see --

A Yes, sir. Just like looking at you now, I looked at his

face.

Q Will you listen, please? You were that observant that you saw him looking in your direction, is that right?

A Yes, sir.

Q And, of course, as you got closer to him you could see him better, couldn't you?

A Yes, sir.

Q And you were watching him because you were suspicious of him?

A Well, it looked kind of suspicious, a man standing there. If the man was walking, it would be different, but --

Q Just a minute, please. You say he was walking?

A I say if he was walking, it would be a different story.

Q Wait a minute. Now, you were suspicious of him, is that right?

A Yes, sir.

Q And at the same time you thought he was a hitchhiker, is that right?

A Well, that's what I thought, yes.

Q Now, you got a good look at him then?

A Yes, sir.

Q Now, will you describe him?

A Well, like I says, he stood about six foot tall and averaged about 190 pounds, big bushy hair standing up, crew hair cut, kind of a long face on him. He did look a little tanned on his face, but he wasn't colored. He was a white man.

Q You say he had a crew hair cut?

A Yes, sir.

Q Well, a crew hair cut is not standing away up, is it?

A Well, when they asked me how his hair was and I told them, that's what they told me, it was a crew hair cut, and that's what they told me. I never knew what a crew hair cut was.

I know it was standing up and cut even. His hair was standing up quite a bit and cut even on the top.

Q How far was it standing above his head?

A About two inches.

Q About two inches his hair was standing up?

A Yes, sir.

Q Did he have glasses on?

A No, no glasses.

Q Did he have a beard?

A No.

Q Moustache?

A No. Just a smooth face.

Q He had a smooth face?

A I mean no beard or no moustache on him.

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- Q Did you observe anything else about him?
- A No. - That's as far as I -- he was a little tan, had a tan on him, but he was no colored man, he was a white man.
- Q He had a tan on?
- A A little tan, yes. A little darker complexion.
- Q And you could observe that, could you?
- A Yes, you could see that pretty good.
- Q I see. And how was he dressed?
- A Well, all I noticed was the top part of him. He had, it was either a T-shirt, polo shirt or sweat shirt.
- Q You are sure about that now?
- A Yes, sir. It didn't look like a shirt. It had no buttons. I didn't see no buttons in front. It was full.
- Q And did you observe his trousers?
- A No, sir, I didn't. I mostly looked on the upper part of his body.
- Q And then you -- by the way, did you see any lights -- withdraw that.
- Did you see whether or not there was a house there where he was standing?
- A Well, you couldn't see. It was dark.
- Q It was dark?
- A It was dark. Towards the lake it was dark, yes, sir.
- Q And you couldn't see any houses -- house there?
- A No, you couldn't see whether there was a house or not.

It was too dark towards the lake.

Q I see. Did you see any houses along there?

A Well, yes. Closer through Avon, up in through there.

Q No. Let's talk about Bay Village. Avon is some distance west.

A Well, I did see in some places where homes were closer to the road.

Q You could see some homes?

A Yes, sir, some places homes closer to the road.

Q Did you see any lights in any of the homes?

A No, I didn't see no lights.

Q What?

A No, no lights.

Q And at this particular place where you saw this man, did you see any lights over towards the lake at all?

A No, sir. It was dark.

Q It was dark?

A Dark.

Q No lights at all?

A No lights, no lights.

Q And then you drove on home from there?

A Yes, sir.

Q Is that right?

A Just kept going, yes, sir.

Q And what time did you get home?

- A Oh, from five minutes to a quarter after three.
- Q And did you work the next day?
- A No. No, that was the 4th of July. We had it off. We got paid for that, anyhow, it was a holiday.
- Q The 5th of July was a holiday?
- A Yes.
- Q That was Monday?
- A Well, take like American Steel -- well, it was, anyhow.
- Q Well, that's right. It was a holiday and you were not working, is that right?
- A It was a holiday and we didn't work Monday.
- Q No. I say, you were not working?
- A No, no.
- Q What did you do on Monday?
- A Oh, I don't know. I guess went out fishing again.
- Q And when did you go fishing?
- A Monday, well, I went out fishing the same day I reported this, that Saturday I went out --
- Q No. I am not talking about Saturday, sir. I am talking about July 5th, Monday.

THE COURT:

What time you

went fishing, that's the question.

- A Oh, I think towards the evening sometime.
- Q How?
- A Towards the evening.

Q Well, what do you mean, "Towards the evening"?

A Five, six o'clock.

Q And where did you go fishing?

A Gordon Park.

Q Now, what did you do during Monday?

A Oh, stayed at home.

Q Before you went fishing?

A Stayed home with my wife.

Q Stayed home and read the papers?

A Just monkeyed around the house.

Q And you read the newspapers?

A Oh, Monday -- Sunday, that is, Sunday's paper.

Q I'm talking about Monday, sir.

A I don't remember if I did read the paper Monday or not.

Q Well, don't you read the paper every day?

A No, nope, I don't.

Q How?

A No, I don't.

Q Well, did you read the paper Tuesday?

A That week?

Q Yes.

A No, I --

Q Tuesday, July 6th?

A No, I didn't read a paper all that week till Friday.

Q And Wednesday you did not read a paper?

A No, I didn't read a paper.

Q Thursday you did not read a paper?

A No, I didn't read a paper.

Q Friday you read a paper?

A Friday I read a paper.

Q And what paper did you read?

A Press, Cleveland Press.

Q Do you have a paper delivered to your home?

A Yes, sir.

Q Every day?

A Yes, sir.

Q But you don't read it?

A No, sir, I don't read it.

Q How?

A No, not all the time.

Q I see.

A Sometime when I start reading the papers, I'll read all week's papers in one day when I have time. I'll be sitting down looking them over one after the other.

Q All right. So Friday, that was July 9th, you read something in the newspaper?

A Yes.

Q Now, did you read the entire week's papers on Friday?

A Well, I did. I looked at one, I read this one, and I started reading some of the others, and there was

practically the same thing in all of them.

Q You read something in the paper Friday about Marilyn Sheppard being killed?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q And then did you look over the papers for the other days in the week?

A Then I looked at the other papers, looked them over.

Q Looked them over?

A Right.

Q And you read all about that murder, didn't you?

A Well, I just read the little headline.

Q Now, Mister, did you read all about that murder in those papers?

A Well, not everything, no.

Q Now, you said you just read headlines?

A That's about all, headlines.

Q You mean that in the large type that was in the paper?

A Yes, sir. I usually read the large type and probably three or four lines down, and then that's all. That's as much as I read papers.

Q About this particular murder, didn't you read more than that?

A Well, it didn't interest me any.

Q I don't care whether it interested you or not. Didn't you read more than that?

MR. CORRIGAN: I object to that.

MR. GARMONE: Objection to that.

A Well, I did that Friday when I started reading the story.

MR. CORRIGAN: I object to the statement, "I don't care whether you are interested or not," and ask it be stricken out.

MR. DANACEAU: It's not responsive to the question.

THE COURT: He is not asking him if it is interesting.

MR. CORRIGAN: I object to the form of the question.

Q On Friday, though, you were interested enough to read all about it?

A Yes. When I read it where that happened, why, I told my wife I went through there, I seen a man standing there.

Q And then you read all about it, didn't you?

A Then I started reading it, yes.

Q And then you went and got the papers for the other days of the week and read all about it in those papers?

A I read a little in some, and then --

Q Now, Mister, just answer my question.

MR. CORRIGAN: You don't let him

answer.

MR. GARMONE: You don't let
him answer.

MR. MAHON: Well, he goes off
on a tangent.

MR. GARMONE: No, he didn't. If
the Court please, he said he read a little in
the papers.

MR. MAHON: Now, just a minute.

MR. GARMONE: Well, because you
are not getting an answer that you think you
should have is no sign that he is not answering
your question.

THE COURT: The difficulty
with the witness is that he states a great deal
more than the question calls for and, there-
fore, then he gets into trouble.

MR. GARMONE: Maybe that's his
manner of answering.

THE COURT: You listen to
the questioning, Mr. Stawicki, and just answer
the question.

MR. CORRIGAN: We except to the
statement of the Court that he answers more
and he gets into trouble. He is answering it

just like an ordinary citizen that's up on
the stand.

MR. GARMONE: That's right.

THE COURT: All right. Just
answer his question. Go ahead.

Q Mr. Stawicki, on Friday you read about the murder?

A Yes. I read Friday's paper, Friday's paper.

Q And you read all about it on Friday, didn't you?

A Yes, sir.

Q And you were so interested in it that you got the papers
for the preceding days and you read those articles, too,
didn't you?

A No, I didn't read articles, just glanced at them. I just
glanced at the papers, and I seen the same thing.

Q Well, did you read the articles in the other papers?

A No, I didn't.

Q But Friday's you were real interested in, is that right?

A Yes, sir. That's when I started reading it and I got
interested in it.

Q Yes. All right. Now, in Friday's paper, wasn't there
some mention of a \$10,000 reward?

A Well, that didn't interest me.

Q Now, sir, wasn't there something in Friday's paper about a
\$10,000 reward?

A I believe there was.

Q Yes. And when you read about that \$10,000 reward, you became very interested, didn't you?

A No, sir. That money didn't interest me.

Q The money did not interest you?

A No, sir, no, sir, because when I seen the doctor's picture in the paper, I said, "There was a stranger I seen around there, it wasn't the doctor."

That's the reason I went down and reported it.

Q And then you went out to the police in Bay Village?

A Yes, sir, to Bay View.

Q On Saturday, July 10th?

A Yes, sir.

Q The day after you read about it in the newspaper, is that right?

A Yes, sir.

Q And the day after you read about the \$10,000 reward, is that right?

A Well, it was in the paper.

Q Mister, you went out there to the police the day after you read about the \$10,000 reward, didn't you?

A The reward don't interest me. I got enough money of my own.

THE COURT: No. The question is, did you go out there the day after the day you read about the \$10,000 reward?

THE WITNESS:

I don't know

whether it was the day after or not. When I read this paper, that was Friday's paper, I read it Saturday, and as soon as I read it I told my wife, "I'm going to go there and report what I've seen there," and that's all there was done about it.

Q Mister, you read about the \$10,000 reward on Friday, didn't you?

A I don't know if the reward was in there that Friday.

Q You don't know?

A No, I don't remember if it was or not.

Q Well, isn't that the thing that caused you to go out to the police in Bay Village?

A No, sir.

MR. MAHON:

That's all, sir.

MR. GARMONE:

That is all,

Mr. Stawicki. Thank you.

THE COURT:

Just one moment,

please.

MR. GARMONE:

That is all, your

Honor.

THE COURT:

Thank you, sir.

(Witness excused.)

MR. CORRIGAN:

Chief Eaton.

Thereupon, further to maintain the issues on his part to be maintained, the Defendant called as a witness JOHN EATON, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF JOHN EATON

By Mr. Corrigan:

Q You have been sworn before, you are Chief Eaton?

A Yes, sir.

Q You have been sworn before.

THE COURT:

I think he was

excused, Mr. Corrigan.

Q I subpoenaed you to bring here to this court room the keys of the Sheppard residence. Did you do so?

A Yes, sir.

Q Will you show them to me?

A These are the keys to the house.

Q These are three keys to the house of Dr. Sheppard?

A These two are to the house and that is to the padlock that's on the garage.

Q And where did you get these keys?

A This key here we had made shortly after July 4th.

Q You had it made?

A Yes, sir.

Q And what about the other key?

A It was found in the house. I wasn't present, so I don't know anything about the details.

Q Who knows about it?

A Sergeant Hubach.

Q It wasn't found that day, was it?

MR. DANACEAU: We object to it.

He wasn't there.

MR. CORRIGAN: Well, if he doesn't know about it, we will bring Sergeant Hubach.

MR. DANACEAU: We will have him here.

Q Will you tell Sergeant Hubach to come down to court, Chief?

A Yes, sir.

Q All right. Who put it on this chain? Who put this key on this chain?

A I do not know.

Q You don't know. Now, what other keys to the house have you got?

A These are keys, I believe, to the boat house.

Q When did they come into your possession?

A About the 10th of November.

Q From whom?

A From the Prosecutor's office.

THE COURT:

Speak a little

louder, Chief. I don't hear you at all.

A From the Prosecutor's office.

Q Did the keys of the house come into your possession from the Prosecutor's office, also?

A The keys to the house were originally in our possession until, I believe, the 28th of August, and then they were turned over to the Prosecutor.

Q And they were in the possession of the Prosecutor then?

A Until they were returned to me.

Q And when were they returned to you?

A I believe it was the 10th of November.

Q Now, I also asked you to bring here to court a notice that was served upon you. Did you do so?

A Yes, sir.

Q Have you got it?

(Witness hands document to Mr. Corrigan.)

MR. CORRIGAN:

Will you mark that?

(Defendant's Exhibit 13, being a notice, was marked for identification.)

Q Is this the notice that was served upon you?

A Yes, sir.

Q And what date was it served on you?

A It was in August. I'm not certain of the exact date.

Q Is the date on it?

A August 23rd is on it.

Q August 23rd?

A Yes, sir.

Q Well, was that the day?

A It was that day or probably a day later, I'm not certain.

Q What?

A It was that day or a day later. I'm not certain.

Q I see. Signed by who?

A Samuel H. Sheppard.

MR. CORRIGAN: I desire to
introduce it in evidence.

MR. DANACEAU: Objection.

MR. MAHON: We object to it.

THE COURT: I don't know what
it is.

(Exhibit handed to the Court by Mr. Corrigan.)

THE COURT: The objection will
be sustained.

MR. CORRIGAN: Except.

Q Did you also find some money in that house?

A Yes, sir.

Q And did you bring the money to Court?

A I did.

Q Where is it?

A It's in here.

Q Will you take it out, please?

(Witness complies with request.)

Q Handing you a box which I will have marked --

(Defendant's Exhibit 14,
being a box, was marked
for identification.)

Q That box contains one silver dollar, four one-half --
five one-half silver half dollars, two silver quarters
and a nickel, correct?

A That's right.

Q Where was that money found?

A It was found in a dressing table in the east bedroom.

MR. CORRIGAN: I introduce
that in evidence.

MR. DANACEAU: No objection.

MR. MAHON: No objection.

THE COURT: It will be received.

(Defendant's Exhibit 14
received in evidence.)

MR. CORRIGAN: That's in a gold
box.

Mark this, please.

(Defendant's Exhibit 15,
being a small box, was
marked for identification.)

Q Handing you a box which is marked Defendant's Exhibit 15,
will you look at that, Chief, and tell the jury what it is?

A I believe it's referred to as a pocket secretary. It's

a combination notebook and pocketbook.

Q And who found that?

A We were directed to it by --

Q No. Who found it, was the question?

A I found it.

Q And where did you find it?

A It was in a desk, in a drawer, in the den; in the desk in the den, in the first drawer.

Q In the desk in the den. And was there any money in it?

A Yes, sir.

Q And inside that is four \$20 bills and two \$10 bills, correct?

A That's right.

MR. CORRIGAN: I introduce that
in evidence.

MR. DANACEAU: No objection.

MR. MAHON: No objection.

THE COURT: There is no
objection, I take it?

MR. MAHON: That's right.

THE COURT: It will be received.

(Defendant's Exhibit 15
received in evidence.)

Q I hand you a red box which is marked Exhibit 16.

(Defendant's Exhibit 16,
being a red box, was
marked for identification.)

Q Will you examine this red box marked Defendant's Exhibit 16 and tell what is in it?

(Witness examines exhibit.)

Q What is in it?

A One \$20 bill and two silver 25-cent pieces.

Q And where was that found?

A That was found in a drawer in the first bedroom east of the bathroom, in a drawer of a bureau, I guess they call it.

Q The room occupied by Dr. Hoversten?

A No. It was next to the room occupied -- it was between his room and the bathroom.

Q That was the dressing room?

A That's right.

Q I will hand you a paper which is marked Defendant's Exhibit 17.

(Defendant's Exhibit 17, being a paper, was marked for identification.)

Q What does it contain?

A It contains one \$20 bill, a \$10 bill, two \$1 bills, and a set of keys -- or, two 10-cent pieces and a set of car keys and one benzedrex inhaler.

Q And where did you find that?

A The \$20 bill, the \$10 bill and the one -- the two \$1 bills were found in a copper stein on a shelf in the den. The benzidine inhaler was turned over to me by Dr. Gerber.

I'm not certain where the keys were found.

Q When was the inhaler turned over to you by Dr. Gerber?

A July 4th.

Q And what is that, just something that you inhale in your nose?

A I presume so. I don't know.

Q I see. All right.

MR. CORRIGAN: I introduce that
in evidence.

MR. MAHON: No objection.

THE COURT: It will be received.

(Defendant's Exhibit 16 & 17
received in evidence.)

Q You've brought everything you have?

A Yes, sir.

Q Where is Marilyn Sheppard's purse?

A I don't have it.

Q When is the last time you saw it? Who has it?

THE COURT: Where is Marilyn
Sheppard's what?

MR. CORRIGAN: Marilyn Sheppard's
purse.

THE COURT: Oh, yes.

A I do not know where it is.

Q You don't know where it is?

A No, sir.

Q All right.

MR. CORRIGAN: I think that we will take possession of these keys, your Honor.

MR. MAHON: Well, under what authority is he taking possession of the keys?

MR. CORRIGAN: Under what authority is anybody holding them?

MR. MAHON: There's been a murder committed.

THE COURT: The question -- now, then, they are in the possession of the police.

MR. CORRIGAN: Why are they in the possession of the police?

THE COURT: I don't know, and it is wholly immaterial.

MR. CORRIGAN: You are a Judge, you are a Court, and I say that this is the only way I can get possession of these keys.

THE COURT: No, sir, it is not.

MR. CORRIGAN: Well, what other way can I?

THE COURT: The Court will order the keys into Court, if you issue a proper subpoena for them.

MR. CORRIGAN: Well, I have issued
a proper subpoena for them, and I have them in
Court now.

THE COURT: All right. They are
here and they will stay here.

MR. CORRIGAN: They belong to Sam
Sheppard.

THE COURT: No, sir.

MR. CORRIGAN: Who do they belong
to, your Honor?

THE COURT: They belong to the
police at the moment.

MR. CORRIGAN: Why do they belong
to the police?

MR. DANACEAU: If the Court please,
do we have to have a legal discussion?

MR. CORRIGAN: Yes. A man's home
is his castle.

MR. DANACEAU: Mr. Corrigan, cut
out this dramatization and showmanship.

MR. CORRIGAN: You talk about
showmanship.

MR. DANACEAU: I certainly do.

MR. CORRIGAN: Well, go ahead and
talk about it.

MR. DANACEAU: Well, I'm talking about it, sir.

MR. CORRIGAN: They've got the house keys and they have no use for them. They have had possession of the house since the 4th of July.

MR. DANACEAU: Is this a trial or is this just a show house?

THE COURT: The keys are in the possession of the police officers, and they are going to remain there until they are removed legally.

MR. CORRIGAN: I have removed them here into this court room this morning. The very purpose I brought this man here was to bring those keys in.

MR. DANACEAU: The only purpose was to stage this show, and nothing else.

MR. CORRIGAN: Talk about your show.

MR. DANACEAU: I'll talk about it as long as you are acting.

MR. CORRIGAN: Yes, it's a show.

MR. DANACEAU: As long as you are putting on a performance, I'll talk about it, sir.

MR. CORRIGAN: I'm maintaining
peoples' rights in this court room, sir.

MR. DANACEAU: All you are doing
is putting on a show, and nothing else.

MR. CORRIGAN: I'm maintaining
peoples' rights to their home --

THE COURT: Mr. Corrigan, please.

MR. CORRIGAN: -- that have been
taken by the police.

MR. DANACEAU: More of the same.

MR. CORRIGAN: Yes.

MR. DANACEAU: That's right.

MR. CORRIGAN: That's what I am
here for. I'm an American lawyer maintaining
rights in this court room.

THE COURT: Mr. Corrigan, please,
do show some respect to the Court.

MR. CORRIGAN: I have every respect
in the world for the Court, but I insist that the
Court should come to my assistance in this matter.

THE COURT: The Court will not
come to your assistance, excepting when he
believes when you are correct and right.

MR. CORRIGAN: I have the keys.

THE COURT: And you know very

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well that you are not right in this case.

MR. CORRIGAN: I know I am right.

THE COURT: All right. The Court will rule, in any event, and his ruling will remain that the keys belong to the police at the moment.

MR. CORRIGAN: That is all.

I want Mr. Hubach to come here. Will you bring him here, Mr. Eaton, or order him into the Court?

THE COURT: Will you have Sergeant Hubach come in?

THE WITNESS: What time?

THE COURT: I don't know. When do you want him, Mr. Corrigan?

MR. GARMONE: Any time, your Honor.

MR. CORRIGAN: Any time. You just better leave that key here so that I can identify it.

THE COURT: You better leave them with me. Is that all that is in here, the keys?

THE WITNESS: Yes.

THE COURT: You will have

Sergeant Hubach come?

THE WITNESS:

Yes, sir.

THE COURT:

You have no questions?

MR. MAHON:

Yes, just one or two.

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CROSS EXAMINATION OF JOHN EATON

By Mr. Mahon:

Q Chief, since you have had that key -- you got it sometime in November, the key to the house, is that right?

A Yes, sir.

Q From that time down to date has the house been accessible to the Sheppard family?

A Yes, it has.

Q And have they been in the house during that period of time?

A Once, on one occasion, at least.

Q To take care of the heat, and so forth, and water, and all of those things?

A Yes.

Q Is that right?

A Yes.

Q Have they ever been denied at any time the right to go into that house since you have had possession of the keys?

A They have not. —

MR. MAHON:

That is all.

REDIRECT EXAMINATION OF JOHN EATON

By Mr. Corrigan:

Q Each time any member of the Sheppard family went in the house they had to get your permission?

A That's right.

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Q And each time they went in, they were accompanied by a police officer?

A Yes, sir.

MR. CORRIGAN: That is all.

RECROSS EXAMINATION OF JOHN EATON

By Mr. Mahon:

Q Chief, since you have had possession of that key to the house, since November, do you have some police officer go to the house to look it over?

A Yes.

Q At regular intervals?

A Yes.

Q How often?

A About once a week.

MR. MAHON: That is all. 3787

REDIRECT EXAMINATION OF JOHN EATON

By Mr. Corrigan:

Q And the order that Sam Sheppard could not go into his home, where did that come from?

A Pardon me. Will you repeat that?

MR. DANACEAU: We object to that.

We know of no such order.

Q Did you make that order?

MR. DANACEAU: Just a minute.

MR. MAHON: Was there such an order?

THE COURT: Let him tell what the situation was.

MR. MAHON: There is no evidence there ever was such an order.

THE COURT: No, there isn't any evidence about an order, but he is the Chief of police. Let him answer if there was.

A I didn't understand the question, I'm sorry.

THE COURT: Will you restate your question, Mr. Corrigan? The Chief doesn't understand it. Or let the reporter repeat it.

(Question read by the reporter.)

A There was no order he could not go in his home.

Q The order that Sam Sheppard could not go into his home except in the custody of a policeman or with a policeman, how did that originate?

A That was suggested, I believe, by the prosecutor's office.

Q I see.

MR. CORRIGAN: That is all.

MR. MAHON: That is all.

(Witness excused.)

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Thereupon the defendant, further to maintain the issues on his part to be maintained, called as a witness SEYMOUR L. ROSEN, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Garmone:

Q Will you state your name, to the Court and jury, please?

A Seymour L. Rosen.

Q Where do you live?

A 3627 Riedham Road, Shaker Heights, Ohio.

Q Who do you live there with, Mr. Rosen?

A My wife and child.

Q How long have you lived in or around the city of Cleveland, Ohio?

A All my life.

Q How old are you?

A 31.

Q Did you attend school in the Cleveland area?

A Yes, sir.

Q What is the first school you went to?

A Coventry Elementary School.

Q From there where did you go?

A Roosevelt Junior High School.

Q After Roosevelt Junior High School did you go to high school?

A Cleveland Heights High School.

Q During that time did you become acquainted with Sam and Marilyn Sheppard?

A Yes, sir.

Q And when was your first acquaintance with either one or both?

A Well, with sam in Elementary School, and Marilyn in Junior High School.

Q And have you seen them off and on for a period of years?

A Yes, sir.

Q When is the last time you saw either Sam or Marilyn, Mr. Rosen?

A Well, I think the Friday before the 4th of July.

Q Who did you see on that occasion?

A Marilyn.

Q Where did you see her?

A At her home.

Q Out in Bay Village, Ohio?

A Bay Village.

Q Have some conversation with her?

A Yes, sir.

Q And during the course of that conversation, were you able to observe her general attitude?

A Yes, sir.

Q What was it?

A Very cheerful, I would say.

Q Now, you have known Sam for how long?

A About 25 years.

Q During that time you have made some observations of him, is that right?

A Yes, sir.

Q And you have talked to other people about him?

A Yes, sir.

Q From your observations and your conversations with other people, have you been able to form an opinion as to his character and reputation?

A Yes, sir.

Q Will you state to the Court and jury what that is?

A Well, he is probably one of the finest fellows I have ever known. We went all the way through school together --

THE COURT: I think you misunderstood the question. The question is:

What is his general reputation?

A Very good.

Q Now, have you on occasions throughout the years that you have known both Marilyn and Sam Sheppard been in their company?

A Yes, sir.

Q Mrs. Rosen along, too?

A Yes, sir.

Q Have you at any time during the periods that you have been

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in the company of both Marilyn and Sam Sheppard ever see him mistreat Marilyn Sheppard?

A No, sir.

Q Do you know his son, Chip?

A Yes, sir.

Q And have you ever at any time seen Sam mistreat young Chip?

A No, sir.

MR. GARMONE: That is all.

Thank you.

You may inquire.

MR. MAHON: That is all.

(Witness excused.)

- - -

Thereupon the defendant, further to maintain the issues on his part to be maintained, called as a witness LAWRENCE G. CARMEN, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Petersilge:

Q Will you state your name?

A Lawrence G. Carmen.

Q Where do you live?

A 31013 West Lake Road.

Q Where are you employed?

A American Ship Building Company.

Q Where is their plant located?

A Lorain, Ohio.

Q Do you know where Samuel H. Sheppard lives?

A Yes, sir.

Q And where is your home in reference to his?

A I am a mile and three-tenths west.

Q Are you north or south of Lake Road?

A I am on the south side.

Q Now, do you recall an occurrence that happened at your home on July 7th of this year?

A Yes, sir. We were burglarized.

MR. DANACEAU:

We object to this

line of inquiry.

THE COURT: The jury will disregard
that statement entirely.

Q Will you state what did happen at your home on July 7th
of this year?

MR. DANACEAU: We object to this
line of inquiry.

THE COURT: Objection sustained.

(Thereupon the following was dictated into
the record by Mr. Petersilge out of the hearing
of the jury):

MR. PETERSILGE: We want to proffer
into the record that if the witness were
permitted to answer, he would state that on
July 7th, 1954, his wife was in St. Louis
attending her brother's funeral; that on that
day the witness left for work at 7 o'clock
in the morning, and returned during the late
afternoon; that when he returned, he found that
one or more persons had entered his home through
an upstairs window and kicked down a door and
door frame and had ransacked his home; that he
lost a number of valuable articles; that he
reported the loss immediately to the Bay Village
police; that so far as he is aware, the burglary

has never been solved.

(Thereupon proceedings were resumed within the hearing of the jury, as follows):

MR. PETERSILGE: That is all. Thank you, Mr. Carmen.

(Witness excused.)

- - -

Thereupon the defendant, further to maintain the issues on his part to be maintained, called as a witness ALFRED C. KREKE, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Corrigan:

Q Will you state your name to the jury?

A Alfred C. Kreke.

Q You are a minister of the gospel?

A I am.

Q And where is your church, Reverend Kreke?

A It is located in Bay Village.

Q And what is the name of the church?

A The Bay Methodist Church.

Q Now, Doctor, is Sam Sheppard a member of that church?

A Yes, he is.

Q And how long has he been a member of that church?

A Since 1951.

Q And you have been his pastor all the time?

A That's right.

Q Did you ever visit his home?

A Yes. I visited a number of times as a minister.

Q And did you visit his home when both his wife and he were

together?

A Yes. I have done that several times, and made a practice of calling usually when they were at home together.

Q Did there come a time when you performed a religious ceremony in his home?

A Yes, I did. Marilyn requested that I perform a baptism ceremony for her.

Q Did you baptize her at her home?

A I did baptize her in the living room of the home.

Q And who was present at that baptismal?

A Dr. Sam was present, also Dr. Richard, the brother, and Dr. Richard's wife, and Chip, the boy was present.

Q Now, is Chip a member of the church, also?

A No, he is not. He is too young to be a member.

Q Now, then, were there other occasions when you visited the home?

A There was a time this past June, this last summer, when I called there for the purpose of asking Marilyn whether she would help in the daily vacation Bible School by giving out a treat on the last day, since I would not be present, but would be up at a church congress.

Q Did Marilyn give some assistance at the church?

A As a secretary for the Board of Education, she did for about two years, and then for several years as registrar of the daily vacation Bible School.

- Q Now, then, sometime in June, do you remember being at the home of Dr. Sheppard, June of this year?
- A Yes. It was the first week of daily vacation Bible School when I knew I would not be present for that last day of the Bible School, to be able to purchase the treats for the youngsters. I stopped at their home to ask her to do that.
- Q Well, now, I am calling attention to a time, if you remember -- just to fix the incident in your mind -- do you remember a time when Dr. Sam Sheppard was moving a desk?
- A Yes, very definitely. That was on a Thursday afternoon, June the 17th.
- Q And how did you happen to go to the home on that day?
- A I went there with the purpose of asking Marilyn whether she would purchase the treats and give them out the following Friday, not the next day, but the following Friday.
- Q Now, on that occasion did you see Sam and Marilyn?
- A Yes. I arrived at the home and parked my car in the drive, and in a minute or two afterward they came in the driveway from the east in their jeep with a desk across the hood of the jeep.
- Q What was done with that desk? Just tell me what occurred there.
- A Well, when I stepped out of the car and in to greet them, both Dr. Sam and Marilyn stepped out of their respective

sides of the car, and then started to lift the desk off of the hood of the car, and Dr. Sam stopped Marilyn immediately and said, "You are in no condition to lift the desk. I will take it off."

And then -- well, I just volunteered then to take the one end of the desk and assisted Dr. Sam in getting it off the hood of the car, and then assisted him in carrying it upstairs to the den.

Q Marilyn was going to help, but he stopped her?

A Yes, that's right.

Q Did the result of that conversation bring out a further conversation?

A Yes, it did. They sprung, I would say, a surprise on me by telling me that Marilyn was pregnant, and it was such good news to them, and they wanted to share it with me.

Q Now, what would you say their manner and their attitude toward one another was at that particular time when they were sharing this news with you?

A Well, I would say it was certainly a very happy relationship, judging from all the appearances in their reaction to the announcement that they gave me at that time.

Q In your ministry, you are accustomed to analyze people to a certain extent, are you not?

A Well, I would say so. That is part of the training and experience.

Q And your ministry brings you into contact with all types and kinds of people, doesn't it?

A That's right.

Q Now, have you visited at the hospital at various times when you came in contact with Dr. Sam Sheppard?

A Yes, any number of times, when I made calls there on people who were members of the church, who were patients there.

Q Have you been present at any time when he was working in accident cases?

A Yes. One particular incident when a couple in our church, a Mr. and Mrs. William Wismer, were involved in a terrific accident on Lake Road where the Bay Village and Rocky River line border. There was a head-on collision, and I went there immediately when I learned of it, and saw him at work there.

Q You were there when Dr. Sam Sheppard was working on those people and giving them medical attention?

A That's right.

Q Now, have you also visited him in the jail?

A Yes, I have, since --

Q And how often have you visited him in the jail?

A Since the last week in July, with a few exceptions in August when I was away on vacation, I visited practically every week.

Q Now, from this acquaintance with him and these observations

that you have made, have you been able to determine what kind of a man Dr. Sam Sheppard is?

A Yes, and I would say I have had no change in my estimate from the first few years that I knew them after they became members of the church, in what I have seen of him in action, and he is a very selfless type of man, what you would expect in a doctor. He is always available for emergency calls. He had some relationship with the police department so that he was notified of emergencies, and any time of day or night, if he were in town, I do know that he made himself available for that.

Q What would you say as to his temperament, as to whether he was volatile or whether he was an even-tempered person?

A Well, under the circumstances that I saw him in his home and in these instances of the emergency, I would have to say he was rather even-tempered.

Q Even-tempered.

MR. CORRIGAN: Cross examine.

MR. MAHON: No questions.

(Witness excused.)

THE COURT: We will have a few minutes' recess at this point.

Please do not discuss this case at all.

(At 10:45 o'clock a.m. a recess was taken.)

(After recess at 11:05 o'clock a.m.)

Thereupon the defendant, further to maintain the issues on his part to be maintained, called as a witness RICHARD E. KNITTER, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Garmone:

Q Will you state your name, please?

A Richard E. Knitter.

Q Where do you live?

A 785 Kenilworth Drive, Sheffield Lake.

Q How long have you lived at that address?

A Approximately two years.

Q Who do you live there with?

A My wife, brothers and sisters.

Q Are you employed?

A Yes.

Q Where is your place of employment?

A Fruehauf Trailer Company in Avon Lake.

Q How long have you been with the Fruehauf Trailer Company in Avon Lake?

A Two years.

Q Did you have employment prior to that time?

- A Yes, sir.
- Q Where?
- A Nickel Plate Railroad in Lorain, Ohio.
- Q How long were you with the Nickel Plate?
- A Five years.
- Q Now, Mr. Knitter, directing your attention to the 3rd day of July, 1954, did you and Mrs. Knitter go somewhere?
- A Yes.
- Q Where did you go?
- A To Cleveland to the theater.
- Q What time did you leave your home that evening?
- A It was approximately 8:30, quarter to 9.
- Q Did you go to a show downtown, you said?
- A Yes.
- Q Do you recall the picture that you saw?
- A Gone With the Wind.
- Q It was a rather lengthy picture, is that right?
- A That's right.
- Q After leaving the theater, did you then, with Mrs. Knitter, go some place else?
- A Yes.
- Q Where did you go?
- A To a Drive-In in Rocky River.
- Q Now, that Drive-In that you speak of in Rocky River, what

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is the fact as to whether or not it is located on West Lake Road?

A Yes.

Q Your address -- withdraw that. As you drove into the theater, did you come down West Lake Road and travel east?

A Yes.

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Q

Now, about what time was it when you arrived at the drive-in theater?

A

It wasn't a drive-in theater.

Q

I mean a drive-in restaurant? Pardon me.

A

Approximately ten to three.

Q

And about how long did you remain there with Mrs. Knitter?

A

From a half hour to 45 minutes.

Q

And then did you get back in your automobile?

A

Yes.

Q

And which direction did you head the car in?

A

West.

Q

On West Lake Road?

A

Yes.

Q

Now, as you drove along West Lake Road, did you make an observation that evening?

A

Yes.

Q

And where did you make that observation, Mr. Knitter?

A

It was in Bay Village.

Q

And at approximately what location in Bay Village?

A

As you come off the brick to the asphalt.

Q

Was there something there that reminds you of the point where you first made the observation?

A

Yes.

Q

What is it?

A

A cemetery.

Q And when you first made your observation of the cemetery -- withdraw that.

What did you observe at that time?

A A person walking on the road.

Q And in what direction was he walking?

A East.

Q And you were travelling west?

A That's correct.

Q Now, as he walked in an easterly direction, was he on the south or north side of the highway?

A The north side.

Q When you first saw this person, how far were you away from him?

A Approximately 200 feet.

Q Was it a male or a female?

A Male.

Q Was he a white man?

A Yes.

Q Now, when you next saw him, how close were you to the person?

A Approximately four feet.

Q You made an observation of him?

A Yes.

Q Did you notice his facial features?

A Yes.

- Q Will you describe, to the best of your knowledge, to the Court and jury his facial features?
- A Well, he had short hair, bushy, I mean like a crew cut growing in, and large eyes, large nose, and his eyes appeared to be bulging like.
- Q Did you notice anything about his dress?
- A Yes.
- Q What portion of his wearing apparel did you observe?
- A His shirt.
- Q And what observation did you make of the shirt?
- A That it was white or a light color.
- Q You didn't see his trousers?
- A Well, they were dark.
- Q Dark?
- A They were not light.
- Q They were not light. What was the approximate height of this man; if you are able to state to the Court and jury, Mr. Knitter?
- A He appeared to be about five-eight.
- Q Are you able to give the Court and jury the approximate weight?
- A 175, approximately.
- Q Now, you made this observation the early morning of July 4, 1954?
- A Yes.

Q Are you able at this time, Mr. Knitter, to approximate the time that that observation was made?

A It was about ten to four.

Q About ten minutes to four?

A Yes.

Q On the morning of July 4, 1954?

A Yes.

Q After you made this observation, did you make a statement to Mrs. Knitter? Answer that question yes or no.

A Yes.

Q Will you state to the Court and jury what that statement was that you made to Mrs. Knitter after the observation?

MR. MAHON: Objection.

THE COURT: Objection sustained.

Q Then you continued to drive to your home, is that right?

A Yes.

Q Now, did you at a later date report to the police what you had seen?

A Yes.

Q And when was that, Mr. Knitter?

A July 12th.

Q And who did you make your first report to?

A To Mr. Drenkhan and Hubach.

Q Did you later learn that they were both members of the Police Department of the City of Bay Village?

- A Yes.
- Q And where was that report made?
- A At the police station.
- Q At the police station. Now, your observation, Mr. Knitter, was made on the early morning of the 4th of July, 1954, and your first statement was made, I believe, you said on the 12th day of July, 1954?
- A Yes.
- Q About what time of the day or evening was that statement made to Officer Drenkhan and Officer Hubach?
- A Around 5:30.
- Q In the evening?
- A In the evening.
- Q Was there a reason that you had for the span of time between the observation and the 12th day of July?
- A Yes.
- Q Will you state to the Court and jury at this time what your reason was?
- A Well, we didn't want to become involved, yet we felt it was our duty to report such a thing.
- Q Had you up to that time had any knowledge about any reward that was being made?
- A No.
- Q Now, you went down to the Bay Village Police Department, is that correct?

A Yes.

Q And you talked to Officers Drenkhan and Hubach?

A Yes.

Q And you made the statement, in substance, what you have just given to this Court and jury for their consideration?

A Yes.

Q Were you shown any pictures of any persons at any time by anyone?

A Yes.

Q And when is the first time you were shown pictures of any person?

A The same evening that we reported to the Bay Village police.

Q And about how many pictures were you shown by the officers at the Bay Village police department?

A I would say a couple hundred, anyway.

Q Were you ever taken downtown -- I'll withdraw that.

After you had viewed these couple hundred pictures at the police station in Bay Village, were you ever brought down to the Central Police Station in the City of Cleveland, Ohio?

A No.

Q Was there at any time, from the time that you had the statement to the police officers of Bay Village up until today, that you were asked to view any person in a line-up?

A No.

Q Now, you have given a description here of the observation that you made at about ten minutes to four on the morning of July 4, 1954. I will ask you, Mr. Knitter, whether the defendant here, Sam Sheppard, is the man that you saw and described for this Court and jury?

A No.

Q Now, was there ever a line-up made whereby the defendant, Sam Sheppard, was placed in?

A No.

Q When did you first learn, Mr. Knitter, where Sam Sheppard lived?

A It was the same night that we reported to the Bay Village police.

Q Were you taken in an automobile by anyone to point out the approximate place where this observation was made?

A No.

Q Have you since the time that you made the report to the Bay Village Police Department had the occasion to drive that road?

A Not very often.

Q But you do now know where Sam Sheppard lives, is that right?

A Yes, sir.

Q Now, next to Sam Sheppard's home in a westerly direction is another home, is that correct?

- A Yes.
- Q And-then there is another home, isn't that right?
- A Yes, sir.
- Q And then there is another home, is that right?
- A Yes, sir.
- Q And after the third home is the cemetery that you have described as where you saw this person, is that correct?
- A Yes.
- Q How many feet, would you say, if you know now, is the distance between the point where you saw this man at the cemetery and the location of Sam Sheppard's home, if you know? If you don't know, that's --
- A I have no idea. I mean --
- Q Well, can you give us an approximate number of feet, to the best of your judging ability?
- A I would say approximately maybe a hundred feet.
- Q A hundred feet?
- A A hundred feet or more.
- Q A hundred or more. And the man that you saw was walking in an easterly direction as you were travelling west?
- A Yes.
- Q And he was on the north side of the highway?
- A Yes.
- Q That would be on the same side that the right-hand side of your automobile would be on, is that correct?

A Yes.

MR. GARMONE:

Thank you, Mr.

Knitter. You may have the witness.

CROSS-EXAMINATION OF RICHARD E. KNITTER

By Mr. Mahon:

Q Mr. Knitter, before July 3rd, had you travelled that highway very often?

A No.

Q When had you travelled that highway before the 3rd of July?

A Well, I don't recall right offhand.

Q Well, was it months?

A Yes.

Q How many months?

A A good six to eight months.

Q And have you travelled the highway, that highway, very often since July 4th?

A Well, except in going to work on West Lake Road.

Q Where do you work on West Lake Road?

A It's a plant off of Lake Road, Fruehauf Trailer.

Q Well, where is that at?

A It's in Avon Lake.

Q I mean through Bay Village have you driven? Avon Lake is some distance west of Bay Village, isn't it?

A Yes.

Q Is that right?

A Yes.

Q Have you driven through Bay Village on West Lake Road since July 4th?

A Since July 4th?

Q Yes.

A Yes.

Q How many occasions?

A I would say four.

Q And when was the first time after July 4th that you drove through?

A It was when we reported to the police in Bay Village.

Q And that was on the 12th of July?

A That was on the 12th.

Q And you passed through there about ten minutes to four and you saw this man?

A Yes.

Q And what kind of a night was it?

A Well, it was a windy night, rather -- sort of cool for summer.

Q And was it dark at that location?

A Well, not too dark.

Q Do they have street lights on West Lake Road through Bay Village?

A Yes.

Q That is, overhanging lights?

A Yes, I believe so.

Q And the highway through Bay Village is just a row of trees alongside the road all the way through, isn't it?

A Yes.

Q Is that right?

A Yes.

Q On both sides of the highway?

A Yes.

Q And those trees, the branches of them extend over the highway, do they not?

A Yes.

Q And the street lights do not reflect much light down on the roadway itself, do they?

A Well, in certain areas it does.

Q Only right where the street light is, isn't that so?
Is that right? It doesn't spread out very much, does it?

A Well, some distance.

Q How?

A Some distance it does.

Q Well, it doesn't spread out very much because of the foliage on the trees, isn't that right?

A I imagine.

Q How?

A I imagine.

Q And in July, July 3rd and 4th, there was a lot of foliage

on the trees at that time, wasn't there?

A Yes, I believe so.

Q Well, it was right in the middle of summer, wasn't it?

A Yes.

Q Is that right?

A Yes.

THE COURT:

Speak a little

louder, please.

Q Now, as you drove along driving west, you saw a man alongside the highway?

A Yes.

Q What was he doing?

A He was walking.

Q And walking in which direction?

A East.

Q To the east?

A Yes.

Q And you say that this man was at a cemetery?

A Near the cemetery.

Q Had you observed that cemetery before?

A Well, yes, I have.

Q You had observed it before?

A Yes.

Q When had you observed it before?

A Well, when I would go into Cleveland, maybe, on one of the

trips.

Q You knew where it was?

A Yes.

Q You knew the location of it, is that right?

A Yes.

Q You said something about where the highway surface changed from brick to asphalt?

A Yes.

Q Well, where does it change?

A Right near the park there.

Q How?

A Right near the park.

Q What park?

A I believe it's Huntington.

Q Huntington Park?

A Huntington Park.

Q And where is Huntington Park with relation to this cemetery?

A It is east.

Q East?

A East.

Q How far east?

A I would say 200 feet.

Q 200 feet from the cemetery?

A Well, about 250; between 200 and 250.

Q Between 200 and 250 feet?

A Yes.

Q Now, this man was walking on the north side of the roadway?

A Yes.

Q Was there very much traffic that morning?

A Not too much.

Q Was there any traffic that you passed or that was coming towards you?

A Well, there was traffic. I mean, it wasn't heavy. Approximately eight, ten cars passed.

Q Between what distance?

A Well, between Rocky River at the drive-in.

Q And where?

A From Rocky River at the drive-in to about Avon Lake Corporation limits.

Q To Avon Lake?

A I imagine.

Q From the Rocky River drive-in to Avon Lake there was, you say, how many cars passed?

A About six to eight.

Q Six to eight cars?

A I imagine.

Q And how long did it take you to drive from Rocky River drive-in to Avon Lake?

A Well, I would say about maybe 35 minutes.

Q And how many miles is it between those two points?

- A I have no idea.
- Q So in 35 minutes you only observed six to eight cars on that highway?
- A That's that I recall.
- Q Is that right?
- A That I can recall.
- Q So that's not very much traffic, is it?
- A No.
- Q How close was this man to the paved section of the highway?
- A I'd say about a foot and a half, two feet.
- Q A foot and a half or two foot?
- A Yes.
- Q Off of the pavement?
- A Yes.
- Q To the north?
- A Yes.
- Q Is that right?
- A Yes.
- Q Walking along that shoulder?
- A Yes.
- Q And how close was your car travelling to the north edge on the pavement?
- A Approximately a foot.
- Q A foot?
- A Yes.

Q When you passed this man, you were pretty close to him,
is that right?

A Yes.

Q How?

THE COURT: He said, "Yes."

THE WITNESS: Yes.

Q That would be about three feet between the man and the
north side of your car?

A Yes, I believe.

Q Is that right?

A Yes.

Q How far back were you from this man when you first observed
him?

A It was after we left the brick to the asphalt, about 200
feet.

Q And did you continue to watch him as you approached him?

A Yes.

Q Was there any special reason for that?

A Only that I could see a figure walking on the highway.

Q Well, was there any special reason outside of just seeing
a man walking that attracted you to him?

A Only that it was so early in the morning.

Q And did you continue to watch him as you approached him?

A Well, except for watching the road, too.

Q Did you get a good look at him?

- A Yes.
- Q And will you describe him again to us, please?
- A Well, he had large eyes, a large nose; his hair was short to the side but it was bushy. It was like a crew cut, it was growing in. The attention that we gave to him was because he had the large eyes and the large nose.
- Q Large eyes and large nose?
- A That's right.
- Q You observed that?
- A Yes.
- Q And you observed that his hair was, did you say, short?
- A It was short at the base by the ears.
- Q Short by the ears?
- A Yes.
- Q Is that right?
- A Yes.
- Q And will you describe the rest of the hair?
- A Well, it was fairly back from his forehead, receded a little.
- Q Yes.
- A And there was no part.
- Q Yes.
- A And it was fairly long on top.
- Q How long?
- A I would judge about maybe three inches, anyway.

Q Three inches?

A Three or four.

THE COURT: A little louder.

Q You mean that the hair was standing up three or four inches?

A Well, from the front where we could see, it was.

Q How?

A The front where we could see, it was.

Q That's that much (indicating)?

A If that is three inches.

Q You point out how much three or four inches is, will you?

A About like that (indicating).

Q Here, take this pencil and mark off about what you consider three or four inches? Hold it up so the jury can see it.

A Three inches would be about here. (Indicating)

Q From your thumb nail here?

A From the thumb to the top.

Q To the top would be about three inches.

Now, you say that his hair was standing up that high over his head?

MR. GARMONE: I don't think he heard your question, John.

A Yes.

Q You say it was standing up that high on his head, is that right?

THE COURT: You have to answer.

A In the front, yes.

Q What do you mean, in the front?

A Well, as we observed him, we could see just the front of his head.

Q And you observed, also, that it was very closely clipped?

A Yes, sir.

Q Down alongside by the ears, is that right?

A Yes.

Q And that he had a large nose?

A Yes.

Q And did you say large eyes, too?

A Yes.

Q Anything else about his face?

A Well, he was clean shaven.

Q Clean shaven?

A Didn't have a beard.

Q Anything else?

A That is all.

Q Do you know -- you know now where the Sheppard home is, don't you?

A Yes.

Q Did you at that time?

A No, I did not.

Q Did you know anyone that lived along there?

A No.

Q What?

A No.

Q And you learned where the Sheppard home was when?

A When we reported to the Bay Village police on July 12th.

Q When you reported to the Bay Village police on July 12th, is that right?

A Yes.

Q And did they point it out to you?

A No.

Q Well, how did you learn where it was?

A We saw the name on the mailbox.

Q And when did you see the name on the mailbox?

A That was on July 12th.

Q And were you looking for the name?

A We were looking at the mailboxes to see the distance between the cemetery and the house, and we noticed it on the mailbox.

Q And did you notice that as you were driving by?

A Yes.

Q And which way were you driving when you observed that?

A We were going east.

Q Going east?

A Yes.

Q And you saw that on the mailbox?

A Yes.

Q Is that right?

A Yes.

Q Don't you know that the name on that mailbox, you can't see it driving east?

A Well, we saw it.

Q Do you know that you can only read that name if you are travelling west?

A I have no idea.

Q How?

A I have no idea.

Q Did you stop your car or did you look around to look at the mailbox?

A We did not stop the car.

Q But as you drove along the highway driving east, you saw the name of Sheppard on a mailbox?

A Yes.

Q And as you were driving east, that would be to the north, would it not, that mailbox?

A Yes.

Q Is that right?

A Yes.

Q Did you read that yourself?

A My wife.

Q Now, Mr. Knitter, will you please tell what you know, what you saw, not what your wife told you she saw? Will

you please do that?

A Yes.

Q Did you see the name on the mailbox?

A Yes.

Q Yourself?

A Yes.

Q Well, what did you mean a moment ago when you said your wife saw it?

A She pointed it out to me.

Q As you were driving along?

A Yes.

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Q Were you particularly looking for that place?

A No.

Q Well, why did the name of Sheppard attract you?

A Well, we were looking -- when we went by the cemetery, we passed the cemetery, and we noticed the name on the mail box. I noticed the name on the mail box.

MR. PARRINO: I didn't hear that.

MR. GARMONE: He said "I noticed the name on the mail box," as he went by the cemetery.

Q Well, there are other mail boxes in front of other homes along there, aren't there?

A Yes.

Q Did you observe any names on the other mail boxes?

A There was -- I believe Schuele lives right next to the cemetery.

Q Did you observe that?

A Yes.

Q You say Schuele lives next to the cemetery?

A Yes, sir.

Q Are you sure about that?

A Yes, sir.

Q Are you as sure about that as you are about everything else you have testified to?

A I believe so, to the best of my knowledge.

Q

How?

A

To the best of my knowledge.

Q

Don't you know that the Schuele's house is right next door to the Sheppard's house?

A

I did not.

Q

You didn't know it?

A

I just remember seeing the name on the mail box.

Q

The cemetery is not next door to the Sheppard house, is it?

A

No.

Q

There are three other houses between the Sheppard house and the cemetery, is that right?

A

I believe so.

Q

Well, do you know, sir? You have testified --

A

Yes.

Q

You have testified here that there was?

A

Yes.

Q

Is that right?

A

Yes.

Q

And how wide is that cemetery?

A

About 50 feet.

Q

50 feet wide?

A

I would say, to the best of my knowledge. I am not too good at judging distance.

Q

And how far is it from the cemetery to the Sheppard home?

A

Well, I would say about a hundred feet, hundred, hundred

and fifty feet.

Q A hundred or a hundred and fifty feet?

A Yes.

Q Isn't it more than that?

A It may be, but judging myself --

Q There are three houses between the cemetery and the Sheppard home, aren't there?

A Yes.

Q Now, as you drove on the 12th of July, as you drove along that highway driving east, were you going someplace?

A Pardon?

Q Were you going to go someplace?

A I did not get the question.

Q What were you driving down West Lake Road, driving east -- where were you going at that time?

THE COURT: Where were you going
at that time?

Q That's right. When you noticed the name of Sheppard on the mail box, where were you going?

A To the police station.

Q And when had you decided you were going to the police station?

A It was on the 12th.

Q And did you want to find out where the Sheppard home was before you went to the police station?

A Well, yes.

Q Did you read about the murder of Marilyn Sheppard?

A Well, the next morning.

Q That would be the morning of the 5th of July?

A If there was a paper on the 5th.

Q Well, did you read about it the next morning, sir?

A Well, yes, I did.

Q And in what paper did you read it?

A Cleveland Plain Dealer.

Q Did you read any other papers that day?

A No.

Q That was a holiday, was it not, celebrated as a holiday, July the 5th?

A I believe it was.

Q And you read about the murder of Marilyn Sheppard, is that right?

A Yes.

Q And you read as to where it occurred?

A Yes.

Q Is that right?

A Yes.

Q And did it occur to you when you read that that you had seen a man in the vicinity of that home?

A Yes, it did.

Q Did you know -- have any idea where the Sheppard home was in relation to that cemetery when you read that in the

newspaper?

A No, not at the time.

Q You did not. And then on Tuesday did you read about it, also, July the 6th?

A I can't recall.

Q Well, you read the newspapers every day, don't you?

A Well, sometimes.

Q Do you have the newspaper delivered to your home?

A Yes.

Q And what newspaper?

A Lorain Journal.

Q And do you have the Plain Dealer?

A No.

Q Did you have the Lorain Journal on the 5th of July?

A I can't recall if we did or not.

Q You did read the Plain Dealer, though?

A Yes.

Q Where did you get that?

A From my mother-in-law.

Q Were you visiting your mother-in-law?

A She lives right next door.

Q And then during that entire week of June the 5th -- or July, from July 5, did you read the newspapers about the murder of Marilyn Sheppard?

A Well, not too much.

Q Did you read something about it?

A I would say something, yes.

Q And did you read something every day about it?

A No, I would not say every day.

Q Well, how many times and in how many papers did you read about it up until July the 12th?

A Well, I can't recall.

Q Well, had you read many articles about it up until that day?

A No.

Q Well, how many did you read?

A Articles?

Q That's right.

A Maybe three or four.

Q Now, when you went over to the police station after you saw the name of Sheppard on the mail box, who did you see there?

A At the police station?

Q Yes.

A Fred Brenkhan.

Q And you told him about seeing a man alongside the cemetery there, did you?

A Yes.

Q And did you tell him you knew where the Sheppard home was?

A I can't recall of telling him.

Q Did he ask you if you knew where the Sheppard home was?

A No, I don't believe he did.

Q And you were shown a lot of pictures?

A Yes. The evening of the 12th.

Q Did you go over to the Sheppard home with the officer?

A No.

Q Well, didn't he ask you if you knew where it was?

A No.

Q Well, what was the conversation you had about it?

A We just gave him the description of the person that we had seen and the location that we had seen him.

Q Well, did you tell him how close it was to the Sheppard home?

A I can't recall.

Q What?

A I just told him it was near the cemetery.

Q Because when you drove along that day you were looking for the name of Sheppard on the mail box, weren't you?

A Well, we saw the name, yes.

Q I say, that is what you were looking for, isn't it?

A Yes.

Q When you left your home in Avon on July the 12th to go to the Bay Village police station, and as you drove along on the West Lake Road, you were looking for the name of Sheppard on the mail box, isn't that right?

A Well, we saw the name, yes.

Q You were looking for it, weren't you?

A Yes.

Q You wanted to know where that house was, isn't that right?

A In regard to the location, yes.

Q Is that right?

A Yes.

Q And you wanted to be able to tell that to the police when you went there, didn't you?

A Yes.

Q Is that right?

A Yes, sir.

Q And you did tell them, didn't you?

A I do not recall.

Q Well, you went there for that purpose, didn't you?

A Just to report what we had seen.

Q And to tell them how close it was to the Sheppard house?

A No, I didn't.

Q How?

A No.

Q Now, in these articles that you read in the newspaper concerning this murder, you read about there being a reward of \$10,000 offered, didn't you?

A I don't recall at the time.

Q How?

A I don't recall.

Q Didn't you read on Thursday or Friday, the 8th or 9th or

10th or 11th, in the newspapers, that there had been a reward of \$10,000 offered?

A I don't recall of reading that.

Q How?

A I do not recall of reading that.

Q And isn't that the reason that you decided on the 12th of July to go to the Bay Village police station?

A No.

Q Had you had some suspicions about the man you saw, before the 12th of July?

A We had talked about what we had seen.

Q And you talked about that when you read the first article in the newspaper on the 5th of July, didn't you?

A Yes.

Q Why didn't you go to the police and report it at that time?

A We did not want to become involved.

Q Involved in what, sir?

A In what had taken place.

Q And why didn't you want to become involved?

A I have no reason why.

Q How?

A I don't know.

Q You certainly realize that it is the duty of a citizen to report things of that kind, don't you?

A We realized that later.

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Q You realized that later?

A Yes.

Q Now, as you drove along that highway that morning to go to your home, 10 minutes to 4, July the 4th, did you have a radio in your car, by the way?

A Yes, I do have a radio.

Q Was it on?

A No.

Q How fast were you traveling?

A Approximately 35 miles an hour.

Q 35 miles?

A Yes.

Q Is that the usual speed that you travel?

A Around that, yes.

Q What?

A I very seldom go over 50, very seldom.

Q Very seldom go over 50?

A That's correct.

Q And there you had a highway all to yourself, didn't you?

A Yes.

Q And it was approximately four o'clock in the morning and you were traveling only 35 miles an hour?

A Yes.

Q What?

A Yes.

MR. MAHON:

That is all, sir.

REDIRECT EXAMINATION OF RICHARD E. KNITTER

By Mr. Garmone:

Q When you went to the police station did you go there primarily to tell what you had seen?

A Yes.

Q And you had no interest or thought in the \$10,000 reward?

A No.

MR. GARMONE:

That is all.

Thank you.

(Witness excused.)

MR. DANACEAU:

May I suggest a recess at this time? It is quarter to 12. Would it be agreeable to have a recess at this time?

MR. GARMONE:

Sure.

THE COURT:

Let me find out something more important than that.

Are you willing to come back at one o'clock?

MR. GARMONE:

1:15, Judge.

Is 1:15 agreeable with you, Saul?

MR. DANACEAU:

1:30 would be all right.

MR. GARMONE:

I think it is agreeable with the jury, too.

THE COURT:

Ladies and gentlemen

of the jury, in spite of everything, we will now adjourn until 1:15 this afternoon, and will you please observe the caution which the Court has told you? Do not discuss the case.

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(Thereupon at 11:45 o'clock a.m. a recess was taken to 1:15 o'clock p.m., Thursday, December 9, 1954, at which time the following proceedings were had):

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Thursday Afternoon Session, December 9, 1954, 1:15 o'clock

Thereupon, further to maintain the issues
on his part to be maintained, the Defendant
called as a witness MRS. ARTHUR G. PAINE, who,
being first duly sworn, was examined and testi-
fied as follows:

DIRECT EXAMINATION OF MRS. ARTHUR G. PAINE

By Mr. Petersilge:

Q Will you please give us your name?

A Mrs. Arthur G. Paine.

Q And where do you live, Mrs. Paine?

A In Bay Village.

Q And the address, please?

A 28913 Lake Road.

Q That would be on the south side of Lake Road, would it?

A Yes, sir.

Q And where would it be in reference to the home of Dr. Sam
Sheppard?

A Well, I would say directly across from him.

Q Can you see their home from any of the rooms in your house?

A Yes, sir, we do.

Q And what rooms are they?

A Well, from the three front bedrooms and the living room.

We have a large picture window in our living room. We have a very good view from that.

Q Can you speak just a little louder so that they will hear you back here?

A We have a large picture window in our living room, we have a very good view, we can see their whole house from that.

Q Now, are you acquainted with the defendant, Dr. Samuel H. Sheppard?

A Yes, sir.

Q And did you know his wife, Marilyn?

A Yes, sir, very well.

Q And did you know their son, Chip?

A Yes, we did.

Q Do you have any children yourself, Mrs. Paine?

A I have two boys.

Q How old are they?

A 12 and 15.

Q And did they spend any time with the Sheppards?

A Oh, yes. They were over there almost, well, more than they were home.

Q And where was that that they were with the Sheppards?
In their home or down on the beach or --

A They were in the home and down on the beach, and played basketball over there, and Dr. Sheppard taught Bob, the 15-year old, to water ski. And they did most of their

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swimming at the Sheppards' beach. They also -- Bob also used Dr. Sheppard's bar bells.

Q Bar bells, did you say?

A Yes.

Q Did you and your husband also visit the Sheppards?

A Yes, we did.

Q And have you seen them at any parties that you attended jointly?

A Yes. I would say five or six in a period of three years.

Q How long have you known Dr. Sheppard and his wife?

A A little over three years.

Q Was that ever since they moved to that home opposite you?

A Yes. We met them shortly after the moved there.

Q Now, have you ever consulted Dr. Sheppard professionally, either for yourself or for members of your family?

A My 15-year old boy was a patient of his, and my husband, and our younger boy, he cut a fish plug out of his back once.

Q Now, as a result of the contacts that you had with Dr. Sheppard professionally and also in a social way and as a neighbor, have you been able to observe his conduct toward his wife and toward other people?

A Yes, sir.

Q And what sort of a person would you say Dr. Sheppard was, as you observed him?

- A Well, he was a wonderful person. I had all the confidence in the world in him as, well, as a friend and as a doctor.
- Q And what did you observe with respect to his conduct toward his wife, Marilyn?
- A He was a very devoted husband.
- Q And how did she seem toward him?
- A The same. They always appeared very happy together.
- Q Did you visit with Marilyn back and forth during the day as neighbors sometimes will?
- A Yes, I did.
- Q And did you have occasion to go to their home at different times of the day and also evening?
- A Yes, sir.
- Q Are you familiar with the custom that they had as to locking or not locking their doors?
- A Well, I'm familiar with the door on Lake Road. As I say, I've been there at all hours of the day, and sometimes quite late at night.
- Q And what did you find with respect to that?
- A Well, I have never been over when the door was locked.

or --

A Well, I tidied up in the living room a little, and in the kitchen, and I would say I was up about an hour after they left.

Q Did you have occasion to look across to the Sheppard home before you went to bed that night?

A Yes, sir, I did.

Q And what did you observe?

A Well, as I was finishing up in the living room, and I was thinking about going upstairs, I saw their downstairs lights go out.

Q And was that anything unusual that fixed it in your mind?

A Well, yes, it was, and that's probably why I remember it, was that I thought, well, for once the Sheppards' lights went out before ours did. As a rule, they were up a little later than we were.

Q Could you see the upstairs lights in the Sheppard home from your living room?

A Well, not unless I was really looking for them. I doubt it, and especially in the summertime. There's so many large trees there. If I tried, perhaps, I could, but I'm not sure that I could see all of them.

Q At least, did you have any recollection of what lights were on upstairs?

A No, sir, I can't -- I just remember seeing the downstairs lights go out, and that's all I remember. I mean, I don't always seem to look that way when I am going to bed.

Q Now, Mrs. Paine, are you familiar with Dr. Sheppard's character and reputation in the community as a law-abiding citizen?

A He has an excellent reputation in the community, and with all the teenagers and the younger children, in fact, the young and the old, both, always thought he was terrific.

MR. PETERSILGE: You may examine.

CROSS EXAMINATION OF MRS. ARTHUR G. PAINE

By Mr. Mahon:

Q Mrs. Paine, this dog Koko, you got to know the dog pretty well, didn't you?

A Oh, yes, I did.

Q And the dog was friendly with you?

A She was friendly with everyone. She was that type of dog. I know dogs very well because we owned one for 13 years, and our dog was entirely different than Koke. Koke was just a friendly pet, and very -- well, she was spoiled, because I have been over there and had coffee while Marilyn and Chip were eating their breakfast on their screened porch, so, of course, this would be in the summertime, and

Koke has jumped on the bench that they sat on and slept with her head on Marilyn's shoulder while Marilyn was eating breakfast.

Q Well, what I am trying to establish, Mrs. Paine, is:

You were not a stranger to the dog at all, were you?

A No, I don't think Koke would have barked at strangers.

MR. PARRINO: I object to this,
if your Honor please.

Q I didn't ask you that, lady.

THE COURT: The question is:

You were not a stranger to Koke?

THE WITNESS: Oh, no, sir, I wasn't.

Q You had seen the dog many times, and probably petted the dog many times, isn't that right?

A Yes, sir.

Q Now, you have said that you were over to the Sheppard home many times during the day and sometimes at night?

A That's right.

Q And you never found the Lake Road door locked?

A No, sir.

Q Do you lock your doors when you are home?

A We do now.

Q Did you before --

A We have always kept our Lake Road door locked -- our door on Lake Road and our door in the back in the den, but we

have one door that enters into the garage.

Q Well, during the day do you keep your doors locked?

A Two doors I would say we try to keep locked. In the summertime, it is a little difficult with the children going back and forth.

Q It is not an unusual thing to have your doors unlocked during the day, is it?

A Well, it depends upon the individual, I guess.

Q And it is not unusual to keep your doors unlocked at night when you are up, isn't that right?

A I suppose not.

Q Now, on this morning of July the 4th, you went upstairs in your home at what time?

A I know -- I'm quite -- I would say our guests left around 11:30, and as far as I can recall, I went up about an hour after they left, which would make it around 12:30. It might have been a little later, I'm not sure.

Q Around 12:30 in the morning, then, of July 4th, you went up to retire?

A Yes, sir, I did.

Q And before you went upstairs to retire you had looked across the street and you saw the lights in the Sheppard home go out, is that right?

A Yes, sir, the downstairs lights.

Q The downstairs lights?

A Yes, sir.

Q You could not observe the upstairs lights from where you were?

A I don't think I looked upstairs. I don't recall that. I do remember -- and it impressed me, because the --

Q All right. You did not see the lights on upstairs?

A No, sir, I didn't.

Q You did see the lights go out on the first floor?

A Yes, sir.

Q About 12:30 in the morning?

A As I recall.

Q Then you retired?

A Yes, sir.

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- Q And when did you next get up?
- A I'm not sure. I awoke when the ambulance came out.
- Q And that was what time?
- A I would say I ran to the window and watched, and I didn't think of the time at that time, but I would say between 5:45 and 6:15. I'm not -- I don't recall.
- Q All right. Between 12:30 and 5:45 to 6:15 you did not see the Sheppard house, did you?
- A No, sir.
- Q So you don't know whether or not lights went on again in that house during that period of time, do you?
- A No, sir, I do not.

MR. MAHON: That is all.

THE COURT: Thank you.

MR. GARMONE: Wait a minute.

They have another question to ask.

THE COURT: I beg your pardon?

MR. MAHON: That is all.

MR. PETERSILGE: Thank you.

(Witness excused.)

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Thereupon, further to maintain the issues on his part to be maintained, the Defendant called as a witness ARTHUR G. PAINE, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF ARTHUR G. PAINE

By Mr. Petersilge:

Q Will you state your name, please?

A My name is Arthur G. Paine.

Q And you live at 28913 Lake Road?

A That's right. Directly across --

Q You are the husband of the lady who was just on the stand?

A That's right.

Q What business are you in, Mr. Paine?

A Printing business, lithographing, bank checks, specializing in that field.

Q What company do you represent?

A Deluxe Check Printers.

Q Now, your home is just across the street from that of Dr. Samuel H. Sheppard, isn't it?

A Directly across the street from the Sheppards.

Q And are you acquainted with Dr. Sheppard?

A Yes, I certainly am.

Q How long have you known him?

- A About three and a half years.
- Q During that time, have you ever consulted him professionally?
- A Frequently.
- Q For yourself or for members of your family, or for both?
- A Well, the children and myself, primarily.
- Q Have you also seen Dr. Sheppard in a social way?
- A Yes.
- Q And have you visited back and forth with him as neighbors?
- A That's right.
- Q Have you ever observed, Mr. Paine, Dr. Sheppard working around his place?
- A Frequently. In fact, looking -- just to give you the picture, we look directly from our picture window right across the street to Sam's home, and it seemed to me that he and Marilyn were out -- they did a lot of things together. They worked around the garden. We used to go over, they would come over to our place, polishing the car, things that flash back through your memory of Marilyn and Sam working together, Chip there.

Just a week before all this happened, I have a very vivid description in my mind of Sam and Marilyn, and Chip had just received his first baseball mitt -- Chip, as you know, is just 7 -- and his bat, the three of them out with little Gene Disbro next door, and playing baseball, it seemed like an hour. I can go on for hours,

the things they did together.

Q Were there many occasions on which the neighborhood children were over there at the Sheppards?

A Oh, that -- to me, that's the crux of the whole thing. The teenagers in the neighborhood worshipped those two.

MR. PARRINO: If the Court please, these remarks are not responsive to the question.

THE COURT: Please, listen to the question and just answer the question.

THE WITNESS: Yes, your Honor.

Q Did your own children spend any time over there at the Sheppards?

A Oh, yes.

Q Now, from the contacts which you had with Dr. Sheppard, were you able to form an opinion as to the sort of person that he was?

A Absolutely.

Q And what was that opinion?

A The grandest fellow that ever lived, and Marilyn, also.

Q And can you tell us what Dr. Sheppard's character and general reputation was in the community as a law-abiding citizen?

A Well, far above average. The way he participated and entered into civic -- the civic movement, with the job and

the work that he did at the high school and --

THE COURT: No. The question
is: What is his reputation in the community?
Is it good or bad?

THE WITNESS: Perfect.

MR. PETERSILGE: That is all.

CROSS-EXAMINATION OF ARTHUR G. PAINE

By Mr. Danaceau:

Q Mr. Paine, you are a very close friend of Dr. Sam Sheppard,
aren't you?

A Close in a neighborly sort of way. There's a difference
in our ages, in our respective fields. We didn't have
that in common, but --

Q Well, you feel very friendly toward him, do you not?

A Oh, absolutely.

Q And you would like to help him as much as you can, isn't
that a fact?

A I think he needs help.

MR. DANACEAU: All right. Thank
you very much.

MR. GARMONE: That is all.

MR. PARRINO: That is all.

Thank you.

(Witness excused.)

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Thereupon, further to maintain the issues on his part, the Defendant, SAMUEL H. SHEPPARD, offered himself as a witness, and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF SAMUEL H. SHEPPARD

By Mr. Corrigan:

Q You are Dr. Samuel Sheppard?

A Yes, sir.

Q Dr. Sheppard, you have listened to all the testimony in this case closely, have you?

A Thus far, yes.

Q Do you remember a man by the name of Tom Weigle testifying from where you are now?

A Yes, I do.

Q Do you remember what he said about the manner in which you treated your son, Chip, on a certain day?

A Yes, I remember.

Q Now, will you tell the jury what occurred on that particular day that Tom Weigle came here and testified about?

A Well, may I give a short preface to what occurred?

Q You may.

A Well, at that particular time, and days, Marilyn had complained somewhat to me that young Chip was becoming

somewhat of a problem in her difficulty in reprimanding him. At the time that she would reprimand him, he had developed a normal tendency to strike her with his hand, or possibly a little toy he might have, which she didn't like, and certainly I didn't feel was right.

I spoke to him at that time about that, attempting to steer away from dwelling on something that had happened maybe hours or days before. So I certainly didn't spank the youngster at that time, I merely spoke to him and explained to him he should never strike his mother or strike me or strike anyone unless it is in self defense.

I tried to explain to him something about sportsmanship. And on this particular occasion, as Mr. Weigle testified, he and his wife had arrived for a dinner together, as I recall, and young Chip was somewhat showing off, as youngsters do and as we expect them to at times, and as I think Mr. Weigle mentioned, he was showing off some of his Indian things. He is a great lover of Indians, and he has some authentic Indian equipment. He has very beautiful arrowheads and some actual tomahawks and feathers, and so forth.

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(Continued) I believe that Marilyn had spoken to him that day and had suggested to me that I speak to him, because, seemingly, a man's voice meant more to the youngster than her continual speaking, and she had also commented that when she had spanked him, she couldn't hurt him any more, he was getting to the point where she couldn't hit his back end hard enough to hurt him or mean anything to him, and he continued to show off, and I believe that he pushed Tom Weigle's little son over a time or two, which I felt was somewhat dangerous to the youngster.

Anyway, I spoke to him again, and Chip had a tomahawk in his hand. He came over and hit me with the tomahawk on the shoulder, which I thought was definitely out of order. I took him across my knee and I gave him a few fairly reasonable licks on his back end. Chip's pride was very definitely hurt, which I think hurt him really more than any physical hurt.

He went upstairs, and when we called him for dinner, he hesitated to come down. I don't remember the particulars of his eating that evening, but I think he came down later, or Marilyn or I took him his dinner. It was certainly no great problem.

Tom and I spoke of it momentarily, and he and I agreed that such things certainly shouldn't be allowed to

go by. That's the extent of it.

Q Then it was just discipline that you considered necessary at that time for your son?

A Yes, sir, particularly in regard to the comments that my wife had made to me within the last day or two, and I believe that there are others who can recall that phase of his development.

I might add that he hasn't displayed that tendency since that time in any degree.

Q Hasn't what?

A He hasn't displayed that tendency since that time to strike anyone unless he is struck himself, or unless he is employed in defending himself.

Q The discipline was effective?

A Relatively so, I would say. He is a pretty smart little boy, I think, and he responded.

Q I suppose that when you were a small boy your father disciplined you?

A Yes, he did.

Q Now, there was another incident that was testified to by Mrs. Houk, that one time some woman came over to your house that had an automobile accident, and you talked to her about the fact that head injuries were difficult for anybody to figure out. Do you remember that testimony?

A Yes.

Q Now, relate what you have to say about that incident related by Mrs. Houk.

A Well, Mrs. Houk was referring to her sister, Miss Gerhardt, Marie Gerhardt, who had consulted me off and on professionally, and, of course, I had taken care of Mrs. Houk professionally and Mrs. Houk, Senior, Mr. Houk's mother, and the first I recall was one evening my wife, Marilyn, told me that Marie had been in an accident, and she hadn't been injured severely, but the car had been damaged, and Marilyn said that Marie had called me to ask that I examine her and fill out a form for the insurance company so that the insurance might be cleared up and she might make final settlement, and I believe Marilyn mentioned that she had bumped her head, but that was about all there was to it.

Marilyn told Marie at that time that I didn't have office hours, or would not be available within the next day or two. I can't recall the specific day, but it happened to be a day following which I was not going to be available in the office for routine examinations. I was possibly going to Youngstown, or one of my other trips to take me out of the city, and I commented to Marilyn at that time, as she well knew, and shortly thereafter, to Mrs. Houk and Mr. Houk and possibly Marie herself, and I commented, as I do to every patient that I see in my office who has had any sort of head injury -- the comment is to this effect:

That if an individual suffers a minor head injury, it is impossible for any physician, specialist or otherwise, to foresee complication, to recognize in that preliminary examination whether complications may or may not arise within a period of days to months, and I have had occasion to perform cranial surgery on people who have had very minor instances of head injury up to a year before. Some of those people have made settlements with insurance companies, and when the time that surgery becomes necessary, they are not covered by an insurance policy which was specified for that coverage. Keeping this in mind, I feel that it is my duty to apprise any and all patients of mine of this fact and recommend that they delay final settlement with insurance companies.

That is the extent of my comment -- my comments. Marilyn or Mrs. Houk or Mr. Houk may have laughingly said, "Well, Marie, maybe you better just say you have had head injury and try and make them buy you a new car," or something of that sort, which was certainly a joke. It certainly would be a joke with Miss Gerhardt or any of the Houks, because certainly none of them would try to embezzle or falsify anything.

I can't really specify any specific remark in that regard, except that Mr. Houk did say that he tried to tell the stupid women that he felt they should -- that she should

delay, referring to the women, his wife and his sister-in-law, rather than make final settlement, because strictly from a legal standpoint --

THE COURT:

Just a minute.

Perhaps we better wait until that goes by.

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A He felt that she should delay a short time --

THE COURT: Let's have a
moment until this roller or whatever it is
gets by.

Q Where were you born, Dr. Sheppard?

A Cleveland Heights, Ohio.

Q And what year were you born?

A Well, with all this questioning in regard to "in my own
knowledge," I hesitate to say, but it was 1923.

MR. PARRINO: I didn't get
that answer, Doctor. What was that, please?
Will you read that back, Mr. Reporter?
I didn't hear it.

THE WITNESS: 1923.

Q What day?

A December 29th.

Q December 29th. So this coming December 29th you will be
31 years of age?

A Yes, sir.

Q Where did you go to school?

A Well, I attended Coventry Elementary School with Mr. Rosen,
who testified this morning.

Q And then where?

A And then I attended Roosevelt Junior High School. From
there I attended Cleveland Heights High School.

I then --

Q Now, when you were in Cleveland Heights High School, did you participate in athletics at that school?

A I did at Cleveland Heights High School following my athletic participation at Roosevelt Junior High School.

Q And in what type of athletics did you participate?

A Football, basketball and track.

Q And for how many years during your term at Cleveland Heights?

A Three years.

Q For three years. Did you make the team?

A Yes, sir.

Q What position did you play on the team?

A Well, in football I played quarterback or halfback on offense; on defense I played line backer or safety man. In basketball I played guard. In track I was anything from a hundred yard dash to 440.

Q Now, are you able to say to the jury whether you exhibited any proficiency in those sports?

A Well, I always considered myself as passable. I was able to make the varsity teams, but I was certainly never a tremendous star in any sport.

Q Did you participate in any student activities other than athletics?

A In high school?

Q Yes.

A Yes.

Q What?

A Well, I was a member of the varsity "H" club, of course, that being the letter society. I was a noon movie guard and I was a hall guard and, oh -- I haven't thought of these activities for some time. There were various other activities that I took part in.

Q You took what?

A There were various other activities that I took part in. I think I belonged to a science club.

Q What is a hall guard or room guard, or whatever that is?

A Well, during the day the halls of a high school are relatively vacant, as we all know, and those halls are to be kept vacant unless an individual has a particular reason to be in the hall. That's to prevent people from cutting classes, of course, and certain members of the student body are chosen as hall guards. They are taken out of regular study halls and placed at regular stations throughout the hall, and do their studying -- have their regular study hall at these regular hall guard posts and permit only those with passes to go down the hall. In that way people who are cutting classes or trying to sneak around the halls are not permitted to do so.

And noon movie guard is merely sort of a police

force to maintain order in the auditorium during the noon hour, during which noon movies were being given for the benefit of the students.

Q Did you have any office as an officer of your class?

A Yes. I was president of the class.

Q You were president of the class?

A All three years I was president of the class.

Q Now, then, where was the next school that you attended?

A Well, I graduated from high school in 1942, and during that summer I was a playground leader for the Cleveland Heights Board of Education at Noble Road playground. I then attended -- the following fall I attended Hanover College.

Q Where is that?

A That is in Southern Indiana, right -- well, it's along the Ohio River between Cincinnati and Louisville is the best way I can point it out.

Q How long did you attend there?

A I attended Hanover College for two years and attended Western Reserve University during the summer session between those two years.

Q And then did you proceed on to some other institution?

A Yes. I was -- my work was accelerated due to the wartime restrictions, and I was not allowed to continue the four-year college course, and I was so-called frozen in

my professional work and went directly from Hanover College to the College of Osteopathic Physicians and Surgeons at Los Angeles, and that was directly following my second year at Hanover. There was no --

Q Was your work at Hanover pre-medical work?

A Yes, sir.

Q You were taking a pre-medical course?

A Yes.

Q Now, then, you went to Los Angeles and attended the college there?

A Yes, sir.

Q And when did you complete your work, your medical education, that is, that part of your education which --

A The didactic?

Q Your scholastic work, yes.

A Well, that was completed four years later chronologically, but actually it's a four and a half year course, but during this period we went to school continuously, winter and summer, and thereby it was completed in a four-year period. I actually -- well --

Q Well, when you completed your scholastic medical course or your training that they give you in medical college, what did you do then?

A I applied for internship at the Los Angeles County General Hospital and was appointed.

Q Will you pardon me just a minute?

MR. CORRIGAN: Will you come
here, Richard, a minute?

(Conference had between Mr. Corrigan and
Dr. Richard N. Sheppard.)

Q Were you successful in obtaining an appointment to the
Los Angeles County General Hospital?

A Yes, sir, I was.

Q And where is that hospital located? In the City of Los
Angeles?

A It's in the City of Los Angeles, yes. It's in the depths
of the city. Do you want the location as to roads?

Q What is it?

A Do you want the location as to highways or roads?

Q No, I don't care about that, and I am sure the jury
doesn't.

How large a hospital is it?

A The entire Los Angeles County General Hospital is a huge
place. It's not all under the cover of one roof. There
are several buildings, including a psycho building, a
building for the care of tuberculosis and other contagious
diseases, a building which is specifically devoted to the
general medical care of the orthodox medical doctors,
and then the building which is devoted to the general
medical handling of the osteopathic physicians and surgeons.

which actually do not vary in the medical care but vary somewhat in their political differences.

Q In their what?

A The political differences is about the only difference as far as those two buildings are concerned. However, the other buildings vary according to the particular type of work.

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- Q Do you know how many beds there are connected with that hospital?
- A I couldn't say, but I have been told that it is the largest civilian hospital in this country and possibly the world.
- Q Well, you mentioned that a certain part of it was osteopathic.
- A Yes, sir.
- Q And the only difference between that and some other part of it was political. Now, I don't understand what you mean by that.
- A Well, I would have to go into a rather long explanation of the inception of osteopathy.
- Q Don't go into a long explanation. Can't you give it very briefly?

THE COURT: I think he means
in philosophy, don't you, Doctor?

THE WITNESS: Originally, there
was a difference in philosophy, but today the
medical physician and surgeon and the osteopathic
physician and surgeon are -- I will say a good
medical physician and surgeon and a good osteopathic
physician and surgeon are in quite close agreement
as to care of the sick.

THE COURT: Now, Mr. Corrigan
wanted to know what you meant when you just said

political differences.

THE WITNESS: Well, originally, years ago when Dr. Andrew Taylor Still developed the osteopathic profession, there were very few specific medications that were available to any doctor. Dr. Andrew Taylor Still was a medical physician of that day and age, and he had lost members of his family through sickness. He felt somewhat inadequate as a physician, and he struck on the mechanical philosophy of treatment. He offered this as an addition to the present-day methods of care at that time. His colleagues did not accept this philosophy or mechanical approach or addition. He represented or suggested no difference, merely an addition to medicine at the time. His colleagues did not accept him, and he therefore founded a new school of medicine, which was, was and still is, merely an addition to medicine as a whole, and from that there have developed certain political differences.

As a result, in Los Angeles County, rather than throwing the physicians and surgeons in an entire hopper together, they have found that the patients seemed to like it better and the doctors

like it better to have separate units, but the doctors visit one another's hospital units. They work in harmony, they use the same pharmacy, they use the same equipment, they use the same surgical and medical nurses from side to side. The nursing training program is the same for both units, and there is -- though there is a political difference, harmony is displayed.

Q Now, then, ^{you} ~~did~~ secure your appointment to an internship in that hospital?

A Yes, sir. It is a Civil Service appointment.

Q It is what?

A It is a Civil Service appointment of the County of Los Angeles.

Q Do you have to take an examination or something?

A Yes, sir.

Q Is the hospital operated by the City of Los Angeles?

A By the County, sir.

Q By the County. And after you took the Civil Service examination for an appointment as an intern, were you appointed?

A Yes, I was.

Q And what year did you begin your internship in that hospital?

A I started in December of 1947, as I recall. I was appointed to my internship six months before my actual graduation day.

Q How long was your internship? How long did it last?

A One year.

Q And after you had completed your internship, did you continue in the city of Los Angeles?

A Yes. I applied for a residency in neurosurgery at the same institution, and I was appointed to that residency in December or January, the following year. I'm not sure of the exact date.

Q Now, in applying for the position of what you call residency, was that Civil Service?

A Yes, sir, it was.

Q In order to secure that residency in neurosurgery, who passed upon your qualifications?

A I was passed on, as far as my qualifications, first by the Director of Hospital Practice, who is the chief physician in charge of the hospital, and who knows the intern's staff, the entire house staff, as to their activities, their qualifications, their relative ability, according to the years worked.

I was then -- and I will say that any resident who is applying for a position is then passed on by the so-called senior doctors of the particular service. In my case, it was the senior neurosurgeons who would be in a position to be responsible for my training, and then there are certain official people that have to pass in regard to the County

appointment, that I am not really familiar with.

Q Now, then, will you tell the jury what neurosurgery is, what it involves?

A Well, actually this appointment was to what we call neuro and traumatic surgery. Neurosurgery is any surgery which involves the nervous system, and that includes the brain, the spinal cord, and the nerves, peripheral nerves in the arms and legs, and, of course, that not only involves the surgery of the nervous system itself, but it involves the penetration of any bony structures that house the nervous system, and that includes surgery for not only injury to the nervous system, but growths or congenital abnormalities, in other words, abnormalities that people or babies are born with, such as encephalitis, a large head, and things of that sort.

Q Now, in that work did you have anything to do with accidents that happened in the city of Los Angeles?

A Yes. As I said, traumatic surgery was included in this residency, and, of course, traumatic surgery itself includes -- or is included in neurosurgery, because a great number of neurosurgical patients are patients as a result of trauma, in other words, of injury, automobile accidents, gunshot wounds, injuries of various types, and this, thereby by necessity, included fractures of all types, injuries to the bones and blood vessels. I obtained training in the repair

of all types of fractures, of legs, arms, hands, spinal fractures, training and repair of blood vessels, of blood vessel grafting, of removal of blood clots from blood vessels that have developed clots due to injury, and work in regard to cardiac massage, which may occur under any surgical situation. I should say cardiac massage which is the treatment for cardiac arrest.

Q Well, did you notice, Doctor, that in your practice in taking care of these accident cases, both in the city of Cleveland and Los Angeles, that in automobile accidents there is an increasing number of head injuries?

A I didn't --

Q In your work, in your accident work -- let me put it this way:

In addition to the work that you did in Los Angeles in taking care of accident cases, you also took care of accident cases when you came to Cleveland?

A Very many.

Q Did you notice that there was an increasing number of head injuries in automobile accidents?

A Well, I noticed that there were many head injuries in automobile accidents from the time I started doing this type of work.

Q Now, after you had completed your residency, that would be in what year? What year would that be?

A In 1951.

Q 1951?

A Yes.

Q How many years were you a resident?

A I left Los Angeles County General Hospital after approximately two and a half years of neurosurgical residency to complete my program under the care and direction of my father, Dr. Sheppard, Sr. He and Dr. Abbott, who was the dean of the graduate school of the college when I initiated my program, and Dr. Richard Stewart, who was the head of the department of anatomy --

Q All right --

A I should say that a program was devised, and it was to be completed here under the direction of Dr. Sheppard, Sr.

Q Then if I get it right, after you completed two and a half years of residency and one year internship in Los Angeles, you came to Cleveland?

A Yes, sir.

Q And that brought you to Cleveland what month and what year?

A Approximately June of 1951. I can't say the specific date.

Q All right. That's enough. June, 1951.

Now, when did you meet Marilyn?

A I met Marilyn in 1937 or 1938 at Roosevelt Junior High School.

Q How old were you?

A I must have been 13, 14.

Q

Now, then, did there come a time when you kept company with Marilyn?

A

At that time we displayed interest in each other even though it was not great. We displayed relative interest, and our schoolmates would kid us about one another.

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Q And did that continue on through the years, that interest in one another, until you became engaged to marry her?

A There was an interval that interrupted that interest. She was a year and a half ahead of me in school. She was a mid-year, and she went to high school a year and a half before I did, so that I saw her very little but would receive an occasional report that she had asked about me, or she used to come down to junior high school and watch me play basketball when I was playing for the junior high school basketball team.

Q Well, when you were playing football up at Cleveland Heights, do you know whether she attended the football games and watched you?

A Yes, sir, she did.

Q And was that frequently or infrequently that she would come and watch you parading over the field?

A Marilyn and my father were never missing. I could always find them in the crowd.

Q And is that true of the basketball games and the track?

A Absolutely. She used to --

Q Everytime that you participated in athletics, your father and Marilyn were there?

A Yes, sir, they were. Marilyn took a great deal of pride in holding any ribbons that I might have been fortunate enough to obtain in track.

Q Now, after a time did you become engaged to marry her?

A Well, in high school I joined a high school fraternity and we at that time thought that the high school fraternity pin meant engagement. Our parents and relatives didn't consider it so, but we felt that we were engaged. And as soon as I was initiated into my college fraternity, I didn't even have my own fraternity pin, I was initiated on Dr. Stephen's pin, and it was in the mail to Marilyn the next day because it was supposed to have denoted engagement and I wanted her to have it.

Q Well, that fraternity pin, when you give it to someone, who are you supposed to give it to under the rules of the fraternity? Is it restricted in any way?

A The actual fraternity pin is to be worn by no one but the member, his fiancée, mother or sister.

Q I see. Well, the next day the fraternity pin was on the way to Marilyn?

A Yes, sir.

Q Now, did you keep in contact with one another when you left Cleveland and went to Los Angeles?

A Yes.

Q And in what way?

A By mail.

Q During the time that you were going to school in Los Angeles, did you return to Cleveland?

A Not before we were married.

Q Not before you were married?

A No.

Q Now, what I mean to ask you, that occurred some four years that you were separated, she was living here and you were living in Los Angeles going to school?

A No, sir. There was not a period of four years that I was in Los Angeles separated from her. During the period that I was at Hanover College, naturally, I was home for all holidays and she visited at Hanover College.

Q I see.

A In fact, she was invited to join one of the sororities at Hanover College as an honorary member, because she was so well liked by the girls.

Q Well, then, I am talking about the period that you were in school in Los Angeles. What contact did you have with Marilyn?

A Well, I wrote to her daily and she wrote to me daily, and I found that she was going to come out -- I beg your pardon -- I found that her father was coming to Los Angeles on a business trip.

Q Now, what year did they come?

A Well, that was February of the first year I was out there.

Q That was 19 --

A Well, that would be '48, I believe.

Q What?

A I believe that would be 1948.

Q Well, what year were you married?

A No. '45, I believe.

Q And what month in '45?

A February.

Q And had you noticed that she was coming to Los Angeles and that you were going to get married?

A Had I noticed?

Q Yes. Had you arranged that?

A I certainly had.

Q What?

A Yes, sir.

Q And the purpose of her coming to Los Angeles that time was for you and her to get married?

A Yes, it was. Her father was in Los Angeles, or he was coming on an incidental business trip, and my father had been asked to come to the graduate school of the college to teach a course in surgery. He is a professor in the surgical division of the graduate school.

And by chance, the two trips jibed and I thought that was a pretty good opportunity. So I wrote her father a letter and I wrote Marilyn a letter.

Q And the arrangements for the marriage were made?

A Yes, they were.

Q And where were you married?

A We were married in a church in Hollywood. I believe it's the First Methodist Church in Hollywood, but I'm not absolutely sure.

Q Now, then, after your marriage, while you were going to school, you lived in Los Angeles?

A Yes, we did.

Q And did Marilyn return home at any time between 1945 and 1951, was it, when you came here to live?

A Yes. She returned.

Q Did she return?

A Yes.

Q That would be six years' time that you were living in Los Angeles after your marriage?

A I --

Q I'm a little thick now. Was it '50 or '51 that you came back here?

A '51.

Q So it would make it approximately six years?

A It was three years -- yes.

Q What?

A Yes.

Q Now, did Marilyn return home at any time during those six years?

A Yes, she did.

Q And what were the occasions of her visits?

A Well, the first time Marilyn came home, I came home with her. I can't -- there were several trips that were made, and I can't say whether it was the following year or the year following that, I should say the year after--

Q Well, it isn't very important. I won't dwell on it.

A Well, we drove home together in an old model A Ford.

Q You came home several times and Marilyn came home. Did Marilyn come home alone?

A She came alone following the birth of Chip. She flew home.

Q And how long was she home at that time?

A Oh, I can't say specifically. I don't really know. I don't really recall. We arranged it so that she could come home during the period that I had to spend approximately two weeks to a month on a particular service during my senior year, in which I had to spend the entire time at the hospital. It's the maternity service. During that time, the senior student stays in the hospital, eats, sleeps, the entire period for approximately three weeks, and during that period he administers to the patients.

Q For three weeks?

A Yes, sir. And we foresaw the problem of Marilyn being alone during that period and her wish to be with my folks, her folks and visit at home, so she flew home during that

period.

Q Now, then, coming to the year that you came to Cleveland, that you moved to Cleveland, decided to come here, that would be in June, 1951?

A Yes, I believe that's correct.

Q And it was arranged that you then would become associated with your father and your brothers?

A Yes. I was to complete this program that had been outlined.

Q Who had outlined the program?

A Dr. Abbott, who was Dean of the graduate school of the college; Dr. Kenneth Bailey, who was the Director of my neuro-surgical program, and Dr. Richard Stewart, who was also a co-director of my program at that time, particularly in regard to anatomy. And it was decided that my program should include not only the neuro-surgery and bone or traumatic surgery, but also general surgery, realizing that too many specialty surgeons do not have the background in general surgery. So this year, under the direction, specific direction of Dr. Sheppard, Sr., was outlined to complete that phase of the training program.

Q So you came here and became connected with Bay View Hospital?

A Yes, sir.

Q Now, did your father and your brothers maintain an office at

that time?

A They maintained three offices.

Q And where were those offices located?

A Their one office was at 32nd and Euclid Avenue, another on Lorain Road in Fairview Park, I'm not sure of the address, and another office on Gladys Avenue in Lakewood.

Q On what avenue?

A And each respective individual seemed to spend a little more time in one of the offices, yet they would rotate through on specific occasions to cover the problems that needed to be covered in each office.

Q Did you associate yourself in any of those offices with your father or your brothers?

A I associated myself in all three.

Q I see. And you also did your work, your surgical work and medical work, at Bay View Hospital?

A Yes. The care of the surgical patients and patients that need to be hospitalized, naturally, occurs at the hospital, but the care of any patients that do not need hospital care are seen in the office, post-surgical patients or patients that are not necessarily of a surgical nature.

Q Well, I guess we all understand that.

Now, then, when you came to Cleveland in June 1951, where did you live?

A We were able to rent a home in Rocky River for that first

summer, during which time we looked for a home.

Q And when did you find the home on Lake Avenue or West Lake Road?

A Sometime in late June or early July. We found it with the help of relatives who advised us. We were rather --

Q And you purchased that home from Mrs. Brown, who testified here yesterday?

A Yes, sir.

Q What?

A Yes, sir, we did.

Q And with the purchase of the home, the carpets on the floor came with the home?

A Yes.

Q Did you know how long they had been on the floor before you got into that house?

A I had no idea.

Q When you purchased the home, did you have the money to purchase that home?

A No, sir, I didn't.

Q And who did you get the money from?

A My father loaned us the money.

Q And do you still owe your father for that loan?

A Yes, sir, I do.

Q When you purchased the home, whose name was the home placed in?

- A It was placed in Marilyn's name.
- Q Not in both of you?
- A No, sir.
- Q Her name alone. And was it in her name alone at the time of her death?
- A It was never changed.
- Q What time did you move into that home?
- A There, again, I can't state specifically, but I believe it was sometime in July.
- Q In 1951?
- A Just about three years before this happened.
- Q And the furniture that equipped the home, outside of the carpets that were there, where did you get the furniture or how much furniture did you have?
- A Well, of course, we didn't have any furniture. Marilyn and I had discussed furniture, and she was very interested in authentic Early American furniture. She has an aunt, Mrs. Munn, who likes that sort of thing and knows a lot about it who had advised us about where we might obtain authentic furniture from time to time, and also Mrs. Schuele, whom you -- I guess Mrs. Schuele didn't testify but --

ke 16 Q What?

ug A The wife of Mr. Schuele, that was here yesterday, is quite a collector of early American furniture, and Marilyn and she became friendly rather soon after we moved in, and they talked about where we might obtain authentic early American furniture. We obtained a certain amount of furniture from relatives. Marilyn's grandmothers on both sides of the family had passed away while we were in California, and there were certain pieces of furniture that her grandmothers on both sides had wanted Marilyn to have.

Q So that was the way the house was furnished?

A Yes, sir, plus covering. She had the chairs in the front room covered by a professional who did that sort of thing, and then she and my mother sewed certain covers, for instance, on the couch, she made that.

Q When you moved into that house, did you have any substantial amount of money?

A No, sir. Well, we had approximately a thousand dollars in cash and approximately a thousand dollars in War Bonds, which is still in a safety deposit box.

Q You were just a young married couple getting started in life, is that it?

A Yes, sir.

Q You had no opportunity to earn any great amount of money at that time?

A I had had none.

Q Now, then, after you moved into the house in June, 1951, did you get acquainted with the neighbors and the people around your home?

A Yes. The first thing I can remember is about a week after we moved in, we noticed that there was still a big metal sign out on the tree, the big round tree at the end of the driveway, which was referred to this morning, and I went out and pulled it down, and Mr. Paine was out in the yard, and he yelled out and clapped and said, "Hurrah," or something, waved, and that was my first recollection of a neighborly attitude, and shortly thereafter, though, I was quite busy with my work, Marilyn met most of the neighbors and became increasingly impressed with the neighborliness of the community and the friendliness of the people in the area.

Q And when was it that you purchased the boat in partnership with Mr. Houk? Was that the first year you were there, or was it later?

A Well, that was the following spring. Our association with Mr. Houk was stimulated by the fact that my wife purchased her meat locally, of course, and met him, and the fact that I had been out on a number of emergencies in the community, and --

Q When did you first become associated with any police

department out in that neighborhood there?

A Well, during that following year I received all the emergency calls through the hospital, and asked that the hospital contact me in the case of any and all emergencies so that I could be present, and in the cases of any problems on the road or in homes, I would go to the scene.

Q There is a badge here that is in evidence, attached to a purse, which I will show you later, which shows the words "Police Surgeon" on it and "Westlake Police Force."

A Yes, sir.

Q When did you become acquainted with the Westlake Police Force?

A Well, I was serving on the emergency work in Westlake just as actively as I was in Bay Village. Westlake is a community just south of Bay Village, and you, driving there, would never know you were out of one village into the next because Bay Village is long and narrow. As you drive along the lake, you think it is a pretty good sized place, but you drive maybe a mile south and you are out of Bay Village. In fact, not even that far in some places.

So realizing that my connection with the emergency work was becoming greater, I wrote a letter to the Mayors and the Police Chiefs of both communities stating that I was happy to donate my services free of charge to the police departments, and if they chose, I would be happy to actively be a police surgeon and specifically make myself available

at all times, or have some colleague of mine be specifically available so that there would be no time, day or night, whether I am in town or not in town, that they would be without a physician ready to go.

Both community representatives were happy and pleased because they had stated that they had had difficulty in that regard previously, and I was appointed by the Council in Westlake as Official Police Surgeon, and I was appointed on a panel -- or I was appointed as unofficial police surgeon in Bay Village -- I should say I was unofficially appointed. It was not necessarily a Council action.

Q Was there any salary connected with those positions?

A No, sir, there wasn't.

Q I see. Now, did you engage in any other activities, civic activities connected with Bay Village, in addition to doing such work as was required by the police department?

A Well, I was appointed as co-head -- co-medical head -- co-head of the medical phase of the Civil Defense in the City of Bay, and I was a member of the men's club. I can't think of any other activities that are limited to Bay Village.

Q Well, as head of the medical defense -- Civil Defense, did that require any organizing on your part or any work to be done?

A Yes, sir, it did.

Q Tell me what it was, tell the jury what it was.

A Well, the first year that Civil Defense was organized in Bay Village, Dr. Stephen Sheppard, my brother, was asked to take part, I believe on the basis of some articles that he had printed in some of the local publications about the need for a medical organization in Civil Defense and the hope that that organization would come about without waiting necessarily for County or State authorities to direct such organization, and during this period, he talked over everything that he did with me, and we together worked out a program for Bay Village as a community, and then an extended program to include Bay Village, Westlake, Rocky River, Fairview Park, and so on.

Q Did ~~that~~ require meetings?

A Yes, sir, it did.

Q And who attended those meetings? What kind of meetings were they?

A Well, the meetings --

Q Just briefly.

A There was the Civil Defense meetings which occurred for a while monthly, and then there was an open meeting in which the overall plan was explained to the public, anyone who wished to could attend and ask questions, and --

Q Now, I want to ask you, Doctor, about the activities around your home in regard to it being used by the neighbors and

the neighbor children and the neighbor boys.

A Well, our home was open to all youngsters at all times. They were always welcome.

Q Were there any activities around your home in which the neighborhood boys participated?

A Yes, sir. As has been testified to, the neighborhood boys took part in using a basket ball hoop that I had arranged in the driveway. I always thought when I was growing up that when I had a house, I was going to have a basket ball hoop in the driveway and the kids could use it, and I had a couple of the outdoor type of basket balls that were in the garage, and they were able to use them at any time.

I put my barbells, which I had found rather impractical for me, up in the garage, so that the boys could come and use those barbells at any time, and they were always welcome to swim or water ski when we were water skiing or take part in whatever they wished to around their home.

t I would come home on many occasions and find them in the house with my wife, and they might be sitting, two or three or four of them, sitting around having a coke, or they'd often discuss the high school girls, and things like that.

Q And there are a couple of rooms up over the garage that the jury walked up into when they were out there, and what

were those rooms used for?

A Well, those rooms were turned over to a group of boys that called themselves The Clan.

Q The what?

A The Clan was the name they went by, and for the most part they were a group of very fine young boys. In fact, they are -- I would say that every one of those boys were on this recent championship football team that played out at Bay High School.

Q Did you --

MR. PARRINO: He hasn't finished
his answer, I don't believe.

Q I say, did you allow them to use those rooms upstairs?

A We did until we had some complaints from the local police department.

Q And then you made them stop using the rooms?

A Marilyn asked me to speak to the boys, and it was the decision of the majority of the boys that it would be best that they not use it as a club house because there were one or two that had stayed out all night without their parents knowing about it, there had been a couple of occasions on which there were boys who had claimed to be at my home and were not, and there was one occasion on which there were some bottles stolen at the shopping center, and there was also some beer taken from Mr. Bruscino's front yard.

We found some cans in my garage, and we talked it over with the leaders of the boys, who said they felt that they couldn't control the one or two that were spoiling it for the others, and they elected to stop using those rooms for a while, at least, for anything other than dressing for swimming, and that sort of thing.

Q And they were used after that by the boys, after that, for dressing when they went swimming and --

A Yes. They were welcome to use it, but I explained to them that we couldn't have them using that as an excuse for delinquency.

Q In the nighttime?

A That's right. That explains the sign you may have noticed. My wife had it on the door of that room, or of the stairway going up, she had a little note saying, "Boys, keep out," or something, and she signed it.

THE COURT: Ladies and gentlemen
of the jury, we will have a few minutes' recess
at this point. Please do not discuss the case.

(Thereupon at 2:45 o'clock p.m. a recess
was taken.)

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(After recess, 3:05 o'clock, p.m.)

- Q Doctor, before recess, I was asking you about the purchase of the boat and your partnership with Mr. Houk.
- A Yes.
- Q When was that boat purchased?
- A As I recall, it was the spring of 1952.
- Q And you were each half owners in the boat?
- A Yes, sir.
- Q Was it at that time that you and Marilyn took up skiing?
- A Approximately at that time, yes. Mr. Schuele, actually, was the first one to ski in our direct neighborhood, and he asked me if I would like to try. None of us really knew how, and we were all fbundering together.
- Q And did Marilyn take up skiing at that time, also?
- A Yes, she did.
- Q And was she interested in it?
- A She certainly was.
- Q Did she enjoy skiing?
- A Yes, she did. She was a very excellent water skier.
- Q And is it a fact that you and she skied at night at times?
- A Yes, we did.
- Q In skiing --
- A You refer at night. We did ski at night infrequently. It was not a frequent occasion, but we very often skied into the dusk of evening and into darkness, over-extending

our enjoyment, I might say. We enjoyed it so much that at times we would find ourselves skiing when it was really too dark to ski.

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Now, in skiing, you attach the rope to the back of the boat, is that the way you do it? I never did it, and I suppose some on the jury never did it.

A Yes. On this particular boat that we had, there are handles on the end of the boat. It is an aluminum boat and rather light, and we would tie a rope on each handle so that we could ski, as we say, single or double. Occasionally, I'd pull two of the youngsters together, and they'd crisscross and do tricks, or occasionally, Marilyn and I would ski together behind the boat. Usually she insisted that I pull her, however.

Q Who would operate the boat when you and Marilyn skied together?

A Mr. Houk or Larry Houk. She didn't -- Larry Houk and I used to try to throw each other off a great deal, and Marilyn didn't quite know whether she wanted Larry to pull her or not because, like any youngster, he was boisterous.

Q And there are twists and turns that you give to the boat that will throw the skier into the water?

A Yes, sir, particularly with an outboard motor. An outboard motor can be turned at quite a severe turn, and this -- the motor that I have is a rather large motor for the weight of the boat, so we had the power of a larger boat, and maneuverability which exceeded a larger boat.

Q And the effect of a sudden turn by the boat, what effect does that have on the rope to which the skier is hanging on?

A Well, the individual skier who knows enough about skiing to move from side to side in the average water ski maneuvers will move from the middle of the track of the boat off to the side, maybe back again, and as the individual moves from one side of the track behind the boat to the other, if the boat is turned in that direction, it accelerates the individual on the end of the rope by quite a bit.

It is like when we were youngsters, we would play whip in the playground, and the poor youngster at the end of the whip that was thrown could be thrown about quite severely.

The end of the rope would accelerate around in a circular fashion and attain speeds up to we judge close to 70 miles an hour.

Q Sort of a whiplash?

A Yes, sir.

Q And the skier is dependent upon two things, the skis on his feet and the rope to which he is hanging on?

A And the way he handles his skis for steering.

Q Now, there was testimony here that Marilyn always wore a safety belt on her. Is that true?

A That is not true, sir. In fact, --

Q What?

A It is not true. In fact, there are pictures -- I don't know

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whether they are in evidence or not -- but there are many pictures available that show Marilyn without a float.

We both agreed with the Schueles to try to always wear a float when youngsters were around to encourage them to wear floats so that unfortunate accidents wouldn't occur. We had a ruling on the beach that all water skiers were to wear floats, so when the youngsters were around we tried to follow those rules ourselves so that we would present an example for them. I'm afraid I -- well --

Q You say there are pictures around. Did you see pictures printed in the newspapers during the time before you were arrested illustrating or showing you and Marilyn skiing together?

A They were called to my attention, sir.

Q Do you know where the newspapers got those pictures?

A I believe I do.

Q Where?

A I believe it was the summer of 1952, shortly after we had learned to ski, that one of the newspapers displayed some interest in the fact that a group of people out in that area were doing some water skiing. I guess that it had not been done on Lake Erie to any extent before that time, and one of the photographers contacted Marilyn and asked if he could take a picture of Marilyn or of us skiing,

and she said certainly. In fact, we had planned to ski that day, so he came over, and within an hour or so, Dr. Richard, who had a small speed boat at that time, happened by -- in fact, he had planned to come up that particular day -- and the ropes were secured to his boat, and the photographer got in Richard's boat and took a picture of Marilyn and myself skiing together behind his boat.

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- Q Did you have any of those pictures in your house?
- A Yes, I believe we did. Marilyn had them with some of her scraps, I think, scrap books and things.
- Q Do you know whether they are there now?
- A I have no idea what is in my house now or what isn't in my house now, other than what I have seen going through with the jury the other day.
- Q During the course of '52 and '53 and '54, did you teach other people to ski?
- A I did, Marilyn and I did, yes.
- Q Who did you teach?
- A Well, there's quite a list of people that we taught. Anybody who wanted to learn that would stand still long enough for us to show them, we taught them.
- Q That included the boys around there?
- A Yes, sir, all the young boys who were interested were taught to ski, and Dr. Hoversten, Don and Mrs. Ahern. There were people, members of Marilyn's family that came out to learn to ski and, unfortunately, the one or two occasions that they got out there the lake was quite rough and we weren't able to ski with facility. One day we did get out to ski, but it was rather rough. There were --
- Q I think that's enough on that point, Doctor.

Now, did you carry on social activities in which

you and your wife participated?

A Yes, sir.

Q Will you tell something about those social activities in which you and your wife participated outside of the social activities connected with your home?

A Outside of the home?

Q Outside of your home, yes.

A Well, we had social activities in conjunction with our profession. Marilyn was president of the Professional Auxliary two years ago, and there are social activities in conjunction with that.

Marilyn was a member of the Bay Village Junior Women's Club, and that group has a dance club. We joined that dance club just about a year ago and became active in that group.

We belonged to a group of people called a pot luck group. It was just a pot luck group which was made up of several people in the neighborhood and one or two people who were not actually in the neighborhood who had been having pot luck suppers for some time and who had -- one of the women, I gather, had met Marilyn and asked us and then asked us to become a member of the group. We --

Q Now -- did you want to say something else?

A Well, there were other social activities that we took part in in regard to -- well, for instance, the Bay Village

Police and Fire Department each year has a dinner which we attended and we -- I belong to the Fraternal Order of Police Associates, which carries on a social program that Marilyn always attended with me when women were invited.

Q Did Marilyn play golf?

A Yes, sir. She had just taken up golf this last spring in, well, I'd say in the more serious vein.

Q Did she engage in any other physical activities besides golf?

A Well, of course, she swam and water skied, as we have discussed. She and I enjoyed tennis a great deal when we were in California. The hospital had on its grounds two tennis courts, and Marilyn and I had a standing challenge to any two men in the hospital in doubles. We took a great deal of pride when we could, the two of us, beat two men in doubles. We -- I should say she also had become quite a good bowler with the Women's Club group in Bay Village.

Q Did you engage in tennis after you came back to Cleveland and took up your work here?

A We did a few times with a young boy by the name of Tom Hardesty over at the Westwood Country Club, but we did not have a chance to engage in tennis regularly.

Q Now, in your work in the hospital, did Marilyn engage in that work to any extent?

A Well, Marilyn took a very active part in my professional work. Is that what you mean?

Q Yes.

A She prepared each year a requirement for our College of Surgeons, which is a report of each and every surgical case. It's diagnosis, prognosis, which means outlook, and the final termination of the case, which is the -- represents compiling a great number of cases which represent not only Bay View Hospital but Amherst Hospital, a hospital in Youngstown, Grove City, Pennsylvania, and though we have secretarial help that is ready, willing and able to do this work, Marilyn insisted on preparing these cases for me, knowing that it should be done meticulously, and she felt that she wanted my case reports to represent excellency, and she did just that.

She also helped me with any and all reports or papers that I gave. Just previous to this tragedy, I had prepared a paper or a speech to be presented at the National Convention, which was to be held in Canada this year, and I had prepared this paper. Marilyn had typed the rough draft. She had helped me with the spelling and the minor English corrections, and that sort of thing, punctuation, and she had prepared the final draft on that. She --

Q Well, she was very helpful to you?

A

Extremely so. She also did quite a bit of typing in regard to other phases of my work. She not only enjoyed this, but we elected to pay her by the hour, as we would a technician or a stenographer, and she took great pride in this little bit of money that she would get irregularly because she would say, "Well, that was hers," and she would save that and do things with that that she didn't want to take from the bank for. I should say she would do things particularly for me that she felt represented her money and not money that I had earned. She bought me a pipe for Father's Day, for instance.

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What is that?

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She bought me a pipe for Father's Day just shortly before this, with money that she had earned, and she always spoke of it sort of half kiddingly, but she really meant it. It meant more to her that way and it meant more to me.

Q

And she would use this money, you say, particularly for you?

A

She would hide it around the house in various places, and she'd use it for things that she wanted to do, particularly for me. She sort of felt odd about going and buying me something out of money from the bank, she said.

Q

Now, then, did she engage, in addition to that, did she engage in any activities at the Bay View Hospital? Do you have a Guild there?

A

We have a Guild, and Marilyn requested to become a member, but they don't accept doctors' wives, so she wasn't able to take part. She was in the process of agitating to let doctors' wives join the Guild. She did take part in all Guild activities that she could. In other words, each year the Guild of the hospital puts on a bridge party, and they, at various intervals, have different projects that they put on for the benefit of the Guild, and thereby, the hospital, and Marilyn would always take a couple of tables for the bridge party, or she would buy some of her little greeting cards and things from the Guild room. Where she

could, she would support the Guild.

Q How large an institution is Bay View Hospital?

A How many beds?

Q Yes.

A Over a hundred beds. Approximately 120.

Q And that is governed how?

A It is governed by a Board of Trustees made up largely of lay people.

Q And are the residents mostly residents of Bay View Village or the City of Bay View Village?

A Not necessarily, no, sir. They are residents of the community, but not necessarily Bay Village.

Q Do you know who the Board of Trustees are?

A I know some of them.

Q Do you know who they are?

A I know who some of them are, and I know --

Q Who are they, the ones you know?

A Well, the president, I believe, is Mr. Lanning. I believe his name is Alfred Lanning.

Q Who is he? What does he do?

A He is vice-president of the Federal Reserve Bank here in Cleveland, I believe.

Mr. Davis -- there are two Davises, Mr. Thoburn Davis, who is the Superintendent of Schools in Rocky River, and the father of a lifelong friend of mine, Reverend Allen

Davis. The other Davis, I don't know his first name. He always asks everyone to call him Mok --

Q Call him what?

A Mok. M-o-c or M-o-k. Mok Davis.

Q What does he do, do you know?

A He is, I believe, advertising manager for The May Company. I'm not too sure of that.

Mr. Howard Spang is -- owns and operates the Bay Village Sports Shop in the Bay Village Shopping Center, and may have something to do with Spang Baking Company in some shape or form, I don't know. He is of that family. I don't know if he has to do with the operation of the bakery or not.

Q Well, those men that compromise the Board of Trustees, they serve without pay?

A To my knowledge, they do, sir.

Q As far as you know, it is a non-profit institution?

A I know that it is a non-profit institution.

Q And did you know on the 4th of July what the relation of Mr. Petersilge was to that institution?

A Yes, sir.

Q And what? What did you know about him?

A Well, he is the legal counsel for the non-profit organization, and he is, I believe, secretary of the Board. He is a member of the Board, very definitely, and I believe he is

secretary of the Board.

Q Did you know that he occupied that position when you came back in 1951?

A Yes, sir, I did.

Q And is that when you first met him?

A I believe it is.

Q Now, then, in the work that you did at the hospital did you have charge of the accident cases that came into that institution?

A I had charge of all accident cases until I felt that they should be transferred to some other department. In other words, my department is neurosurgery and surgery of trauma or surgery of injury includes all accidents, unless, for instance, I, upon occasion, would find an accident case with what I felt to be a ruptured kidney, and I immediately would call Dr. Stephen Sheppard, because of his specialty in that field, or a severe nose problem, fractured nose, at which time I would call Dr. Foster or Dr. Rensch, who would thereupon accept the care of that case.

Q I see. Now, that hospital is located -- where is the nearest hospital west of Bay View Hospital?

A The nearest hospital west is either Lorain or Amhurst. I couldn't state specifically. Amhurst is slightly south of Lorain and slightly to the -- slightly east of Lorain.

Q Where is the nearest one east of Bay View?

A I believe Lakewood Hospital.

Q Somebody testified here, I believe it was Chief Eaton or Mr. Drenkhan, that that was a high accident area along there. Did you have that experience?

A Along Lake Road, Hilliard Road, Center Ridge Road, and Lorain Road, they are all high accident areas, and Detroit Road as well. They are all parallel in that area, and they all seem to be high accident areas.

Q And what percentage of those accidents occurring on those roads would be brought to Bay View Hospital?

A I can't give you a specific percentage, but a very high percentage.

Q Now, then, in addition to being connected with Bay View Hospital, were you, at the time of your arrest, connected with any other institutions concerned with medicine?

A Yes, sir.

Q What other institutions were you connected with?

A The Community Hospital in Amhurst, Ohio; the Green Cross Hospital in Akron, Ohio; the Caffero Memorial Hospital in Youngstown, Ohio; and the Rossman Hospital in Grove City, Pennsylvania.

Q Did you, during the course of the three years that you were active, attend to duties at those various hospitals?

A Yes, sir, I did. There are a few other hospitals which

I attended on specific occasions, but not regularly.

Q Well, what was your program in regard to visiting these other hospitals?

A Well, my particular specialty is one which includes some rather specialized work, and for that reason some of the hospitals would need me only to perform special procedures, such as intricate brain surgery, and as a result, I didn't attend those hospitals regularly. However, the hospital in Youngstown was in a position to need a surgeon of my particular training regularly, so I made a point to journey to Youngstown each Tuesday morning and carry on any surgical procedures that were necessary during the morning, and follow that with a clinic which was held in the hospital, at which time the doctors in the area would send in their problem cases that they felt were within my specialty of neurosurgery and neurology and --

Q Now, there was some information given to the jury about talk of divorce between you and Marilyn, and Hoversten had something to say on that point when he testified here. Will you tell the jury whether there was any talk of divorce between you and Marilyn?

A No, sir, there wasn't. Do you want me to enlarge upon that?

Q What?

MR. PARRINO:

He wants to know if

you want him to enlarge on it.

Q No, I don't want you to enlarge upon it. If anybody wants you to enlarge upon it, let them ask it.

MR. DANACEAU: We didn't ask him the question, sir. He volunteered that himself.

MR. CORRIGAN: I just made a statement that if anybody wants to enlarge upon it, they can. I don't want to.

THE COURT: Well, he has answered the question, gentlemen.

THE WITNESS: Well, --

THE COURT: Wait a minute.

Q Now, was there any serious disagreement between you and your wife?

A No, sir, I wouldn't say there was any serious disagreement between Marilyn and myself at any time.

Q Was there any disagreement?

A Well, I think Mrs. Houk, when she was asked that question, mentioned that --

MR. MAHON: I object to what Mrs. Houk said. He is being asked the question now.

THE COURT: It is directed to you.

Q Did you hear Mrs. Houk say something about a disagreement over a -- I think it was a washing machine?

A Well, the first thing she said was that Marilyn didn't

like as many kids around the place as I did.

MR. PARRINO: If the Court please,
this is not responsive to the question. May we
have the question repeated, please?

MR. CORRIGAN: I will withdraw it.

THE WITNESS: There were a couple
of things that we --

THE COURT: Just a minute. There
is no question now.

Q Was there any disagreement about the children around the house?

A Oh, a little bit, in that Marilyn, after all, was there all
day, and I would be at work or out of town, and I'd come
in and I'd enjoy having the youngsters around and playing
basket ball and running through the yard. It didn't bother
me at all, but she would comment that, after all, she didn't
really want the place overrun with children, and those
that didn't even know us -- there would be occasions when
a youngster would run in the yard who we had never seen
before, he could have been from anywhere, and he'd start
to take over the place, and she didn't care for that too
much, and I didn't blame her, but that was more or less --

Q Well, all right. Now, let's come to the incident that has
been brought against you in this case about the washing
machine.

A A dish washer, you mean.

Q The dish washer.

A Well, --

THE COURT: He said the washing
machine, Doctor.

THE WITNESS: He didn't mean the
washing machine, though.

THE COURT: All right.

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Q Well, it was a dishwasher.

A Well, it's a dish washing machine, maybe. It's a dishwasher.

Q What?

A A dishwasher, yes.

Q A dishwasher?

A Yes, sir.

Q Well, my experience is they are wonderful.

A Beg pardon?

Q My experience is that a dishwasher is a wonderful thing.

A That's been my experience.

Q Now, was there some disagreement about the dishwasher?

A May I preface that?

Q Yes.

A Yes, there was some disagreement.

Q What?

A There was some disagreement, yes.

Q You tell about it because it has been brought into the case here.

A Well, soon after we arrived in Cleveland, I discussed an insurance program with Mr. Uhle, who testified here, and I spent just about all my available funds on this insurance program at that time. The following spring I journeyed to Boston for some special work with some bone specialists in Boston. And upon my return, I found that Marilyn had purchased a new sink, new dishwasher and

new garbage disposal, the bill of which she paid with the money I had planned to take care of the insurance with. And I didn't have any money to pay the insurance or, I should say, I had very little available funds to take care of that insurance payment. So I merely let her know that I felt that if she was going to do that, it might be best to at least let me know so that the payments might be arranged in another way.

Q Well, that's all there was to that, was it?

A Well, I arranged with Mr. Uhle to pay my insurance in installments, and that's all there was to it.

Q Now, in your testimony, you stated a short time ago that you had prepared just before July 4th, you had prepared a paper to be read at a medical convention in Toronto?

A Yes, sir, that's correct.

Q And Marilyn had assisted you in the correction of that paper and the spelling, and so forth?

A She assisted me on the --

Q Is that right?

A -- on the entire preparation of the paper, yes.

Q And when I took the billfold that was brought in here by the Coroner, I read to the jury a reservation that had been received by you from Toronto. Do you recall me reading that?

A Marilyn had sent --

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Q No, no.

A Yes, I recall.

Q Do you remember me standing up here and going over those various papers that were in your billfold?

A Yes, sir.

Q And I read one which referred to a reservation at the Royal York Hotel in Toronto?

A Yes, sir.

Q And was that the reservation that was made for that time?

A Yes, it was.

Q Now, there was testimony here about a trip that you made to California in March of 1954, do you recall?

A Yes, I do.

Q Do you recall going to California any time before that date?

A Very definitely, I do.

Q And when before March, 1954, did you go to California?

A Well, in October of 1953.

Q And at that time did Marilyn accompany you?

A Yes, she did.

Q And how did you go to California in October, 1953?

A We drove. The occasion was the annual surgeons' convention, which was held in Los Angeles at that time.

Q And was Chip taken with you at that time?

A No, sir.

Q Where did he remain?

A Well, he remained in our home with Mr. and Mrs. Brown.

Q And who is Mr. and Mrs. Brown?

A Mrs. Brown is Marilyn's aunt, and Mr. Brown is her uncle by marriage.

Q And is that her aunt on her mother's side?

A It's her mother's sister.

Q Her mother's sister. By the way, did Marilyn have any other relatives on her mother's side except Mrs. Brown?

A Well, Marilyn had her grandfather on her mother's side that lived with Mr. and Mrs. Brown until he passed away just recently.

Q When did he die?

A I don't know the date, but it was during the impaneling of the jury, as I recall.

Q Now, then, tell me, how old was Marilyn when her mother died?

A I can't say for sure, but I believe she was about as old as young Chip is now, about 7.

Q Now, then, you arranged for Mr. and Mrs. Brown to remain in the house when you and Marilyn went to California in October, 1953?

A Yes. That was the habit. Whenever we wished to get away, they would commonly stay in our home and take care of Chip and live in the home.

Q Did you have any close relationship with those two people?

A Very close.

Q Did they visit you?

A They visited us often and we visited them more often, because the grandfather wasn't able to move around as well as we were.

Q And where do they live?

A They live in East Cleveland. I'm not -- Idlewood, I think is the name of the street.

Q Now, then, you departed with Marilyn, leaving Mr. and Mrs. Brown in your home?

A Yes, sir.

Q And drove?

A Yes.

Q And how long did you stay in California on that occasion?

A We stayed only about 10 days to two weeks, which was not as planned.

Q And was there any reason why you returned home before you had completed this contemplated trip?

A Yes, sir.

Q What was the purpose of the trip in October, 1953?

A The purpose of the trip was to attend the surgeons' convention, and at the same time, to take some special work at the graduate school of the college I graduated from in surgical anatomy under the direction of Dr. Stewart,

who is an anatomist. This work was to be included in a program that is to terminate in a degree that I have been pursuing.

Q Now, when did you get back home? Was it still in October?

A Yes, I believe it was. I was called back.

Q And were you called back because of some necessity of your services in Bay View Hospital?

A There were several cases that they felt I was needed for.

Q I see. And that was the reason you returned?

A Yes, sir.

Q Now, then, you made another trip to California in March, 1954?

A Yes. That trip was planned with the members of the graduate school before I left in October, or actually as I left.

Q And on that trip, when you arrived in California, did you take up some work in the general hospital?

A I visited the General Hospital daily and made ward rounds with one of my former trainers, but my specific work was at the college in the anatomy laboratory.

Q And it was on that trip at that time that you met Miss Susan Hayes, as she testified?

A Yes, sir.

Q All right. Now, then, when you arrived in California, you went to Los Angeles. Did your wife stay in Los Angeles?

A No, sir.

Q Where did she go?

A Well, both in October and March she went to the home of Dr. Randall Chapman with his wife. Actually, in October Marilyn and I drove directly to the Chapman's home up in northern California, and I dropped Marilyn, and Dr. Chapman and I drove down to Los Angeles together in my car.

Q Well, where is that place there in upper California that you dropped Marilyn on the first occasion?

A Well, it's a ranch up in the hills. It's near Carmel, California, which is near Monterey, California.

Q And how far north of Los Angeles is that town?

A A little over 300 miles, as I recall.

Q Well, now, when you got there in March, did Marilyn meet Mrs. Chapman?

A As I recall, we met Dr. and Mrs. Chapman, and Dr. Chapman had an emergency brain surgery that night that was on momentarily, he was waiting to be called. And he told me about the case, and he asked me to accompany and assist him, which I naturally was happy to do.

And my wife and Mrs. Chapman went their way and I went with Dr. Chapman. The surgical case extended into the night.

Q Well, then, did you see your wife the next day?

A Yes, sir, I did.

She called me -- I had registered in a motel after this surgical case, and she had told me where to go so that she could reach me, and she called and said that she had some of my luggage, and that she and Mrs. Chapman would come back over to where I was and bring this piece of luggage and then they would take off for their trip north, which they did.

Q And then after you completed your stay in Los Angeles, did you join your wife in Monterey up there in that vicinity of that town?

A Yes.

Q And that was the Chapmans' home?

A Yes; Dr. Chapman rode with me and we went up together.

Q And what was this story, something brought in here about an automobile, Miss Hayes told about it? What was there about that?

A Well, since my wife and I were in Los Angeles as I was in school, we appreciated or liked, I should say, the style of this particular Lincoln. It's a Lincoln Continental, which is a low rakish type of car that Edsel Ford put out when he was alive, and it was sort of a forerunner of the sports car trend, I should say, in this country. And back that far ago we had commented to one another what --

Q Now, what did you do? I don't want all the conversation.

A Well, that's the basis on which she and I -- I had commented

to her that if I ever got a chance to get a car like that at a reasonable price, I thought I would probably take the chance. And I had had a little difficulty with the car that I was driving at that time. On our trip out to Los Angeles, we were driving along the desert, and there was quite a terrific explosion that took place --

MR. PARRINO: If the Court
please, this is certainly not responsive to
the question.

THE COURT: I don't think
we ought to go into all of these details.

MR. CORRIGAN: I don't want
to go into all of the details.

22 Q Did you trade your car?

A I had some difficulty with the Mercury. I found a Lincoln Continental which I thought was a good car. The man offered to trade me even, and I took it.

Q I see. And you got the Lincoln Continental?

A Yes, sir.

Q Was it a secondhand car?

A By necessity. They don't make the car. They haven't made the car for years.

Q It was an old out of date car, then, was it?

A Well, it is considered a classic car, yes.

Q But you liked it?

A I liked it and Marilyn had expressed like for that type car.

Q Now, you drove up to this point up in California near Monterey, the Mount of the Kings?

A Yes.

Q And how long did you stay there?

A I can't be sure. Three or four, maybe five days.

Q And after that, you came home?

A Yes.

Q Drove home?

A Yes.

Q Was there any difficulty that arose between you and your wife on that trip?

A No, sir, no difficulty.

- Q Did you tell your wife that you had bought Susan Hayes the watch?
- A Yes, sir, I did. The only difficulty was that she insisted that I don't put it on my expense account and make my brothers pay for it. I thought I should.
- Q Now, then, when she learned about the watch and the incident -- you told her about it, didn't you?
- A Yes, sir. I considered it an expense account.
- Q All right. Well, when you got back home in March was there any difference in the life that you took up after March than there had been before?
- A My wife and I hoped that she was pregnant, and we were happy for that reason.
- Q When did you first discover that your wife was going to have a baby?
- A By the end of March, she had missed one of her regular menstrual periods, and we hoped that she was pregnant.
- Q Now, during the time after that in March, when you discovered that fact that your wife was going to have a baby, did you notice that she was having any physical difficulty?
- A Yes, sir, I did.
- Q And what did you notice about that and when did you notice it?
- A By about the end of March and first of April, I noticed on two separate occasions that my wife had had convulsive twitchings, which worried me.

Q And when did those occur?

A As I tried to analyze the situation, I realized that they occurred on both occasions following social gatherings where Marilyn had smoked a great deal, more than usual.

Q Well, did they occur in the nighttime or in the daytime?

A At night.

Q At night?

A Yes.

Q And where did they occur? In your bedroom?

A In the bedroom.

Q And how was your attention attracted to them?

A One night I noticed this reaction when I had come back from the hospital late and she was in bed asleep, or groggy,

Q How did it manifest itself?

A Well, it manifested itself as an involuntary twitching of the hands and arms and face, and a slight frothing at the mouth, and I placed some bedclothes in her mouth to prevent her biting her tongue.

One other time I had -- she had been ill with a type of flu, and I had visited a friend and come home --

Q I can't hear you.

A I had visited a friend for a moment in the Village, and had made a house call, I believe. She had gone to bed early because of her illness, and that -- we must have had someone in the home earlier that day or some sort of social activity.

Q And was that at night?

A Yes, sir.

Q And where was she?

A In bed.

Q Was she conscious or unconscious at the time that you noticed that? Was she asleep or awake?

A Well, convulsions at any time usually produce unconsciousness, but not necessarily so. She was unconscious at this time, as far as I could tell. However, I was able to get some reaction out of her, even a little mumbling, and later she did recall only vague recollections of the experience.

Q Did you attribute that, as a doctor, to any particular thing that was wrong with Marilyn at that time?

A I was concerned about her, and I didn't want to come to any conclusion on my own. I did feel that the amount of smoking that she had done could account for the reaction, plus the fact that she was pregnant. She had not been pregnant for seven years, and I thought that a combination of the two could explain it, but I didn't want to let it go at that.

Q Is it within your knowledge that excessive smoking and the nicotine that comes into the system as the result of smoking has an effect upon a pregnant woman?

A Yes. It has an effect upon a pregnant woman, and it has various effects on various women, various people.

Q That is, it affects different people different ways?

A Yes, and my wife had displayed a reaction to nicotine on
S several other occasions, and --

Q Just like any other narcotic. One man may get drunk on one
drink of whiskey and another man may drink a bottle and not
get drunk?

A That's right. Nicotine is not a narcotic.

Q What?

A Nicotine is not a narcotic, but it is a drug.

Q It is a drug?

A Yes, sir.

Q Now, then, was the matter taken up with her at that time
about smoking?

A Yes, sir, it was.

Q What conclusion did you arrive at, you and your wife?

A I tried to explain to Marilyn the problem without disturbing
her too much, because I didn't want to upset her. I told
her that she had had some reactions, and that the -- she
had had some illness that I think Mrs. Helms referred to
when she testified, and I told her I felt that this illness
was tied up with her heavy nicotine consumption, and I asked
her to stop.

She had been commenting on sometime within the next
few years of getting a fur coat, and I told her that I would
buy her a fur coat of her choice if she'd quit smoking.

Q Did anybody hear that when you made that promise to her?

A I thought the Aherns did. I believe the Houks did, and I'm quite sure that Mr. and Mrs. Brown did.

Q As a result of that conversation, and the advice you gave her, did she stop smoking?

A Marilyn stopped smoking completely for a period of -- well, no, she didn't at that time.

Q Well, did she later?

A She did following a few remarks that were passed at the Aherns' home.

Q When were the remarks passed at the Aherns' home? Was this matter discussed before Mr. and Mrs. Ahern?

A Very briefly.

Q And what was the brief discussion?

A I can't say the specific date, but we were in the presence of the Aherns in their home.

Q You remember that Mrs. Ahern asked her about it, as she testified, do you recall?

A Yes, sir. There was some comment about smoking, and I evinced my displeasure toward Marilyn smoking, and Mrs. Ahern piped up that -- and there was some mention about, I think Marilyn mentioned that I told her she had some little twitchings at night, and Mrs. Ahern spoke up and said, "Oh, well, we all have a little twitch now and then. I wouldn't worry about that, Marilyn. You smoke all you want."

You are in good shape," and so forth.

And I was a little unhappy with Mrs. Ahern, because I had just about gotten Marilyn to the point that she would quit, and Mrs. Ahern was encouraging her to smoke, so I just blurted out that I didn't consider convulsions with frothing at the mouth little twitchings, and at that Mrs. Ahern had no more to say, and Marilyn said that she didn't realize it was that serious, and I said that I felt that it was serious or I wouldn't have commented to her in the first place, and that I didn't wish to upset her, but I felt that she should quit smoking, and I had made arrangements for her to be checked by Dr. Sheppard, Sr.

Q Did she stop smoking from that time on?

A She stopped for about a month, and then started smoking a filter tip cigarette only on rare occasions, possibly when we'd be out in the evening or in the presence of other people, but practically, she stopped altogether.

Q Did you smoke cigarettes around your home?

A Never.

Q Was there any smoking of cigarettes in your house upstairs?

A Not that I know of.

Q Did Marilyn ever smoke upstairs?

A Not that I know of.

Q Now, of course, you made an observation of your wife's teeth, did you not?

A Yes, sir, I did.

Q What was the condition of your wife's teeth?

A Marilyn's teeth were quite poor. We had been out to dinner just a few months before this with the Aherns again, and she had broken a tooth completely off at the gum line on a piece of beef steak.

Q And can you state whether she had been under the care of a dentist for any length of time?

A She had been under the care of a dentist for sometime and had had a great deal of gold inlay work done just recently, and she had had this one tooth that had been broken replaced with a false tooth, and the tooth next to it was almost totally replaced. I believe it was capped.

Q Which was the tooth that was replaced with a false tooth?

A I can't say specifically.

Q Was it a front tooth?

A It was the eye tooth, and the one next to it, I believe.

Q What?

A It was one of the eye teeth and the one next to it.

Q The one toward the center of the mouth or the one back?

A Well, the one toward the center of the mouth is the one that broke off completely. That was a dead tooth, I believe, and the one behind it, Dr. Novotny found was in very poor condition, and needed to be almost totally replaced; rather than putting in a totally false tooth, she explained to me that he capped it in some way.

Q Who was her dentist?

A A Dr. John Novotny.

Q What?

A Dr. Novotny.

Q Where is he located?

A I have never been to Dr. Novotny's office. I don't really know.

Q Calling your attention to the date on which your mother moved from -- they had lived in the Heights, and they moved over to Bay Village. Do you remember when your mother and father moved from Cleveland Heights to the City of Bay Village?

A I remember the events, but I can't give you the specific dates.

Q Do you remember the month?

A Well, it was June.

Q In June?

A Yes, sir.

Q And on the day that your mother's furniture was brought over to the house that they had in Bay Village, did you go there?

A Yes, sir, I did. We did.

Q That is, Marilyn and you?

A Yes, and Chip.

Q And what time did you get over to your mother's house, the new house?

A I can't say the specific time. I know we had planned to help, and then proceed to the Browns' home. I think that was Grandfather Blake's birthday.

Q Were any of the other members of your family, were your brothers over there on that day?

A Yes, sir.

Q With their wives?

A Yes.

Q Dorothy and Betty?

A Yes, sir.

Q And the three boys and their wives, did you help put the furniture around the house?

A Yes. We carried things to be stored up to the third floor,

and we carried the various pieces of furniture around the house and placed them. We carried various things and there were things that were to be given to certain ones of us that we arranged to remove.

Q Do you know where your mother is now?

A The last I knew, she was in the Bay View Hospital.

Q Now, then, what time did you leave there on that day?

A I believe that was the day that we -- Dr. Richard helped me put the desk on the jeep, and --

Q What was the desk, and how did you get the desk?

A Well, the desk was a boy kneehole desk that I had had in high school, and Marilyn liked it very much and hoped that we could have it for Chip as he grew up, and she evinced that like to my mother, and my mother said, well, it is my desk and Marilyn was to have it.

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Q Was the desk taken home then?

A It was put on the jeep and we took it home and Reverend Kreke, I think, referred to it this morning.

Q That was the desk that Reverend Kreke talked about when he testified, is that correct?

A Yes, sir, it is.

Q What is your recollection of what happened on that particular day when Reverend Kreke came in?

A Well, I remember pulling up in the driveway and Reverend Kreke was there, and we greeted him. And he stated some business to my wife, but I can't remember any specific arrangements that were made. I do remember that Marilyn tried to help me, and I insisted that I could handle it alone, and then Reverend Kreke insisted on helping me and I said, "No, I don't want any help. I can handle the desk alone."

It isn't a big, tremendously big desk, and she became insistent, so I said to Reverend Kreke, "Maybe you better help me or Marilyn will insist, and I don't want her to help."

I can't remember of telling him specifically of the coming event. I must have, but I don't remember. I do remember saying, "I don't want Marilyn to lift anything because" -- well, I said, "I don't want her to lift anything."

I must have gone on and told him why.

Q Well, he remembers it and you don't?

A I don't remember just exactly what was said.

Q I see. He was the Pastor of your church, or he is the Pastor of the church that you belong to?

A Yes, he is.

Q What?

A Yes, sir.

Q And how long did you belong to that church?

A Well, we joined the church shortly after we arrived in Bay Village.

Q Did you belong to a church before that?

A I did, but Marilyn did not.

Q And where did you belong before that, what church did you belong to?

A Well, I belonged to the Church of the Saviour on the east side, in Cleveland Heights.

Q The Church of the Saviour, is that the one that used to be down on Euclid Avenue?

A Not that I know of. It could be.

Q Is it the one on Lee Road?

A Yes, sir.

Q Big church there?

A Yes, sir.

Q Beautiful building. Then you transferred over to the

Bay View Methodist Church?

A I transferred, and we explained to Reverend Kreke that Marilyn definitely wanted to become a member, and she said that she had not been baptized. And we requested that Reverend Kreke baptize her, and he asked us if we had any preference, and we said that it could be done in the home, we would like to have it done in our home.

Q And then the Reverend came there and performed the sacrament of baptism?

A Yes, sir, he did.

Q Who was there when that ceremony took place?

A I know that Chip was there, and I know that others were there, but of my own memory, I don't remember who.

Q How do you know Chip was there?

A Well, because he told people for weeks after that that his mommy had been advertised and he was there.

Q That's what he got out of it?

A Well, he didn't know the word of advertise, and he felt that it was a very important event, and he wanted everybody to know about it, and that's the only pronounciation that he could get out of it.

Q On the afternoon that you brought the desk into the house, did you stay home that day or did you go somewhere?

A On what day, sir?

Q On the afternoon that you moved the desk -- you have

related about moving the desk and meeting Reverend Kreke -- did you stay there, did you stay home that day or did you go somewhere after that?

A We returned immediately back to my parents' home and helped complete the moving process, and then we journeyed on, as planned, to the Brown home where we had dinner and I believe a birthday celebration. I can't say for sure, but I believe it was her grandfather's birthday.

Q Now, during June, did you go with Marilyn to Put-in-Bay?

A I took her to Put-in-Bay with me, yes.

Q And Mr. and Mrs. Howell testified to something along that line here yesterday. What was the day that you went to Put-in-Bay?

A I don't, again, recall the specific date, sir, but the Howells went up on Thursday, and I had surgery at the Green Cross Hospital in Akron on Friday morning. So we were not able to go with the Howells.

I told Marilyn to go ahead with them, if she wished, and she said, no, she would rather wait for me.

So we left, as I recall, on that Friday about noon, and we took with us Dr. Gerald Finer, who we invited to go along, and we took this emergency vehicle, this jeep that the members of our Clinic have purchased as a track emergency vehicle, and Dr. Finer went along for the enjoyment and also to help man this emergency vehicle containing --

Q What time did you arrive at Put-in-Bay?

A Late afternoon.

MR. CORRIGAN: I wonder if we
can quit? Let's leave the case at Put-in-Bay
until tomorrow.

THE COURT: I thought there
was something in the air when you started to
get up.

MR. CORRIGAN: Pardon?

THE COURT: I thought there
was something in the air when you got up.

Ladies and gentlemen of the jury, we
will now be adjourned, without any formality
at all, until 9:15 tomorrow morning. Please
observe the caution which the Court has
heretofore expressed to you, do not discuss
this case.

(Thereupon, at 4:15 o'clock, p.m., an
adjournment was taken until Friday, December 10,
1954, at 9:15 o'clock, a.m.)

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Friday Morning Session, December 10, 1954.

(9:15 o'clock a.m.)

Thereupon SAM H. SHEPPARD, the defendant herein, resumed the stand and was examined and testified further, as follows:

DIRECT EXAMINATION (CONTINUED)

By Mr. Corrigan:

Q Dr. Sheppard, how many keys were there to your door?

A To our what?

Q How many keys were there to the Lake Road door?

A There was one key to the Lake Road door.

Q What was the habit of your family to keep the door locked?

A The habit was, Mr. Corrigan, to leave that Lake Road door unlocked when I was in the house. If I was out of town or at the hospital late, my wife had a habit of locking the door and placing the keys under a mail basket about this size (indicating), which was hung on the side of the house just next to the door.

Q Now, the Lincoln automobile, who did the Lincoln belong to?

A It belonged to my wife.

Q Now, then, when we left court yesterday we had discussed about going to Put-in-Bay. Do you recall that incident in June?

A Yes, I do.

Q And when did you go to Put-in-Bay?

A Well, as I say, we left Friday noon due to the fact that I was busy -- no -- we left -- yes, Friday noon, because I was busy that morning in surgery.

Q And who went with you?

A Marilyn, of course, and Dr. Gerald Finer, from Youngstown, Ohio.

Q Did you drive?

A We drove this emergency vehicle, the jeep that has been equipped for emergency purposes.

Q And when you got to Put-in-Bay, who did you stay with?

A Well, the Howells and we had rented a cottage together, a three-bedroom cottage, and Mrs. Howell and Marilyn had gotten together and made the arrangements for us to be together up at Put-in-Bay.

Q That was the day that Mrs. Howell testified about some -- Mr. Howell testified about some races that were going on there?

A Yes, sir.

Q Sport car races?

A Yes, sir.

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- Q Did you drive in the sport car race?
- A Yes, I did.
- Q Now, did you and Marilyn occupy the same room at Put-in-Bay?
- A We certainly did.
- Q On that occasion?
- A Yes, we did.
- Q And did you return to Cleveland before Marilyn?
- A Yes, sir.
- Q What day did you return?
- A I returned Saturday immediately following the race, due to an emergency call.
- Q And was there any particular reason why you returned before Marilyn returned?
- A Yes, sir.
- Q And what was the reason?
- A A little girl had been struck by a car, and I was called by Dr. Dozier, and I felt that in view of the extent of the youngster's injuries, that I should return at once.
- Q And how did you return?
- A By plane.
- Q Now, then, when did Marilyn get back?
- A Marilyn came back the following day with friends by automobile.
- Q That would be Sunday?
- A Yes, sir.

- Q And on that Sunday, did you go somewhere, you and Marilyn?
- A We went over to the Bruscinos for a -- I think that was the night that the Bruscinos invited us over for a supper.
- Q Well, did you go to your mother's house on that day, do you recall?
- A On Sunday?
- Q On Sunday, yes.
- A We probably did. I was at my mother's house Saturday.
- Q Well, I recall something you told me about playing ball with Chip in the yard and Marilyn being out front there.
- A Oh, yes. We went over and visited my parents.
- Q And what occurred? What took place when you were visiting your parents?
- A We just had a very normal natural time. I believe Chip and I played ball in the yard there while Marilyn and the folks talked. Marilyn, Chip and other of the high school youngsters in the community had been playing baseball with Chip quite frequently, because he was learning how to bat and catch and throw.
- Q Now, then, let me come to the week just prior to the death of your wife. Do you remember Wednesday of that week?
- A I remember parts of Wednesday of that week, yes, sir.
- Q Well, let us come to the evening of Wednesday of that week. I suppose you did your work. Did you go somewhere Wednesday evening?

- A I believe we did.
- Q Where did you go?
- A I think that's the night we attended stock car races.
- Q And where were those car races?
- A They were at a track near Amherst, toward Lorain, Ohio. I'm not sure of the name of it, actually.
- Q Who was with you?
- A Otto Graham and Beverly Graham and their two youngsters, Dewey and Sandy, I believe, and Chip.
- Q And was Marilyn along?
- A Oh, yes, Marilyn was there.
- Q What time did you get home that night?
- A About -- I don't really know. About 11:00, 11:30.
- Q After you returned home, do you remember whether you went right to bed or whether you stayed up?
- A Well, we were all sopping wet. We had been in a drenching rain, and I had early surgery the following day, and I believe that I retired. I think Marilyn stayed up a little while.
- Q During the night, were you awakened, or after you had gone to bed?
- A Yes, sir.
- Q And who awakened you?
- A Marilyn awoke me as she was coming to bed.
- Q And when she awakened you, do you know why you were awakened

by her?

A Yes.

Q And will you tell the jury?

A Marilyn awoke me and said, "Sam, I hear someone calling for help."

And I was very drowsy, and I believe I asked her to repeat it or, "What do you mean?" Or something of that sort, and she repeated it.

And at that, I got out of bed and listened with her. And we at times could hear a very, very distant call that sounded like "Help," but --

Q Sounded like what?

A Like a call for help, but it almost sounded like a bird in the night. It almost sounded as though it could have been a bird.

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Q Can't hear you.

A It sounded as if it might have even been a bird. We were in question. It was such a distant voice. We agreed that it was probably someone calling for help, and I --

Q What did you do then?

A I told Marilyn that I would get dressed, and suggested that she call Spen Houk so that he and I could go out on the lake. I didn't want her to accompany me out to the lake if we had to go. I didn't feel that she should go with me at that time of night, and I also suggested that she turn on the beach light. You see, she was dressed at that time, and I was not, so I suggested that she turn on the beach light so that if there were an individual out on the lake, he might see the light, go on, and gain some hope.

Q Well, did Spen come?

A Yes.

Q When he came did the two of you go out on the lake in your boat?

A Yes, sir, we did. We met down on the beach. He went down his steps and came over, and we put the boat in and went out --

Q What was the condition of the night, dark or --

A Very dark.

Q What was the condition of the lake?

A The lake was quite smooth in toward shore, but rather

rough as we got out due to the --

Q How far out did you go, do you know?

A I couldn't say. We went out farther than I have ever been
o on the lake with our small boat, Mr. Houk estimated.

Q When you got outthere, did you find anything?

A We certainly did.

Q What did you find?

A We found a fisherman that had been fishing late that
evening, and he had a small motor on his boat and no oars,
and he was stranded, his motor wasn't working.

Q Did you tow him in to some place?

A Yes, sir.

Q What was his name, do you know?

A I don't remember.

Q Now, then, on Thursday, that would be the next day, that
would be July the 1st, you worked through that day, I
suppose, at your regular work?

A Yes, sir.

Q Is that the day that Dr. Hoversten appeared at your house?

A Late that afternoon.

Q Where were you when he came to the house?

A I don't actually remember his arrival. I couldn't say
whether he was there when I got home, or that he arrived
shortly after I got home.

Q Had he been at your house before?

A Yes, he had.

Q And when and what period before that had he been at your house?

A Well, he had stayed with us in our home when he first came back to be a resident at Bay View Hospital.

Q Do you remember what year that was?

A In 1952, in July.

Q And how long did he stay at your home?

A I really don't remember. Mr. Rossbach asked me that, and I --

Q Was it a week or a day or --

A It was over a week. It was some time, but I really can't remember specifically how long it was.

Q Now, then, when he arrived on July 1st, you did see him sometime during that evening?

A Oh, yes.

Q Where was he when you first saw him?

A Where was he?

Q Yes.

A I don't know where he was when I first saw him, but my first recollection, the first definite time that I can recall visiting or seeing Dr. Hoversten was when Marilyn and I were weeding the front yard, the slope toward the lake -- we were just sort of browsing around the yard digging weeds -- and Dr. Hoversten was standing by us remarking on his terminated work at Dayton, and remarking on Marilyn's

radiance.

Q Now, did you show him to a room in the house?

A Yes, sir. He had plans for the evening, and I showed him, I think, to the room.

Q Did he arrive by automobile?

A Yes.

Q Who was it that showed him to his room?

A I don't really know. I don't recall.

Q Handing you --

MR. CORRIGAN: Is there another
picture of this house, Fred?

MR. GARMONE: I will look through
them.

Q Where was the room that Dr. Hoversten was lodged in? What room?

A He was lodged in the room on the east end of the house, which actually faces both north and south because the house at that particular point is narrow over the study below.

Q Can you look at Defendant's Exhibit SSS and point out the room?

A Yes, sir. These two windows on the east end of the house directly over the den would represent the room that --

Q You better take it down and show the jury what you are talking about. Just point it out now.

(Witness leaves witness stand.)

A Well, I will show it. The den is here, these two windows represent the bedroom over the den, which is the east bedroom at home. These two windows here (indicating).

Q Now, then, take the stand again.

(Witness resumes witness stand.)

Q Now, then, after you had lodged Dr. Hoversten, did you see him again that evening? That would be Thursday evening, the day of his first arrival.

A I can't say for sure. One of the evenings that he came home, I did see him.

Q Well, if you can't say for sure, let it go at that. I don't want anything --

A I can't say which evening it was that I saw him.

Q Was he supplied a key to the house?

A No, sir, he wasn't.

Q Now, then, on Thursday evening do you remember going to the Howells' house, the house of Mr. and Mrs. Howell?

A May I add something to that --

Q You may.

A Dr. Hoversten did stay with us before, as we mentioned, and he never had a key to the house, never needed one.

Q And he came and went as he pleased?

A Yes, sir.

Q During that time. Now, on Thursday evening, do you remember your activities on Thursday evening?

A I remember going to the Howells' home, yes.

Q And who did you go to the Howells' home with?

A Dr. Max Don.

- Q Was there a particular reason for going to the Howells' home that night?
- A Dr. -- do you want me to state the reason? Yes, there was a reason.
- Q And what was the reason that you visited the Howells' home?
- A Well, Dr. Don had been one of our guests at Put-in-Bay for these races, and he had become quite interested in this particular type of little car, and his wife had also, and he had purchased the car, I believe, that Thursday or the day before.
- Q Well, to cut it short, did you go up there to show them the car?
- A I went up to the house to show them his car, yes.
- Q And what time did you get home?
- A Dr. Don and I, as I recall, had a mutual case or two in the hospital which we had seen earlier that evening or day, and I believe we returned to the hospital and rechecked the patient or patients to assure ourselves that all was well. I must have gotten home around 11:00, but I don't really know. I don't really know the time.
- Q Well, Friday you were about your business as usual?
- A Yes.
- Q Did anything occur on Friday that was out of the ordinary or that was out of routine?
- A Well, I had an extraordinarily heavy brain surgical case

Friday morning, which was about a 4-hour case.

Q Was that the case in which a child was injured?

A No, sir.

Q That was another case. Well, both Richard and Steve or Betty related that on that night, Friday night, that you were at Steve's home.

A Yes, we were.

Q And what time did you go to Steve's home?

A There, again, I don't know the time. It was before dinner.

Q When you went to Steve's home on that night, did you take Chip with you?

A I don't recall that we did, no.

Q Did you have a baby sitter named Jean Disbro?

A We had someone stay with Chip. I don't know whether it was Jean or --

Q Well, do you remember that name, Jean Disbro?

A Oh, yes.

Q And do you remember that she was a baby sitter?

A Oh, yes; a very faithful one.

Q On some occasions?

A On many occasions.

Q And Jean is a girl how old?

A 15 or 16.

Q And does she live in the neighborhood?

A She lives across the street, right next door to the Paines.

Q Now, do you remember at that dinner that you had at Steve's home any talk about the fact that your wife was going to have a baby?

A Yes, sir, I do.

Q How did it come about?

A My understanding is that Betty Sheppard had known about it because she and Marilyn had discussed maternity clothes and, of course, Dr. Steve knew about it. And Steve and Betty were extremely pleased, and they had said that this dinner was a celebration and announcement dinner.

And I believe that Dr. Steve started to kid Marilyn, as he often did, and then Richard and his wife became aware of the fact.

Q Now, at that time had you decided a name for that unborn baby?

A Yes, sir. If it was to be a boy, we had named it.

Q What is that?

A We hoped that it would be another boy, and if it were, we had named it.

Q And what had you named it?

A Stephen Allen Sheppard.

Q When was the first time that you learned, Doctor, that your unborn child was not buried with its mother?

A In this court room.

Q In this court room?

A Yes, sir.

Q Now, then, coming to Saturday, the day prior to this tragedy, that would be the 3rd of July or just before that, had there been arrangements made about what was going to take place at your house on the 4th of July?

A Yes, there were arrangements made.

Q And who made those arrangements?

A They were made by Marilyn, mainly. I had done most of the invitation part of it.

Q And what kind of an event was it going to be?

A It was to be a very casual get-together where we specifically wished to invite the interns and their wives who were finishing their work and leaving town, but others were invited who were available.

Q And were there some picnic supplies laid in by the way of food, and so forth?

A Oh, yes.

Q And what were they?

A Well, chiefly, hot dogs and potato chips, and things of that sort, things that could be ready for anyone who wanted them and that wouldn't spoil for those who didn't want them, and things that would be -- something that could be kept over an hour or two period.

Q I want to go back to Friday night for just a moment. When you left your brother's home, Steve, left Steve's

home, do you recall him testifying, or Richard testifying, that they came around afterwards in a boat?

A Yes, sir.

Q And do you recall them testifying that they got stranded, and you took your trousers off and went into the lake and pushed the boat off?

A Yes. They almost got stranded.

Q Did that happen?

A Yes, it did.

Q Did you have your watch on?

A Yes, I did.

Q Now, on Saturday, what kind of a day did you have at the hospital?

A Well, I had a very busy day and a very difficult day.

Q In what way?

A Well, I had a fairly active surgical schedule which was scheduled that morning, and had taken care of some minor problems in the emergency room.

And a youngster was brought in, by his father, who had been run over by a utility truck.

Q By a what?

A Some sort of utility truck, telephone, gas, something like that.

Q What time was that boy brought in?

A I'm not sure of the time. It was close to noon, I believe.

Q Was he alive or dead?

A His heart had stopped beating when I first examined him.

Q Where was the injury?

A To the chest and head.

Q Was that where a truck had run over a boy's head?

A His head and chest.

Q Now, then, was the father there when you were working on the boy?

A Well, the father was hysterical, and I ran -- I was in what we call our cast room, which is directly inside the emergency doorway, and I ran to the father, as I could see the youngster was dripping with blood and was obviously near death, if not dead, and I took the youngster from the father and said to one of the interns who was with me to call the other interns available to help me to take care of him, get him out of our way, because the man was out of his head.

Q And how old was the little boy?

A I'm not sure of the exact age. Around 2 or 3.

Q And how long did you work over him and try to restore life?

A Well, we restarted the heart beat and placed a needle in the base of the brain and drained a large amount of frank blood from that area and kept him alive for about an hour. He then expired, and we worked with him for

another hour to try to recover him, and finally we were unable to recover him.

Q And when you first received the little boy into your hands from the father, his heart had stopped beating?

A Yes, sir, it had.

Q And then how did you start the heart beating again?

A Well, I rushed him to surgery and we -- I grasped the emergency set, or the nurse, seeing the emergent situation, got it for me, I can't say just how I got it, but we have a set that is available for this type of thing whether it occurs in accidents or on the operating table or whenever a heart stops beating. I opened the chest and stimulated the heart while the other doctors were giving the youngster oxygen.

Q Now, was his head injured?

A Yes, sir, it was, badly.

Q Was the head crushed, the skull crushed?

A Yes, sir, partially.

Q What?

A Yes, it was crushed in the --

Q You determined that there was blood in the cranial cavity?

A Yes, sir, I did.

Q And did you draw off the blood from the cranial cavity?

A Well, I drew off as much blood as I could from the area of the vital centers.

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Q How do you do that?

A By means of what we call a cisternal puncture, and that merely means a puncture -- it is like a spinal puncture, as you would know it, but it is at the very base of the brain behind the uppermost cervical --

Q Would you turn around and show the jury where it is?

A The needle is placed between the first cervical vertebra and the base of the skull, and the needle is directed toward what we call the glabella, which is the brow, like that (indicating), and that needle passes partially into the opening of the skull and finds at its tip the area covering the vital centers of the brain, the centers that control respiration, that control heart beat, and we know that in such a case that irrespective of the other injuries that the youngster or individual might have, it is the blood and pressure in this vital area that causes death, so if we can relieve that particular pressure we have a chance. The chance may be slim, and it often is, but we take it.

Q Now, then, you worked on that boy for that length of time. About what time were you finished with that particular work?

A I can't be sure of the time. 2 o'clock.

Q Did that work on that day have any particular effect upon your energy, your strength?

A Yes, sir.

Q In what way?

A Well, it certainly made me feel badly, and it exhausted me. The resuscitation of the heart for an hour straight in itself is an exhausting thing, just the physical work of being over a table and a continuous use of your hand, let alone the emotional strain and stress of working on a beautiful little youngster.

Q Did you feel exhausted after that morning and afternoon?

A Yes, I did, and I was unable to eat my lunch. I just wasn't hungry and didn't eat.

Q Now, during the afternoon -- what time did you go home?

A I went home after 5 o'clock sometime, I believe.

Q That was the evening that the Aherns came to dinner at your house?

A Yes.

Q Well, now, did you know of any arrangements that had been made for the Aherns to come to your house that night?

A No, I didn't know about that arrangement until I got home.

Q And what time did you get home?

A Sometime after 5 o'clock.

Q And when you got home were you informed about it then?

A Yes. I had mentioned something about working in the yard, and Marilyn said, well, she and Nancy had gotten together and decided that both of our families had nothing better to do, so they thought we'd have dinner together. We

often do that.

Q Now, did you go to the Aherns' house later?

A We went to the Aherns' house, yes, shortly thereafter.

Q And how did you go there? Did you walk or did you drive?

A We drove.

Q Was Chip along with you?

A Chip was aware that we were going to stop at the Aherns and then return to our home, and he enjoyed the Ahern children. He may have run ahead or he may have come with us.

Q About what time did you get up to the Aherns, just approximately?

A Probably around six o'clock.

Q And you stayed at the Aherns on that occasion how long?

A Well, shortly after we got there, I was called by the hospital. I leave my number wherever I go, and the hospital called.

Q And did you go to the hospital?

A Yes, sir.

Q And was there some kind of an emergency there facing you then?

A Yes, sir.

Q What was it?

A A young boy had broken his femur, the thigh bone, which

is a known rather serious problem in anyone, particularly a youngster.

Q Did you work on that youngster?

A I checked the X-rays and discussed them with the father, and I prescribed a certain type of traction treatment to be instituted immediately. I did not perform any surgery or anything of that type at that time.

Q You examined him and determined what should be done?

A Yes, sir.

Q And the traction treatment is where weight is put on the end of the --

A That's right.

Q -- foot, immobilized, and holds it straight, and --

A And it pulls it out so that the ends will approximate.

It is the type of fracture that in an adult we often have to take care of by open surgery, but we try not to open the --

Q What time did you complete your work on that particular case?

A I'm not sure of the time. It took me half an hour or so to check the X-rays. The X-rays were dry, and then I had them put the X-rays back in the bath, the water bath.

Q In accident cases that you have attended, both out in Bay Village and Los Angeles, and during your practice, have you ever had to work at night in the dark?

A Yes, sir.

Q And how did that come about, Doctor?

A Well, many accidents, of course, occur in the dark, and on many of these occasions I have been called on the scene of the accident and have had to give these patients medication, injections, evaluate their condition in very, very dim light, if not total darkness.

Q Officer Drenkhan told about a case that you went on when you were all at a party at Mayor Houk's, that occurred. Do you remember that?

A Yes, sir, I do.

Q And where did that occur and what kind of a case was it?

A It occurred on Lake Road on the 4th of July, just a year before this tragedy.

Q What kind of an accident was it?

A It was an accident in which a man drove off the road and into a wooded area, striking a tree, and it produced rather serious results in several -- in two or three of the passengers.

Q Did you work in the dark there?

A Yes, sir, I did. There were three babies in the car, and I had to evaluate and assure myself that they were all right, which they were, and two women were quite severely injured. One woman -- both women had multiple fractures

of the pelvis. One had a bad laceration of the face and of the eye, which we were later able to save, but which needed care immediately.

Q That was at a dark spot that you were working on those people?

A Yes, it was.

MR. CORRIGAN: There seems to be so much noise back here, your Honor, people going in and out, the door slamming. Can't we have a little quiet?

THE COURT: Unless we can have this movement decreased, the Court will have to close that door.

Q Now, Doctor, after you completed your work in the hospital, did you return to the Aherns?

A Yes, I did.

Q And was your wife there at that time, do you know? Do you remember?

A I can't --

Q On the second return.

A I can't say for sure whether she was there or left -- whether she had left when I got there or left very shortly thereafter. My recollection is that as soon as I got there, she took our car and proceeded home with it, told me to come with the Aherns, and I just commented, "Well,

if I had known you were coming right home, I would have stopped there."

Q Now, then, about what time was it when you all were together over in your own home gathered for this Saturday night supper?

A There, again, I didn't look at my watch, and I would assume around eight.

Q And it was related by Don Ahern that when you were there that he and you went down and looked at the lake. Do you recall going down to the lake with Don Ahern?

A I truthfully can't recall that, but there are other things that I can't recall.

Q Now, it was also related that you sat out on the porch and ate supper, and I am not going to go into the details of that, because I guess the jury all knows about it from what they have heard, and that after you had eaten your leisurely supper, that then Marilyn and Mrs. Ahern cleaned up the dishes and you went into the living room.

Do you recall whether those are the things that occurred as have already been related?

A My recollection from dinner until we sat and watched television is so hazy that I just can't say that I remember anything specifically.

Q But as the things have been related, they are generally correct, as you remember them, is that correct, Doctor?

- A There is nothing that's been related that I could say was incorrect.
- Q Now, then, was it a windy night?
- A Yes, it was windy.
- Q Well, you ate dinner on the back porch?
- A Yes, sir. The front porch.
- Q On the front porch?
- A Yes, sir.
- Q That is an open porch except there are screens around it?
- A It is open on three sides.
- Q And were there candles on the tables as you ate this evening meal?
- A Yes, sir, there were.
- Q Well, did they sputter and flicker and blow out at any time?
- A Well, they flickered, but they stayed lit.
- Q In other words, the wind wasn't high enough to blow the candles out?
- A It didn't seem to me.
- Q Now, then, after you had come into the living room do you remember your activities after that?
- A I don't remember anything definitely until Marilyn and I were in --
- Q Well, now, you tell in your own words what you remember about what took place. You know you fell asleep, don't you?

A Yes.

Q Will you tell the jury in your own words, without me putting questions about it, what you remember of the events of that Saturday evening after supper?

A Well, after having heard the Aherns mention the fixing my youngster's airplane, I have a very vague recollection of doing that at sometime, but it could have been a week before or the day before, or most any time, so I can't say definitely that I remember that that evening.

Q That is, if that was important in this case, you say you can't remember it definitely?

A If that were important in this case, that would --

MR. PARRINO: I object to this,
if the Court please.

THE WITNESS: I don't remember it
definitely.

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- Q I see. Now, then, you go ahead now in your own words and tell just what you remember about the events of that Saturday night before you went to sleep?
- A I remember sitting in one of the big chairs --
- Q A little louder, please.
- A I remember sitting in one of the chairs in the living room with Marilyn. We were sitting in the same chair, quite close by necessity and watching the television. Mrs. Ahern sat in another chair, I believe it's a little Boston rocking chair that I had gotten for Marilyn, alongside. Mr. Ahern, I recalled after having Mr. Rossbach remind me, was over in the corner for some time listening to the baseball game.
- Q Now, did you remember that fact, that Mr. Ahern was listening to the baseball game, when you first talked to Mr. Rossbach about this case?
- A No, I didn't, and I didn't --
- Q How was it brought to your attention?
- A Well, he asked me about it.
- Q And then it came back to your mind?
- A Yes.
- Q All right.
- A He also asked me about the punching bag incident, which I hadn't recalled.
- Q And when he reminded you of it, you remembered it, is that

it?

A Yes, sir.

Q Now, then, go ahead.

A This entire experience is like a bizzare --

MR. PARRINO: I object to this,
if your Honor please.

MR. MAHON: Object, if your
Honor please.

THE COURT: He is asking you
to tell what happened.

MR. CORRIGAN: Go ahead, Doctor.
Never mind what Mr. Parrino says. Pay attention
to the Court.

MR. MAHON: Now, wait a minute.

A (Continuing) Any definite and specific recollection at
this time of this event or of these events is with extreme
haziness and difficulty.

Q Tell them --

A But at one time while Marilyn and I were sitting there,
Mr. Ahern came over to the area to sit down in front of
the television set, and Mrs. Ahern laughingly said some-
thing about Marilyn and I weren't the only ones that
could be loving, or something of that sort, and she sat
in his lap.

Q That's when you and Marilyn were sitting together on the

same chair?

A Yes.

Q All right. She sat in his lap. Now, tell me the next thing that you remember, just as you remember it?

A I believe that Marilyn commented that sitting in the chair in the one position bothered her back somewhat, and she moved to the chair on the other side of the little table, the same type chair, I think. And shortly thereafter I decided I would be more comfortable on the couch lying on my stomach and watching television facing north, being somewhat tired, and I went over to the couch and lay down.

I watched television for a while, the length of time of which I can't be sure, and I must have fallen asleep.

Q Now, where was the couch?

A The couch was and is at the base of the stairway. Actually, it would be best explained at the east portion of the L of the living room.

Q And where was the television, in which part of the room?

A The television is on the north wall of the living room.

Q And from the position that you were lying in on the couch, could you see the television?

A Yes, sir. I often did that.

Q What position were you lying in on the couch, on your side or on --

A As I remember, I was on my stomach, face down. I shouldn't say face down, but in a prone position with my head up.

Q And you fell asleep?

A Yes, sir.

Q Could you tell about what time that was? Have you any recollection of the time?

A No, I don't.

Q Now, when you fell asleep, do you remember how you were dressed when you laid on that couch?

A I remember how I was dressed earlier in the evening.

MR. CORRIGAN: Let me have

those trousers, the shoes and the socks and the jacket.

Q Handing you State's Exhibit 25, will you examine those, Doctor, and state whether or not you recognize those as the trousers you wore on the night of July 3rd?

A I believe these are the trousers. That wasn't torn. The belt, I believe, is mine.

Q Was the pocket torn in that manner?

A No, sir, it wasn't.

Q Those are the trousers and the belt.

Handing you Exhibit 28, are these your shoes?

A Yes, they are.

Q Handing you Exhibits 28, 29 and 30 -- those are the socks you had on?

A They could be the socks I had on. The underwear and handkerchief probably is. I don't remember --

Q Well, did you have a pair of underwear that had a lot of automobiles on it?

A Yes. My wife bought those for me.

Q Now, will you examine the trousers between the belt and the knee? Is there any blood spots on them except the one on the left knee?

A No, sir.

Q There are not. Will you examine the belt -- you haven't seen these since the night of July 4th, have you?

A Not until they were introduced in evidence here.

Q I say, you have not had them in your hands?

A No, sir.

Q This is the first time they have come up. Will you examine that belt and see if you find any blood spots on it?

A I don't see any spots that resemble blood.

Q All right. Will you examine the socks and see if you find any spots on these socks that resemble blood?

A There's sand here. I don't see any spots that could be blood on these socks.

Q All right. Now, that is the first time you have had them since the night of July 4th.

Now, in examining these socks, did you find anything

in them at this time?

A Yes. There's sand here in the pile and on my pants and down on the floor here.

MR. CORRIGAN: Will you get me
a card?

MR. GARMONE: Yes.

THE WITNESS: There's some in
here, too.

Q What?

A There's quite a bit in the shoe here.

Q Knock it out.

A Well, it's kind of stuck in here.

Q Well, is there sand in the shoes?

MR. MAHON: May we have an
answer?

MR. PARRINO: We can't hear,
Doctor.

MR. MAHON: We can't hear you.

A Yes, there's sand in the shoes. I would like to examine them a little more closely, if I may.

Q All right. Take these apart, and I want you to examine the shoes, also, and find any blood spots on the shoes.

A Do you have a knife that you can cut this with?

Q Yes.

A Well, there's sand all along the edge of the insole.

Q Now look at them and tell the jury whether there is any blood on the shoes from your visual examination?

A There's one spot here that could be old blood.

Q Where?

A Right here (indicating).

Q Well, what is it?

A I don't know what it is.

Q I see.

A It's probably polish, but --

Q Never mind until I ask you a question. I just asked you to look at them.

A In the left shoe there's sand all through the heel portion along the edge of the insole. It looks like it's stuck.

Q Is that all you notice about these shoes? How long have you had these shoes, by the way?

A Oh, two or three years.

Q What?

A Two or three years.

Q You have worn them at work?

A Yes, sir.

Q And play?

A Yes, sir. I may have had them on -- I've worn them everywhere, everywhere I could.

Q Now, after you fell asleep on the couch, do you remember, before going upstairs on the occasion when you heard your

wife call whether you awakened between these two periods?

MR. MAHON: Now, if your Honor please, may we have the witness testify without Mr. Corrigan testifying?

THE COURT: Yes.

MR. MAHON: There has been no evidence that this witness said anything about his wife calling.

MR. CORRIGAN: Why, certainly there is. There is a whole statement --

MR. MAHON: Not by this witness.

THE COURT: This is direct examination. There ought to be direct questions, I think. All right.

MR. CORRIGAN: He says there is no evidence, your Honor.

MR. DANACEAU: By this witness, he said.

MR. MAHON: By this witness.

MR. CORRIGAN: There's a statement in here by this witness that has been introduced in evidence.

THE COURT: All right. In any event, put your questions direct to him.

Q During the night, were you awakened?

A Yes, I was.

Q And what awakened you?

A My wife cried out.

Q Now, between the time when you were awakened by the cry of your wife and the time that you first fell asleep, do you know whether there was any period in that time when you were awakened?

A I have a very vague recollection of being aroused between that time I went to sleep and the time I heard my wife cry out.

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And what is your vague recollection of when you were aroused and how you were aroused?

A About my only definite recollection is that I was aroused, and I do assume and have assumed that my wife notified me that she was going to bed. That was her habit.

Q Do you recall any other incident of where you were aroused after you fell asleep?

A No, sir, I don't.

Q Mrs. Ahern testified that while the moving picture was going on, and after you had fallen asleep, she called you, "Wake up, Sam, the picture is getting good," and that you raised your head and looked for a moment, then fell back asleep. Do you recall that?

A No, sir, I don't.

Q Now, then, coming to the time when your wife -- you heard your wife cry out or heard a noise from your wife's bedroom, have you told the events of that night to anyone before today?

A I certainly have.

Q And who have you told them to?

A Do you want the list of the names?

Q Yes. I want the list of the number of people you told them to, and the number of times that you have been asked to go over the story that I am going -- that you are going to tell in this courtroom, or the events that you are going

to tell in this courtroom. When was the first time that you were questioned about it?

A The first time I was questioned about it was when Mr. Houk entered the house with his wife.

Q Do I want what?

A With his wife.

THE COURT: Mr. Houk and his wife.

Q With his wife. Now, then, when was the next time that you remember talking about what took place on the morning of July the 4th?

A As I say, I talked with Mr. Houk. I don't know exactly when it was, or certainly don't know what I said to him.

I spoke with Md. Drenkhan after he arrived. I was questioned by Dr. Gerber at the hospital the morning of the tragedy. I was questioned by Officer Schottke and Gareau on the morning of the tragedy, and I was questioned by Officer Schottke, Gareau and Chief Eaton the afternoon of the tragedy.

I don't recall discussing the events of the tragic situation with Mr. Reese or with Dr. Foster, but I was discussing and talking and bringing up subconscious feelings, evidently, to most anyone and everyone.

Q Do you remember talking to your brothers?

A I remember talking to my brothers, but I don't remember what I said.

Q Do you remember talking to your father and mother?

A I remember seeing them.

Q And do you remember any other people that you talked to on that day when the events of the morning of July the 4th were discussed?

A That's -- Mr. Houk came back down to the hospital, I believe later in the day, and he and I may have discussed it briefly.

Q Now, after the 4th of July, were there any other people that interviewed you about the events of the 4th of July or the morning of the 4th of July?

A Yes, sir.

Q Whowere they that interviewed you and talked to you about the events of the morning of the 4th of July? Can you give me them in order, during that week, as far as you can remember?

A Well, on the next day Officer Rossbach and his partner, Officer Yettra --garden?

THE COURT: Yettra.

A -- Yettra, came in and had a brief conversation with me and Officer -- do you want me to comment on what was said, or --

Q No, I don't want the comment on what was said. I just want to find out --

THE COURT: The occasions.

Q -- the number of people and the time that this matter was discussed by you with officers, and so forth, so that the jury will understand how many times you told -- related the incidents of the morning of July 4th.

A On Thursday of that week I went through the situation rather thoroughly with Officer Rossbach and Yettra and Officer Drenkhan.

On Friday I went over the events again with the same men at my home.

On Saturday I was questioned from approximately 8:30 to 9 o'clock to around 11 by Mr. Parrino, which was followed by a written statement which has been introduced here as evidence. That was Saturday.

Q I just want the --

A Thereafter, I discussed the situation with Dr. Moritz at one time or another. He wasn't particularly interested in the --

Q Well, now, wait a minute. You discussed it with Moritz. Who is Moritz?

A Dr. Allan Moritz.

Q Yes.

A He is the head of the Pathology Department of Western Reserve University, I believe.

Q And where was it discussed with him?

A At Dr. Stephen Sheppard's home.

Q Now, who else do you remember discussing it with?

A Well, we -- I discussed it with Mr. Houk a time or two, once in his home and once or twice at the City Hall. I discussed it with Officers Hubach and Drenkhan on several occasions at both my request and their request.

I was submitted to rather extensive questioning at an inquest, which has been referred to here, and I have been questioned rather thoroughly since the time of my arrest.

Q And you were arrested on July the 30th?

A That is a matter of record. I couldn't say.

Q Now, then, you check that so when I come to that particular point you will know the date you were arrested. Will you?

A Well, the notes that I took at that time were taken away from me, but I did make some notes later to try to pick up the lost --

Q After you were arrested and placed in jail, were you questioned then about the events of July the 4th?

A Yes, sir, I was.

Q Now, then, in the matter of sleep, can you state to the jury at this time what type of a sleeper that you are?

A Well, I have been known to be a heavy sleeper.

Q And at the time that you lied down on that couch on that night, what was your physical condition in regard to exhaustion?

A Well, I would say that I was tired both physically and mentally.

Q Now, then, Doctor, the events of July the 4th, the morning of July the 4th, that you have just testified that you have repeated so many times, will you in your own words repeat them for this jury?

A Yes, sir, I will.

Q You go ahead and repeat them and tell them.

A The first thing that I can recall --

Q A little louder, Doctor, so that the last person can hear you.

A The first thing that I can recall was hearing Marilyn cry out my name once or twice, which was followed by moans, loud moans and noises of some sort. I was awakened by her cries, and in my drowsy recollection, stimulated to go to Marilyn, which I did as soon as I could navigate.

Q Now, just one question there. Did you have a thought in your mind at that time as to what caused Marilyn to cry out?

A My subconscious feeling was that Marilyn was experiencing one of the convulsions that she had experienced earlier in her pregnancy, and I ascended the stairway.

As I went up the stairs and into the room I felt that I could visualize a form of some type with a light top. As I tried to go to Marilyn, I was intercepted or grappled. As I tried to shake loose or strike, I felt that I was

struck from behind, and my recollection was cut off.

The next thing that I remember was coming to a very vague sensation in a sitting position right next to Marilyn's bed facing the hallway, facing south. I recall vaguely recognizing my wallet.

Q Now, just a moment. At that point, have you any way or can you determine -- is there any way of determining the length of time between the time you were knocked out and when you came to this sitting position?

A No, sir, no way that I know of.

Q Now, I am handing you State's Exhibit 27 and Defendant's Exhibit T. Is that your wallet?

A Yes, sir, it is.

Q When was the last time you had it in your hand before I handed it to you this morning?

A It must have been that morning.

Q That morning. Now, you say -- what?

A I may have had it in my hand at the inquest. I'm not sure whether Doctor Danaceau handed it to me or just held it.

Q I see, but --

A Mr. Danaceau, excuse me.

MR. CORRIGAN: I am going into this matter now that includes that event of July the 4th, and I would like to have it continuous. I

wonder if we could have a recess now and then continue, and then I will complete that matter by 12 o'clock.

THE COURT: Sure.

Ladies and gentlemen of the jury, we will have a few minutes' recess at this point.

Please do not discuss this case.

(Thereupon a recess was taken at 10:40 o'clock a.m.)

(After recess, 11:00 o'clock, p.m.)

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Q Dr. Sheppard, will you look around this court room for a moment at the people that are here?

(Witness complies with request.)

Q Do you know these people?

A I know about four of them.

Q About four of them. The rest are strangers?

A Yes, sir.

Q Now, I have come to the point where you had awakened and saw the faint glow of your badge on the floor. Do you remember?

A Yes, sir.

Q Was there a light in the house anywhere?

A Yes, sir, there was.

Q That you remember?

A There was a light.

Q And where was that light?

A I cannot say for sure, of my own knowledge.

Q There was some kind of a light?

A Yes, sir.

Q Now, then, after you awakened or came to consciousness, repeat, as best you can in your own words, to this jury what you saw and what you did?

A Well, I realized that I had been hurt, and as I came to some sort of consciousness, I looked at my wife.

Q What did you see?

A She was in very bad condition. She had been -- she had been badly beaten. I felt that she was gone. And I was immediately fearful for Chip.

I went into Chip's room and in some way evaluated that he was all right. I don't know how I did it.

I at this time, or shortly thereafter, heard a noise downstairs.

Q And what did you do when you heard the noise downstairs?

A And I -- I can't explain my emotion, but I was stimulated to chase or get whoever or whatever was responsible for what had happened. I went down the stairs, went into the living room, over towards the east portion of the living room, and visualized a form.

Q Now, where was that form when you first visualized him?

A Between the front door of the house and the yard somewhere.

Q Now, are you able to tell the jury what your mental condition was when you came out of this -- awoke from this attack?

A I was very confused. It might be called punchy, in language that we use as slang. I was stimulated or driven to try to chase this person, which I did. My --

Q And when you saw the form, what did you do?

A Well, I tried to pursue it as well as I could under the

circumstances.

Q And where did you pursue it?

A Toward the steps to the beach, at which time I lost visualization of this form.

Q Was it dark?

A Beg pardon?

Q Was it dark? Dark?

A Yes, sir, it was dark, but there was enough light from somewhere that I could see this form.

Q Yes. All right.

A I descended the stairway and to the landing, and I visualized the form going down, or as he came on the beach. And it was at this time that I felt that I could visualize a silhouette that was describable. I --

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Q What happened on the beach?

A I descended as rapidly as I could. I lunged or lurched and grasped this individual from behind. Whether I caught up with him or whether he awaited me, I can't say. I felt as though I had grasped an immovable object of some type. I was conscious thereafter of only a choking or twisting type sensation, and that is all that I can remember until I came to some sort of very vague sensation in the water, the water's edge.

Q Were you able to determine anything about that person?

A Yes, sir.

Q And what?

A Well, I felt that it was a large, relatively large form; the clothing was dark from behind; there was evidence of a good sized head with a bushy appearance to the top of the head -- hair.

Q Now, then, when you came to the second time, just where were you?

A I don't know exactly where I was. I was --

Q Were you on the beach?

A I was on the beach, with --

Q Where was your head and where were your feet?

A My feet were in the water and my head was directed ^{to} the sea wall, toward the south, generally. I could have been askew slightly. The waves were breaking over me and even moving

my lower part of my body some.

Q What was the condition of light at that time?

A Light?

Q Light, yes.

A It was light enough to see at that time. I could see Huntington pier later when I came to enough sensation to see at all.

Q Day was breaking, is that right?

A I would say it had broken somewhat.

Q Day had broken. What was your mental and physical condition, as you remember it now, that you were in at the time that you came to consciousness on the beach?

A My mental condition was that I was extremely confused, I didn't know where I was or how long I had been there, or my own name, for that matter.

Q Do you know how long you lied on the beach before you got up?

A No, sir, I don't.

Q Well, you did get up to your feet?

A I finally did.

Q Do you know how you got up the steps? Do you have any recollection of that?

A I remember, as I finally came to enough sensation to get to my feet, I rather staggered up the stairway, and as I was going up, or as I was recognizing that this was my house, I entered the house and came to the realization that I had

been hurt and that I had been struck by an intruder, and I was then fearful for Marilyn, although I can't say that I actually remembered of seeing her.

Q You remember what?

A I can't say that at that time I remembered seeing her the previous time upstairs.

Q How was your mind working? Was there any blocking of your mental processes at that time?

A The best I can explain it is that my mind was working like a nightmare or a dream, very horrible dream.

Q And then what did you do when you got in the house?

A I eventually went up the stairs. I'm not sure just exactly how rapidly I went upstairs, but I did finally go upstairs, and it was at that time that I re-examined Marilyn.

Q Was there enough light in the room then to see her?

A Yes, sir.

Q What did you see?

A I saw that she had been terribly beaten.

Q Did you determine she was dead?

A Yes, I thought that I did.

Q What was your feeling at that particular time, if you had any feeling, that you remember?

A I was horrified, I was shaken beyond explanation, and I felt that maybe I'd wake up, maybe this was all a

terrible nightmare or dream, and I walked around, paced. I may have rechecked little Chip. Very likely I did, but I can't say specifically that I did, and I may have gone back in to see Marilyn.

As I recall -- I could have passed out again, I don't remember, but I was staggered. Finally I went down the stairs trying to come to some decision, something to do, where to turn. I must have paced and walked around downstairs trying to shake this thing off or come to a decision, and I thought of a number and called it.

Q What was the number you thought of?

A I thought that the number was that of Mr. Houk's.

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- Q Do you recall what you said to him over the phone?
- A No, I don't.
- Q Where was the telephone?
- A There are two phones downstairs. I'm not positive which one I used.
- Q And do you know how long it was, have you any recollection of the length of time, between your telephone call and the appearance of Mr. and Mrs. Houk?
- A It seemed like a long time, but it evidently was a relatively short time.
- Q And do you know where you were or what you were doing between the time that you made the telephone call and the arrival of Mr. and Mrs. Houk?
- A I was walking through the house again and trying to -- trying to clear my mind, trying to remember what had happened, trying to remember a description of this individual that I had seen, trying to differentiate whether there were two people or one, in fact, almost thinking there were two.

I shortly before the Houks came stopped in the kitchen and put my head on the table, and that is the first time that I recall realizing or recognizing that I had a very severe pain in the neck. Up to that time, I may have been holding my neck, but I don't remember. And at that time I felt that my neck was injured.

Shortly before the Houks came, I was in that position or had moved on into the den.

Q Now, do you know or do you remember any injury that you had to your mouth and any bleeding from your mouth?

A At that time, no, sir.

Q What?

A Not at that time.

Q When was the first time that you were aware of the fact that your mouth was injured?

A Dr. Stephen mentioned it when he examined me at the hospital, I believe.

Q That was the first time that you knew your mouth was injured?

A Yes, it is.

Q Realized it?

A Yes, sir.

Q And your face was injured. Which side of your face was injured?

A From my recollection at that time when the Houks arrived, I had no feeling, I had no knowledge that my face was injured, except that I was groggy and injured generally.

Q And your mental processes, how were they operating?

A They were not functioning well.

Q And do you know whether your mouth was bleeding when you were in the house?

A I don't know.

Q I see. You have no recollection of wiping off any blood from your face, or anything like that?

A No, sir, I don't.

Q Now, then, the first time you realized the pain in your neck was when you sat down at the kitchen table?

A That's the first time that I can say that I consciously felt the pain and recognized it as such.

Q What kind of a pain was it?

A A very deep seated pain, and more than a pain, a feeling of instability or a feeling of looseness, as though my head were going to topple off my neck, as though there wasn't enough support for it.

Q Now, then, do you know where you were when Mr. and Mrs. Houk arrived, do you recall that?

A I cannot say for sure.

Q Did you see them arrive?

A You mean did I see them come in the driveway?

Q Come in the door?

A No, sir.

Q What?

A No, I didn't.

Q Now, then, where did you see them when you first became conscious of the fact that they were in the house?

Do you remember where you first saw them, or either one

of them?

A The first time I recall -- about the best thing I can remember, as far as my first contact with them, was hearing them. I don't have any visual image of either of the Houks until -- in fact, I can't say that I can really remember clearly seeing either of them.

Q What is that?

A Other than -- you want a clear recollection, is that it?

Q Well, if you have a clear recollection. But if you don't, you tell the jury just what you know, because you were the only one that was there, they were not there.

A I remember hearing the Houks and vaguely seeing them in the den.

Q Do you remember what position you were in the den?

A From my own recollection, I can't really say.

Q I see. What was the next thing -- what is the next thing that you recollect?

A I remember Dr. Richard. He told me that Marilyn was gone.

Q What?

A I remember Dr. Richard told me that Marilyn was gone and he couldn't do anything for her.

Q Did you have any conversation with him at that time, that you remember?

A I remember falling to the floor.

Q And after you fell to the floor, what was the next thing

that you recollect?

A Sometime in there Officer Drenkhan spoke to me, I think, asked me how I was injured, or something to that effect.

Q Do you recall what you told Mayor Houk and Drenkhan on that morning? Have you got any clear recollection --

A No, sir.

Q -- of the facts that you spoke to them and the questions they asked you, and so forth, on that morning?

A No, sir.

Q You have not. Well, after you recollect talking to Officer Drenkhan, what's the next thing that you remember?

A Well, now, my comment with Officer Drenkhan is not necessarily in order. I don't know when it was or I certainly can't pinpoint it. I remember Dr. Steve.

Q And tell what you remember from that time on?

A Well, there was a mass of confusion generally. I remember Dr. Steve saying something about getting me out and some comment about how or could I help myself, and I believe that I told him that I had been walking and could get to my feet.

Q And did you then get to your feet, do you remember?

A I was aided out to Dr. Steve's car. I can't say by who or how it occurred.

Q Do you remember Dr. Carver being there?

A I can't say that I do.

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Q Do you remember Betty being there?

A I think that I do.

Q What is your recollection about Betty?

A My recollection about Betty is that as we drove to the hospital, she was near me, and she said something or brought to my attention the fact that I was shuddering, quaking.

Q Did you know it?

A Not consciously until it seemed that Betty called -- made some mention of it.

Q Betty told of statements and mumbling that you made as you went to the hospital. Do you remember that, what you said?

A No, sir, I don't.

Q Do you remember arriving at the hospital?

A Very vaguely.

Q What do you remember -- tell the jury -- about what was done when you arrived at the hospital and who took care of you?

A Well, I was placed on some sort of a conveyance. The only individual that I remember seeing there was my father.

Q Do you remember going into X-ray?

A Very hazily.

Q Do you remember the young lady that took the X-rays? Do you remember her that morning?

A No, sir.

- Q Do you remember talking in the X-ray room, to the X-ray room?
- A No, I don't.
- Q Do you remember saying, "I had to get to Marilyn. I heard Marilyn scream. I tried to get to Marilyn but couldn't get to her"?
- A I remember feeling that, sir, but I don't remember saying it.
- Q Do you remember feeling it?
- A Yes.
- Q But you don't remember saying it?
- A No, sir.
- Q Now, then, what is the next clear recollection that you have after your arrival at the hospital?
- A I remember Dr. Steve commenting on my cut mouth and teeth, and the pain that I had when he tested my teeth.
- Q What is the next recollection you have? What recollection do you have?
- A I remember of getting a shot, and about the next clear recollection I have is being questioned by two police officers.
- Q Now, who were those two police officers?
- A At that time I didn't know.
- Q Did you later find out who they were?
- A Yes, I did.
- Q And who were they?
- A Officers Schottke and Gareau.

- Q Do you remember Dr. Gerber coming into your room that morning?
- A Yes, sir.
- Q And will you tell me what you remember about the visit of Dr. Gerber, what you recollect about his visit?
- A Well, I remember that he was smiling, and I couldn't understand how anybody could smile at such a time. He asked me if I had chipped any teeth --
- Q If you what?
- A If I had any chipped teeth.
- Q Do you remember what you answered him?
- A I believe that I said that Dr. Steve had found some chipped teeth.
- Q Did he look in your mouth?
- A I don't recall that he looked in my mouth, no.
- Q He asked you if you had chipped teeth?
- A Broken teeth, yes. He looked at me, how carefully, I can't say, but he seemed to look at me very closely in the face and head, close -- well, maybe from here to here (indicating).
- Q What?
- A He was quite close. He asked to look at my hands, had me hold my hands out like this up on the bed (indicating). I was on the bed actually back. He looked at the hands at one side, and --

Q Did he touch your hands?

A I don't remember. And then the other way, and what else he did, I can't recall. He asked me some questions about the events, which I did my best to answer him.

Q Which what?

A He asked me some questions about the events of the tragic situation, and I did my best to answer him.

Q Now, he stated that somebody took your blood pressure and that he watched the man taking the blood pressure, and from that he learned what your blood pressure was. Do you remember him testifying that way?

A Yes, I do.

Q What is the fact as to whether or not you can tell what a person's blood pressure is by just watching?

A You can't.

Q Why? Tell the jury how it is taken and why you can't tell by just observing.

A The pressure -- blood pressure is taken by placing a cuff around the arm, as you all have no doubt experienced, and the cuff is pumped up to a point where the pressure obliterates or collapses the main arteries of the arm.

The cuff is then released very slightly and very gradually, so that as that cuff releases the first pulse pressure that hits that cuff that will expand it and get

by, in other words, the artery pressure, as soon as it equals the cuff pressure, it pushes the cuff away and the arterial blood gets through the arteries and pulsates through.

Well, that pulse is picked up with a stethoscope

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or with a hand. You can tell actually sometimes the blood pressure, the systolic or higher portion by feeling it, because when the arterial blood gets through or the artery is re-expanded and the blood rushes back through, you feel the pulse again, until that -- or when the cuff is so tightened that the arterial blood does not get through, there is no pulse, it doesn't get through.

Q So that watching the column of mercury is only one phase of determining blood pressure?

A Watching the column of mercury has nothing -- it gives maybe a vague impression, because as the pressure is released, there often is a little bobble in the mercury as the pressure exerts itself, and then as the pressure gets below the normal blood pressure that little bobble isn't seen again, but that is difficult to pick up and totally unreliable, plus the fact that the diastolic pressure, which is often more important, which represents the venous pressure, and is picked up by the fading of this pulse in the stethoscope, is obtained only by a stethoscope, and that is why we use the stethoscope in obtaining blood pressure.

Q On that morning, your brother testified, Steve, that he picked up a pair of gloves.

MR. CORRIGAN: Will you give the gloves to Dr. Sheppard?

I had a little pile of sand up here on
a sheet.

MR. PETERSILGE: Here it is, Bill.

MR. CORRIGAN: Now, I want that
marked Defendant's Exhibit 18.

(Defendant's Exhibit 18,
being sand, was marked for
identification.)

Q Defendant's Exhibit 18, this is the sand that a little while
ago we took out of the socks?

A That is a part of it.

MR. CORRIGAN: I introduce that
in evidence.

THE COURT: It will be received.

MR. CORRIGAN: And pass it to the
jury. Hold it stiff so that it doesn't spill.

(Defendant's Exhibit 18
was offered and received
in evidence.)

(Defendant's Exhibit 18 was examined by
the jury.)

(Thereupon the sand was poured in a bottle.)

MR. CORRIGAN: Now, we have placed that in a bottle, your Honor, which we will mark with the same number, Exhibit 18.

THE COURT: That will be 18.

JUROR MRS. BORKE: Mr. Corrigan, can I ask Sam a question?

MR. CORRIGAN: Go ahead.

JUROR MRS. BORKE: Dr. Sam --

MR. MAHON: Wait a minute.

MR. DANACEAU: Wait a minute, now.

MR. MAHON: Just a moment. You better ask the Court.

JUROR MRS. BORKE: Judge, can I ask the doctor a question, please?

THE COURT: No. That isn't permitted.

THE WITNESS: Can't she --

Q Handing you, Doctor, two pairs of gloves marked Exhibit 23 and 24, I think the canvas gloves are marked Exhibit 23, is that correct?

A Yes.

Q Those are the gloves that your brother, Steve, said that he pointed out to Chief Eaton, do you remember?

A Yes.

Q Do you recognize those gloves as being your gloves?

A Yes, I believe they are my gloves.

Q Now, Miss Cowan testified that when she examined them, that she found on the -- I'll break them apart. The others I don't think we are interested in, so you can lay them aside.

A Were these not found with those?

Q Yes, they were. Are they yours?

A Yes, I believe these are gloves that Marilyn's -- yes, they were given to me by, I think, Mrs. Reese some years ago.

Q All right. Miss Cowan testified that on the back of the -- this is the left and this is the right -- on the back of the right, that there was a small spot of blood, that she determined was blood. Now, can you tell the jury anything about the history of these gloves?

A Well, that is one of a couple of pair of work gloves that we had had around our home for probably since we have had our home, three years, and they have been used for numerous things. I kept them in various places, oftentimes in the pocket of a dungaree work jacket that I have. That work jacket has been on me on several occasions of emergency in which I was working in the yard and had to jump in the car and attend to the emergency. One, as I recall, was about a year ago now. It was

actually between Christmas and New Year's, and an accident had occurred just east -- no, just west of the bottleneck at the Huntington Park brick pavement, where it comes into the asphalt pavement near our home.

There were, in fact, two accidents in that area, but one more severe than the other, at which time I administered to two young Marines who were trapped in their car. We got them out, and there was bleeding at that time, and I'm sure I got blood on my work jacket. I certainly may have gotten blood on those gloves if they were with me. They could have been.

Young Chip has certainly bled from time to time around the house.

Q Well, the fact is, Doctor, that in your work, in the work that you have been carrying on, it wouldn't be very difficult to find blood on some of your clothes or some of your equipment, is that correct?

A That's correct. I'm sure there's blood on some of my overcoats and some of my other apparel.

Q Now, then, do you recall after Dr. Gerber came, the next persons that appeared in the hospital?

A I don't remember in order, but I do remember seeing Mr. Reese and Mr. Munn. I don't know whether it was before Dr. Gerber or following Dr. Gerber, or when it was.

Q Well, you do remember the two police officers coming in

that you later learned were Schottke and Gareau of the Cleveland Police Department?

A Yes, I do.

Q Tell me what you recall about that visit?

A I don't recall very much specifically about that visit, except that I asked them both if they had any idea as to who could have done this thing or any leads, and I believe it was Officer Schottke that said, well, they had a diagnosis, their diagnosis wasn't always right, just as in physicians' diagnoses, but they had a diagnosis.

Q They had a diagnosis?

A That's what he said.

Q But they didn't tell you what it was?

A No, sir.

Q Now, did you later meet those two men?

A Yes.

Q And was there anybody with them at that time?

A Chief Eaton was with them.

Q Chief Eaton?

A Yes, sir.

Q Do you know whether that was in the morning or the afternoon?

A I believe it was afternoon.

Q Can you state, Doctor, whether you were in any pain or discomfort during the time that you arrived at the hospital

until the time of the second visit of Eaton and Schottke and Gareau?

A Yes, sir, I was in pain and discomfort.

Q At that time had this collar been put on your neck to hold your neck in a rigid position?

A At that time a felt collar covered with stockinette, which is a material we use in casts, was placed around the neck as a support.

Q At that time were you under any sedation, or during that day were you under any sedation, that you know of?

A I received a shot and I became, if anything, more groggy and confused, and the pain was relieved. So I evidently had sedation. But I was not appraised of just what I had or how much at that time.

Q Now, then, tell the jury about this visit of Schottke and Gareau and Eaton on the second occasion?

A Do you want me to state what was said?

Q Yes, what you remember about it, how they questioned you.

A Well, the manner of questioning was in a "How do you explain" preface to each question.

Q Tell me the best you remember.

A Mr. Schottke did the questioning, and he said, "Doctor, how do you explain your wife's wristwatch found in the den?" I believe he mentioned that.

He said, "Doctor, how do you explain your teeth

being found under your wife's body?"

I told him I couldn't explain it.

He showed me a green bag and asked me to identify it.

I told him that it was like the bag that I had in the house somewhere that held motor boat tools. I wasn't sure whether it was the same --

Q When he said, "How do you explain your wife's teeth -- or, your teeth being under your wife's body," did he show you the teeth?

A No, sir, he didn't.

Q What?

A No, sir.

Q Gerber, in the morning when he had examined you, had asked you if your teeth were chipped, hadn't he?

A Yes, he had.

Q Now, then, what was the rest of the manner of their inquiry? "How do you explain," is that --

A Yes. He showed me the bag and the watch and then asked me how did I explain the watch being found in the bag over the hill and how did I explain other jewelry being found in the bag over the hill; and, of course, I had no explanation.

He asked me how I explained that they weren't able to find the T-shirt. I told him I certainly didn't know.

Q Now, do you recall when you come up from the beach whether you had a T-shirt on? Do you recall anything about a

T-shirt?

A I don't recall anything about a T-shirt, no, sir.

Q Do you recall that you had one when you went to sleep?

MR. PARRINO: I object to
these leading questions, your Honor.

MR. CORRIGAN: I will withdraw it.

Q When was the last time you recall wearing a T-shirt?

A I recall wearing a T-shirt earlier in the evening of --
Saturday evening.

Q Now, do you recall that you didn't have the T-shirt on
when you were around the house after you come up from the
beach?

A I have no recollection about that until either Mrs. Houk
or Betty Sheppard commented on it. I think Mrs. Houk may
have.

Q Did you have other T-shirts in your home?

A Very definitely.

Q Clean T-shirts?

A Clean and dirty.

Q Yes. And where were your clean T-shirts located?

A In my drawer.

Q And was the water running in your house?

A Yes, sir.

Q And you could have wet a T-shirt and put it on, couldn't
you?

A Very easily.

Q Now, then, what continued? Tell the jury the manner in which these men questioned you there on that afternoon?

A Well, they --

THE COURT: Are you referring
to Schottke and Gareau now?

Mr. CORRIGAN: Schottke and Gareau
and Eaton, yes.

THE COURT: All right.

A They told me that they were sure that I wasn't giving them all the facts. I said, well, I certainly was giving them all that I could.

Q Now, during those two conversations, did you tell them all you knew about what occurred on the --

A All that I knew at that time that I could, any questions of theirs that I could answer.

Q Well, then, tell what went on in the room?

A Officer Schottke said that, would I submit to a so-called lie detector test, and I said I certainly would if it was a reliable test, or something to that effect.

And he and Mr. Gareau said, "Well, you might as well tell us all about it now, because the lie detector is infallible and it never misses and you just might as well tell us."

And I may have commented that, "The last I knew, the

lie detector has -- the so-called lie detector was far from infallible, but if it were, I would certainly take it."

And I then, I think, said to the officers, "You don't think that I had anything to do with this, do you?"

Mr. Schottke looked at me and said, "I don't know what my partner thinks, and I don't know what Chief Eaton thinks," but he said, "I think you killed your wife."

That's the last I remember.

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What effect did it have on you?

A Well, I was shocked upon shocked. I didn't know how to react or what to say. I believe I said, "Oh, God, no."

I may have said, "God, don't be ridiculous."

I don't know what I said.

Q Was there any truth to the accusation that man made that morning?

A No, sir.

Q Now, then, what did they do after they made the accusation?

A I don't recall exactly what happened. They left shortly thereafter, I believe.

Q Did you see Dr. Hexter that afternoon?

A Yes.

Q Did you know Dr. Hexter?

A Yes, I did.

Q How long had you known him?

A About two years.

Q And did he inform you who had sent him to the hospital?

A I don't think that he informed me, no.

Q What?

A I don't think that Dr. Hexter informed me, no.

Q Did he come after Gareau had accused you of killing your wife?

A Gareau never accused me of killing my wife, sir.

Q I mean Schottke.

A Yes.

Q Now, when he came in what did he do, what kind of an examination did he make of you?

A He examined me as we would expect a general practitioner to go over a patient, general way. That includes eye, ear, nose and throat, heart and lungs, abdomen, extremities, a general way.

Q Did he examine all your reflexes?

A At that time I was still confused mentally. I couldn't say whether he did or not. He didn't turn me on my --

Q Did he inform you at all about reflexes that he found absent?

A No, sir.

Q He did not. Did you at any time object to him examining you?

A No, I didn't, that I know of.

Q Although at that time you knew now that Schottke was accusing you of the murder --

A Yes, I knew of that.

Q -- of your wife.

Now, was Dr. Hexter a friendly physician to you?
Was he a friend of yours or a colleague?

A Well, he is a member of the medical profession. He and I had had some slight differences.

Q Now, after Hexter left, did you see another physician that was called to the hospital by your brother, Steve?

A I saw both Dr. Elkins and Dr. Foster during the day.

Q Dr. Foster testified that he looked at you at about 2:30 in the afternoon.

A I couldn't state the time.

Q And Dr. Elkins came later, but you do remember him being present?

A I remember Dr. Elkins being present and examining me.

Q Now, then, the next day were you able to -- are you able to tell the jury what you felt your injuries were and what your condition was?

A The following day I was stiff and sore all over as though I -- the nearest I can associate it to is a very vigorous football game where possibly we had been beaten very badly. My neck was exquisitely painful, deep. Any motion bothered my neck. When people would touch or jar the bed, it bothered me. If I could move of my own accord carefully, I got along better, almost, than if people would help me, because any helping motion seemed to cause pain.

Q Now, Doctor after the accusation was made against you by Schottke that you had killed Marilyn, did you then do anything about hiring a lawyer?

A No, sir, I didn't.

- Q Did you have anything to do with Mr. Petersilge coming to the hospital on that day?
- A Well, I told my brother what this man had said, but I had no direct contact or indirect with Mr. Petersilge.
- Q You had no thought of getting a lawyer at that time, had you?
- A No, sir. I felt that the truth would display itself.
- Q You felt that the truth would come out somewhere?
- A Yes, sir.
- Q That the accusation was false?
- A That's right.
- Q It is false, isn't it?
- A That's right.

MR. CORRIGAN: Can we adjourn
for the noon hour?

THE COURT: Ladies and gentlemen
of the jury, we will have our noon recess at
this point.

Please do not discuss this case at all
in the meantime.

- - -

(Thereupon at 12 o'clock noon an adjournment was taken to 1:15 o'clock p.m., Friday, December 10, 1954, at which time the following proceedings were had):

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Friday Afternoon Session, December 10, 1954, 1:15 o'clock, p.m.

Thereupon, the Defendant SAMUEL H. SHEPPARD
resumed the stand and testified further as follows:

DIRECT EXAMINATION OF SAMUEL H. SHEPPARD (CONTINUED)

By Mr. Corrigan:

Q Doctor, were you questioned on Monday, do you remember?

THE COURT: You are speaking
of July 5th, is that right?

MR. CORRIGAN: That would be
July 5th, yes.

A I believe that Officer Rossbach questioned me.

Q Do you remember Officers Rossbach and Yettra being there?

A Yes, sir.

Q And on Tuesday, do you remember who was there on Tuesday?

A I don't remember.

Q Well, let me ask you this question, Doctor: Did you at
any time refuse to discuss this matter with any duly
authorized police officer?

A No, sir, I didn't.

Q When they questioned you, did you answer what they asked
you?

A As best I could, I did, yes.

Q At all times?

A Yes, I did.

Q Had you employed an attorney at any time up to July 30th?

A No, sir, not until I was arrested.

Q Not until you were arrested. And any employment of Mr. Petersilge or myself prior to the time you were arrested was not by you, is that correct?

A Well, Mr. Petersilge had been Marilyn and my lawyer.

Q He had been your lawyer. For how long?

A Well, there was never any official appointment. We consulted him about some of our problems with our house, and that sort of thing.

Q Did you have anything personally to do with my employment or Fred Gammone's employment?

A No, sir, I didn't.

Q And did you consult or bring Petersilge into the case as your representative in this matter?

A I didn't personally.

Q You did not. All right. Now, then, on Wednesday you attended your wife's funeral?

A Yes, sir.

Q And were you taken there in a wheelchair, as was testified?

A Yes, sir.

Q What was the scene around your wife's funeral that afternoon?

A Well, I'm afraid I wasn't in any condition to --

THE COURT:

Speak a little

louder.

Q Well, were there photographers and reporters and people of that kind around when your wife was being buried?

A My wife was not buried, sir. She is in a mausoleum.

Q Well, when she was put in the mausoleum?

A Well, there were many around the funeral home. I really didn't notice at that --

Q Now, when you went to the place where your wife's body was placed, did any police officer accompany you?

A Yes, he did.

Q And during the journey to the burying ground and back to Bay Village, was that police officer with you all the time?

A Yes. He was in --

Q What was his name?

A Officer Jay Hubach.

Q And was the manner of your wife's tragic death discussed on that journey?

A Yes, it was.

Q There was something said about you carrying a pistol in the evidence that has gone before. Did you carry a pistol?

A I did after Mr. Hubach suggested it, yes.

Q That was on the advice of Mr. -- of Sergeant Hubach, is that correct?

A Yes, sir, it was.

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Q Now, then, did you have a meeting with the police officers on Thursday?

A Yes.

Q And where did that meeting take place?

A In my hospital room.

Q And who did you meet with on that day?

A Originally, Officer Rossbach and Yettra, Dr. Gerber, Officer Schottke and Gareau, were present, and Dr. Stephen Sheppard was in the room at first.

Q Well, it was said in the examination of Mr. Parrino or Mr. Danaceau that you wouldn't talk until you had chosen who you would talk to. Is that correct?

A No, sir, that isn't correct.

Q Just tell the jury what the true facts are.

A Well, there was never any hesitancy on my part, my brother's part, or Mr. Corrigan or Mr. Petersilge's part, on my discussing this entire matter with the authorities. However, Mr. Petersilge and Mr. Corrigan asked that they, or one of them, be allowed to be present. Dr. Gerber and the other men insisted that no one should be present other than the authorities.

About that time, there was quite a hassle that went on in the room over my bed. There were -- Dr. Gerber was on one side with some of the other men; Mr. Corrigan, Mr. Petersilge on the other, and there was a lot of legal

comment, and I became very, very disturbed, because my wife was dead. I wanted to do what I could to help these people. I felt that if they really wanted the facts, there should be no particular objection to having someone else in the room, but I told them that I would talk with them, that I felt that I could tell them what went on, and I wanted to help.

Mr. Corrigan and Mr. Petersilge said that they didn't feel that I was in condition to be vigorously examined and, as they put it, they didn't feel that I was in condition to protect myself from being trapped, and they felt that one of them should be present.

The others said that they weren't trying to trap me, and they said, "Well, why don't you want us to be present?" And back and forth.

Dr. Gerber threatened to subpoena me, and Mr. Corrigan said, "Go right ahead. We'd be just happy to have you subpoena Dr. Sheppard, and then there would be an open inquest and we could be present and the whole world could be present."

And I said, "I don't want to have to go to that extent. I don't want to have to wait to give the authorities the information. I want to give these men the information that I can to help them get to the bottom of this thing."

Mr. Petersilge and Mr. Corrigan said that -- they were sort of stopped there. Then the subpoena was torn up, and then again there was a question about whether Mr. Schottke and Mr. Gareau should be present. Officer Rossbach had previously displayed some displeasure that Officer Schottke had accused me. I then stated that I will definitely talk with these men if I can have some member of the Bay Village police force present.

Mr. Corrigan said, "Sam," -- Mr. Petersilge told me it was up to me, and Dr. Steve said, "Sam, I know what I want you to do, but I can't advise you. We have attorneys here to tell us what to do."

Q Was the result of it that you decided the whole thing, as far as you were concerned?

A I decided to talk with these men without the presence of legal counsel or anyone other than the authorities. I requested that some member of the Bay Village police force be present. I mentioned Officer Drenkhan --

Q Did you request that the attorneys get out while you were being questioned?

A That was the stipulation that the authorities made.

Q And you agreed to it?

A Yes, sir.

Q Now, how long did you spend then with Mr. Rossbach and Mr. Yettra and Mr. Drenkhan on the afternoon of Thursday,

July the 8th? How long did you spend with them?

A I didn't time it. Several hours.

Q But you answered all the questions?

A Yes, I did.

Q And following that questioning, was it requested by the officers that you go with them to your home on West Lake Road?

A Yes. Officer Rossbach made that request, and I told him I would -- I would.

Q Now, you went to your father's home that night, did you not?

A Yes, sir. I was discharged from the hospital, as I recall, after the examination by the officers.

Q When you come out of the hospital were you surrounded by reporters and photographers?

A I don't remember.

Q Well, when you went to your father's house on Thursday night or Thursday afternoon, did you see any police officers at your house that afternoon?

A Yes, I did.

Q And who were they?

A Officers Rossbach and Yettra and some officer, fingerprint officer.

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Q Now, then, on the next day, that would be Friday, in response to the arrangements you made with Officer Rossbach did you go to your home?

A Yes, I did.

Q And that was the first time you were in your home since the day you were taken out of it on the morning of the 4th of July?

A That's correct.

Q Who was present in your home when you went there?

A Who was with me?

Q Yes.

THE COURT: Who was present,

I think was the question.

A Well, there may have been people present that I'm not aware of, but Officer Rossbach was in charge, apparently, and with me, and Officer Yettra with him. Dr. Gerber, Mr. Petersilge and Mr. Corrigan were in the vicinity but not with us as we went through the home.

Q Now, then, did you see any other people around there?

A Around the property?

Q Yes.

A Well, there were crowds.

Q Crowds of people?

A Yes, sir.

Q And --

A I would say, to describe it, it might be similar to the visit that the jury made to the home, with the absence of the helicopter.

Q Now, when you went through the home, who were you accompanied by?

A The officers that I mentioned and Dr. Gerber.

Q Now, did you --

A There may have been some Bay Village officers, probably were, but I don't remember specifically who or how many.

Q Did any of the -- withdraw that.

And during the progress through the home with the officer, they asked you many questions?

A They certainly did.

Q And where did you go, in what part of the home?

A We took a tour through the entire home and grounds.

It was a careful but not meticulous -- I was not given the opportunity to look through my drawers, for instance, to straighten around anything in my den or in the kitchen and evaluate what might be missing or disturbed other than the very obvious things.

However, each room was evaluated and the officers asked me to try to re-enact what I could of what went on that night.

Q And did you comply with all their questioning?

A Yes, sir, as best I could.

Q And about what time did you complete the tour of the home with these officers?

A There, again, I don't know the time.

Q Allright. But you spent all the time they wanted with them -- with you? You didn't --

A Yes. They terminated the visit.

Q They terminated it, not you?

A Yes, sir. They asked me certain things. There were a few things that I thought about that should be found, I think an axe and some other instruments that I mentioned that were looked for and found.

Q Sometime during the tour of the home on that day this bag was brought to your attention, was it not?

A Yes, it was.

Q Which is marked --

A ZZZZ.

Q ZZZZ. There are pictures shown and have been seen by the jury that show the medical bag turned up in the hall. Do you remember that?

A Do I remember the picture?

Q No. Do you remember the fact as to whether or not the bag was turned up in the hall?

A I can't say that I specifically remember that, no.

Q I see. All right. Now, when you walked around that day and examined the house, was there a medical bag turned up

in the hall such as shown by these pictures?

A No, sir, it wasn't turned up in the hall at all. It was in the den --

MR. CORRIGAN: Get me that picture,
Fred.

Q Where was this medical bag at the time?

A Well, during the course of the tour through the house, they asked me to sit down for a while and rest, and Dr. Gerber and some of the other officers went into the den and closed the door. And after about 10 minutes, they then asked me to come into the den, and the medical bag was in the den, and at that time they asked me to examine the bag.

Q Now, then, --

A It was just as it is now, on the floor.

Q Now, what was your physical condition at that time, on Thursday? Had you recovered?

A No, sir. I was still pretty upset and confused, and I was having some pain but able to get around.

MR. PETERSILGE: Bill, that's
Friday, not Thursday.

MR. DANACEAU: Friday.

A Friday, at the house.

Q Friday. Was that what you were telling about?

A Yes. But you said Thursday.

Q Friday. Now, here is a picture that has been offered into evidence, Defendant's Exhibit D. Drenkhan has testified that he took this picture.

Do you recognize the scene shown in that picture as having viewed that on the morning of July 4th?

A I can't say that I saw it or recognized it at that time.

Q I see. All right. Now, when the officers called you into the den, did they have you examine the medical bag?

A Yes, sir, they did.

Q And is this the medical bag that you examined?

A Yes, this is the bag.

Q That's the bag. And that's your medical bag?

A Yes. I can tell definitely by this scuff mark on it.

Q Did you find anything missing from your medical bag when you examined it?

A Yes, sir, I did.

Q What did you find missing?

A I found that there was a box of emergency morphine ampules missing. We call them Ampins. They are little ampules that have a needle on the end so that they may be broken and injected very rapidly for emergency medication.

I was unable to find a bottle of demerol, which I commonly kept in the bottom of the bag down where -- in the main portion of the bag, kept there because it's also used for emergency purposes at time, but later found a

bottle of demerol in one of the pockets on the sides here.

I explained to the officers at that time that I had two boxes of these emergency morphine Ampins and two bottles of demerol. I thought that there was one box of the emergency Ampins in this bag and one in the bag I kept in the jeep and one bottle of demerol, which is the synthetic narcotic in this bag, and one in the emergency bag that was in the jeep, but there may have been some variation of that. I may have had both bottles of demerol in here, or there may have been some slight variation, but I felt sure that there was one box of the morphine Ampins in each bag. These same type morphine Ampins were carried in the Bay Village Police ambulance, and at one time, in the police cars.

Also I found that in going through I recognized that a packet of emergency surgical instruments were missing. I went through the bag again and recognized that they were missing, and then Officer Rossbach produced that packet from back somewhere else in the room, he had it back on the radiator or somewhere, and asked if that was the packet I had reference to, and I said "Yes."

Q I want to find out if after the examination of this bag you found any material missing from it?

A Yes, sir.

Q And what did you find missing?

A I found definitely that the box of morphine ampules were missing.

Q All right.

A And possibly a bottle of demerol, depending on what I found in the other bag.

Q All right.

Now, you examined the other bag later? Wait a minute.

Just answer the question. You examined the other bag at a later date?

A Yes, sir.

THE COURT: Did you?

THE WITNESS: Yes, sir.

Q All right. I'll come to that.

Now, when you had examined this bag and the surgical instruments, and so forth, that were in it, that you got from Officer Rossbach, were you permitted to take that bag with you on that day?

A Yes, sir, I was. I first requested that I take the equipment that I need for my specialty, and I talked to Dr. Gerber about it and he said, "Well, we've checked this."

Q Well, will you answer?

A (Continuing) "You might as well take the bag."

MR. PARRINO: Just a moment.

Let him answer, please.

Q Were you permitted to take the bag?

A Yes, sir.

Q All right. That's all I wanted to know.

Do you have -- I'll come to that later.

Now, then, after you had gone through the house with these police officers and they had completed their examination of you on that day, did they request you to come downtown and make a written statement?

A Yes. First I --

Q All right. That answers it.

Did you come downtown?

A I came down the following morning. I arrived at eight o'clock at the Sheriff's office.

Q And who accompanied you when you came downtown?

A Dr. Stephen Sheppard brought me down. I was unable to drive as yet at that time.

Q And anybody else accompany you over to the jail?

A Mr. Petersilge met us downtown.

Q Did I accompany you to the jail?

A No, sir. You told me I didn't need you.

Q That is what I told you on Thursday, wasn't it?

A Yes, sir.

Q That you were an innocent man and you didn't need me?

MR. MAHON:

Oh, wait a minute.

We object to this.

MR. DANACEAU: We object to this
sort of thing.

MR. CORRIGAN: Why are you
objecting?

Q But, anyway --

MR. DANACEAU: Just a minute,
if the Court please. This is going on
repeatedly.

THE COURT: The jury will
disregard that entirely.

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Q Anyway, you saw me no more, did you, or did you see me between the Friday of that week until you were arrested?

A I think I saw you once.

Q You saw me once?

A Well, I saw you at the inquest, but you were just there. I didn't see you in private or anything of that sort.

The once that I refer to is --

Q I was there with Mr. Petersilge?

A You were there with everybody else, yes.

Q But you had no consultation with me on this matter between the 9th or the 10th -- Friday, you had no consultation with me Friday, did you?

A Friday?

Q Friday when you went through the house?

A No, sir. You merely stated what these men have objected to.

Q Now, then, after you came to the Sheriff's office -- that was on Saturday of that week, wasn't it?

A If I recall correctly, yes.

Q And what time did you arrive here?

A About 8 o'clock or very shortly thereafter.

Q And what time did you leave here?

A I can't say for sure, but it was 5:30 or 6 o'clock, something like that.

Q And from the time you arrived until you left, were you in

constant conferences with officers and other authorities?

A Well, I wouldn't say it was absolutely constant, but it was from one to another. When we arrived, we were in the presence of Officer Rossbach. He asked us to wait a few minutes until they could get organized, and then I was taken back to the interrogation room, or Mr. Rossbach's office, and was interrogated by Mr. Parrino in the presence of some of the other officers.

I requested on several occasions during that questioning to initiate my written statement, which I had come down to make, and he said, "Well, we can do that later."

He finished his questioning I suppose around 11 or 11:30, and they moved right in then to the written statement. There were times in which they asked if we wanted --

Q Before you go to that, when you were taken in, were you taken into the jail proper?

A Yes, sir. Officer Rossbach commented on it.

Q And were you taken into the part of the jail where you now are a prisoner?

A Well, I wasn't taken into the particular --

Q To the same floor, is what I mean.

A The same floor, not the same cell block.

Q But the same floor?

A Yes, sir.

Q When you were taken back into this room for questioning did your brother accompany you?

A Hewas not allowed to accompany me.

Q Did Petersilge accompany you?

A No, sir. He was not allowed to come back until later.

Q And who were you in there alone with?

A During the first period of questioning, the questioner was Mr. Parrino, as I stated, but there were others in and out, which included Officer Rossbach and Gareau and Schottke. There may have been --

Q They were doing the questioning in relays, when one would get tired the other would ask questions, is that the way it was?

A Not at that -- there may have been some questions put to me by some of the others, but I wouldn't say it was in relays. Mr. Parrine was the main questioner at that time, as I remember, during this pre-statement period.

Q And then you got down to making a written statement?

A Yes.

Q Did you refuse at any time to answer any questions or to make any written statement, or anything like that, on Saturday?

A No, I didn't. In fact, I asked that we get on with the written statement.

Q Did you answer all questions that were aimed at you, to the best of your ability?

A Yes, I did.

Q As you could remember them?

A Yes, sir.

Q And then the statement was completed and it was signed?

A Yes, it was.

Q And that is the statement that has been introduced here and has been read to the jury, is that correct?

A I don't know for sure. I haven't read that over thoroughly.

MR. CORRIGAN: Get that and show it to the witness. What is the number of it?

MR. GARMONE: State's Exhibit 48.

Q Handing you State's Exhibit 48, Doctor, will you examine it and determine, if you can, if that is the statement that you made and signed on Saturday, July the --

MR. GARMONE: Read it to yourself.

Q -- the 10th?

A Do you want me to read it through?

THE COURT: He just wants you to determine whether it is the statement that you made over in this building.

THE WITNESS: I'd have to read it through to be sure about that.

Q Go ahead and look it through, Doctor.

A Pardon?

MR. GARMONE: Look it over.

MR. PARRINO: He says look it over.

THE COURT: You can look through it.

A Yes, sir, I believe this is the statement.

Q Now, during that Saturday that that statement was taken, was there any stopping during the examination from the time you started until you left the jail about 5:30 or 6 o'clock of any extended length of time?

A No extended period. The officers had some coffee and asked me if I wanted some, and Mr. Petersilge requested some milk.

Q That is, you stopped for a cup of coffee?

A Yes, and I think they had a box of partly used wheat crackers that a couple of the men munched on.

Q And that was the only stopping during the day?

A Yes, sir.

Q Now, then, after you left the jail, and between the 10th of July and the 21st day of July, were you in contact with any police officers, or were they in contact with you?

A Yes, sir.

Q Who were they?

A Chiefly, Officers Drenkhan and Hubach.

Q And how many times did those officers interview you between

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those two dates?

A I couldn't say.

Q Were there a number of times?

A As I recall, yes.

Q And where did those interviews take place?

A Well, they took place in Dr. Richard's home and Dr. Sheppard, Senior's home, and also on one occasion at the Fairview Park police station, as I recall, a rather extended conversation.

Q And during those periods, was there any lawyers around?

A No, sir, there wasn't. There were times that I called the officers and rendered things that would cross my mind, or minor points that I thought should be checked, and I asked when Dr. Gerber would want me to return to the home and make a meticulous -- or an attempt at a meticulous evaluation of the objects in the house, and the answer was that he would within the next few days.

Q Was there a time when you were permitted to go into your house without a -- unaccompanied by a police officer?

A No, sir.

Q Was there any time down to the present day when you were permitted to go into your house and make a search of your house so that you could find out what was there and what wasn't there?

A No, sir.

Q When was the next time that you went to your house after Friday, July the 9th?

A I don't recall the date. We went over to remove some clothing, and we removed two of the cars.

Q Well, was that several days later, do you recall?

A Yes, it was.

Q And were you accompanied by police officers at that time?

A Yes. We met one of the Bay Village policemen at the time, and he, with Dr. Stephen and I, went down to the beach and over the grounds somewhat waiting for the arrival of Officer Rossbach, Yettra and Dr. Gerber, who was supposed to be there at that time.

Q And did they come, Rossbach and Mr. Yettra and Dr. Gerber?

A They got there about 45 minutes later than they had planned to meet us.

Q Accompanied by anybody?

A Well, there were a tremendous number of reporters and photographers.

Q That accompanied them. All right.

A I wouldn't say that they definitely accompanied those men.

Q Well, they came at the same time?

A Yes, sir.

Q Now, on that particular day, did you remove some property from the premises?

A We removed some clothing, and -- yes.

Q Accompanied by an officer?

A Yes, sir.

Q Did you remove some automobiles?

A Yes.

Q And what automobiles were removed?

A They removed the clinic jeep, the emergency vehicle, and my car.

Q And that was your Jaguar?

A Yes, sir.

Q Now, at that time that the clinic jeep was removed, who removed them, by the way?

A Of my own recollection, I can't say. I do recall that they were backed out of the garage and examined very thoroughly by the officers --

Q Did you drive either one of the automobiles?

A No, sir, I didn't.

Q What?

A No, sir.

Q What was your physical condition as to ability to drive an automobile at that time?

A Well, I thought I could drive an automobile at that time, but Dr. Stephen insisted that I not. He felt that I wasn't in condition to do so.

Q Now, when the automobiles were backed out, who searched them?

- A Dr. Gerber, Officer Rossbach and Yettra, and there may have been others. Chief Eaton was there and helping, I believe.
- Q Now, was there a medical bag in one of those vehicles?
- A Yes, sir, in the jeep.
- Q In the jeep.
- A It was at that time that another implement over here was taken by Dr. Gerber, too.
- Q What?
- A It was at that time that another implement or another bar -- it is actually a jack handle, was taken by Dr. Gerber. He said he removed it from the Jaguar, which is very possible, but it is actually the hydraulic jack from the jeep. Someone had evidently looked at it, taken it out of the jeep and thrown it in the Jaguar. Everything in both cars were jumbled.
- Q That was taken by him that day?
- A Yes, that evening.
- Q Now, will you look at Defendant's Exhibit No. 1, and see if you can identify it, Doctor?
- A Yes, sir.
- Q That is the pebbly surface bag, is that right?
- A Yes, sir. That is the emergency bag carried in the jeep.
- Q Was there any medical instruments in it?
- A Yes. This is the type box that was missing from my other bag (indicating).

Q Well, did you examine that bag?

A After I was able to look on as Dr. Gerber did.

Q Did you determine whether there was anything missing from that bag?

A The bottle of demerol that I thought was carried in this bag was not there. Chief Eaton at that time said that he distinctly remembered Dr. Gerber looking at this bag before, and there was a bottle of demerol in it when Dr. Gerber first looked at it.

Q What did Dr. Gerber say about it?

A He said he didn't recall that. He said, "Oh, is that right?"

He was indefinite. I don't know that he said he didn't recall it. He was indefinite about it.

Q Now, then, were you permitted to take that bag away?

A Yes, in the jeep.

Q Were there medical instruments in it?

A Yes.

Q And there were medical instruments in the other bag?

A Yes.

Q Has there ever been an examination of the medical instruments in Bay View Hospital by the authorities?

A I have no idea.

Q You have no idea. Well, as far as you know?

A Not as far as I know.

Q Now, then, between the 4th of July and the 21st of July,

during which time you say you were being interviewed by police officers, was there a barrage of publicity loosed against you by the Cleveland Press?

A Yes, sir.

Q Calling for the third degree?

A I heard that that was stated.

Q And calling for your arrest?

A I don't know. I understood that calling for my arrest followed the 21st.

Q Now, the 21st of July, did you read the demand for an inquest by the Cleveland Press?

A The headlines were pointed out to me.

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Q

Did you receive a subpoena?

A

Yes, I did.

Q

And what time did you receive the subpoena?

A

I don't remember.

Q

Sometime in the evening?

A

Sometime that evening.

Q

Now, you are aware of your Constitutional rights, aren't you?

A

Yes, sir, I am.

Q

That you do not have to testify to anything that you think will incriminate you, under the Fifth Amendment?

A

I felt that I knew what an American citizen was entitled to.

Q

Did you at any time claim ~~under~~ privilege under the Constitution after you received that subpoena?

A

No, sir, not in regard to the inquest.

Q

Now, then, did you go to Normandy School on the 22nd day of July?

A

I went to Normandy School for the inquest. I don't remember the date.

Q

Well, you were there for part of one day and part of another?

A

Yes, I was.

Q

You have heard the scene described around Normandy school by other witnesses. Is that about the way it appeared, as far as you could give it?

A

Yes, it is.

Q Now, then, when you were brought into this gymnasium before the crowd, did you testify?

A Yes, sir, I did.

Q At that time what was your physical condition? Was it different than it is today?

A Yes, sir, it certainly was.

Q And what is the difference in your physical condition today and that of the day that you started to testify in the inquest?

A Well, I'm very much recovered now, from a physical standpoint, and I would say that though I am certainly under emotional strain at this time, it is not what it was at that time. My memory is much more definite and clear as to what I can recall and what I can't recall, and I am clearer on memory on other subjects.

Little things at that time -- there were things that I couldn't recall, names of interns that I had worked with all year I couldn't recall at that time. I wasn't able to perform mathematics with any facility, I found, little things of that type.

I was in pain, of course, and discomfort, but --

Q That was the difference between the condition you were in that day and today?

A Well, I don't think that that explains the entire difference.

Q Well, go ahead and tell the entire difference.

A Well, I felt that I was being subjected to a persecution which was beyond all conception. In this situation, I feel that I am at least being given the benefit of a court of law, at least being given the benefit to have the opportunity to represent myself and represent some of the true facts as I know them.

Q You were not given the benefit of counsel at that hearing, were you?

A No, sir.

Q All right. Now, do you recall how long you testified under the questioning of Dr. Gerber?

THE COURT: You mean at the inquest?

MR. CORRIGAN: Yes, at the inquest.

A Well, Dr. Gerber -- you mean the length of time?

Q The length of time, yes.

A I can't give you a definite time on that. Over five hours, as I recall.

Q And Mr. Danaceau was there?

A Mr. Danaceau was dictating the questions to Dr. Gerber.

Q Now, after that -- the correct date of the completion of that inquest was the 23rd day of July -- or, the 24th day of July. Were you informed of the fact by any of the authorities that certain material was found under your wife's fingernails?

A No, sir.

Q What?

A I wasn't appraised of that fact until I was sitting in that chair on the other side of the table.

Q It was never brought to your attention until you heard it in Court?

A No, sir. I didn't know about it.

Q Now, during the period after the 4th day of July and prior to the day of your arrest, did you attempt to do any work?

A Yes, I did.

Q And do you recall about when you went back to try to do some work?

A I went back to the hospital to see some patients that had been under my care, including this young boy who had the very bad fracture of the thigh, sometime during the following week, that is, following my coming down here and making my statement and the Friday that I went to the house, in other words, Monday or Tuesday, or it could have even been Sunday.

Q During that period, did you have occasion to visit the home of Mayor Houk?

A Yes, I did.

Q And do you recall what the reason was for going to his home?

A Mrs. Houk, Sr., Mr. Houk's mother, has been under my care for some time, and it was about the time that she was in

need of a regular injection. And she's a very excitable sort of a person, naturally, at her age, and so forth, and I felt that -- and also she indicated that she thought a great deal of me and my wife. So I felt that I should go and see her and administer to her at that time.

Q Did you have a conversation that day with Mayor Houk?

A Yes, I did.

Q Will you tell the jury what that conversation was? What was said by him and what was said by you? He testified to it, do you remember?

A Yes, I remember he testified, but about the only thing I can remember was his saying something about, "Well, Sam, this is just something that just happened."

And I said, "Well, I'm certainly going to do everything I can to get to the bottom of this thing."

Q I can't hear you.

A I indicated to him that I intended to not rest until we got to the bottom of the -- who murdered my wife, and he referred to some of the accusations and the newspaper articles and the slurs that had been brought against me. And I told him that Marilyn was in my corner and right beside me, and if it wasn't for that, I couldn't have even begun to put up with the ordeal.

Q Marilyn was in your corner?

A Yes, sir.

Q Do you feel she is in your corner now?

A She's absolutely in my corner.

Q Now, then, you proceeded on, then, until Friday, July 30th?

A Yes, sir.

Q Do you remember that day?

A Yes.

Q What occurred on that day?

A Beg pardon?

Q What occurred on Friday, July 30th?

A Well, I performed some surgery that day, and it was that evening that I was arrested.

Q Had you left the confines of Cuyahoga County from the 4th of July until the 30th of July?

A No. No, I hadn't.

Q Had you been out of the vicinity of Bay Village -- on how many occasions were you out of the vicinity of Bay Village?

A Well, I wouldn't say I was out of the vicinity at any time. Officer Rossbach had given me permission to leave the county, if I wished, however.

Q You had talked to him about it?

A I had been urged to go with Dr. Steve when he took my little boy to camp, and I indicated that I was just too depressed to go anywhere and I didn't want to affect my youngster with the depression that I felt.

Q And it was about that time you consulted with Officer

Rossbach about remaining in the county?

A Well, Dr. Steve appraised him of the fact that we might consider going to Pennsylvania to this camp, and Officer Rossbach said that that would be perfectly all right.

Q But you didn't go?

A No, sir, I didn't.

Q What time that night did he come to your house?

A It was at my father's home and, again, I don't know the exact time. It was after ten o'clock, I believe.

Q After ten o'clock. And who came to the house?

A Lieutenant Mercer, Officer Drenkhan and I think there was one or two other officers.

Q Were you manacled?

A Beg pardon?

Q Were you manacled then?

A Yes, sir.

Q And taken where?

A Taken to the Bay Village City Hall.

Q Any people around the house when you were taken out?

A Yes, sir.

Q Tell the jury who they were?

A Well, the house was surrounded with reporters and photographers. There were people peering in the windows, taking flash bulbs through the windows, which was pretty hard on my mother. I didn't particularly care about it

myself. And my father requested that the police officers clear the grounds, which was attempted.

Q Did they succeed?

A Well, they succeeded in clearing the way so that we could go to the car and carry on, but they were certainly not off the grounds. They were all over the grounds, on the porch, around the windows, lining the driveway.

Q Any cries at that time?

A There were noises.

Q What were they?

A I really couldn't say.

Q I see. Well, at the time that you were arrested, did you try to get yourself an attorney?

A Yes, sir.

Q You thought by that time you needed a lawyer, didn't you?

A Yes, sir.

Q What?

A Yes, sir, I certainly did.

Q And it was at that time you sent word to me?

A I believe I asked Dorothy, my sister-in-law, to call Mr. Petersilge and you.

Q Now, then, how far is it from your father's home to the City Hall?

A I would judge about three miles.

Q And when you drove from your father's home to the City Hall

in this automobile, who were you manacled to?

A I'm not sure. I believe it was Officer Drenkhan.

Q Were you followed by anybody?

A Yes, sir.

Q What?

A Oh, groups of cars.

Q When you arrived at the City Hall, do you know about what time it was?

A No, sir, I don't.

Q What?

A About, maybe I know. 10:30, around there, something like that.

Q What was the scene around the City Hall that night when you got there?

A Well, there were people all over the grounds and area. There were photographers, there were onlookers, there were children -- I wouldn't say children, but young people running around, great groups of people.

Q And where were you taken to?

A I was taken into the Council Chamber or the meeting room of the City Hall.

Q Now, when you got in there, who did you appear before, who presided?

A Well, I was placed in the large portion of the room first in darkness, and there were a group of men who were in

one of the offices just off of this larger room, which is enclosed in glass. And there was one light in that room, and I could see the group of men around this desk, and they were evidently discussing something, and I was in the other room alone. I remember thinking how inconsistent it was to --

MR. MAHON:

Wait a minute.

Object to his thinking on this, your Honor.

MR. DANACEAU:

Object.

Q Who did you appear before?

A A man by the name of Barber.

Q And who is he?

A He is the president of the Council, Bay Village Council.

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- Q Do you know who is the Mayor of Bay Village?
- A Mr. Houk.
- Q He did not preside?
- A No, sir, he did not.
- Q When you appeared before this president of the Bay View Council, did you ask to be represented by counsel?
- A Yes, sir, I did.
- Q And what did they do in that regard?
- A Mr. Barber said that my counsel could see me in jail.
- Q They wouldn't wait? They didn't wait?
- A No, sir.
- Q What?
- A No, sir. I informed them that I^{had} called for counsel, and that was -- he just continued with the proceedings.
- Q The reporters were notified and the photographers were notified and the public was notified?

MR. MAHON: We object to this,
if your Honor please.

MR. DANACEAU: We object. It is
just a speech, that's all it is, by counsel.

THE COURT: Objection sustained.

A Well, there were reporters --

MR. MAHON: Just a minute.

MR. DANACEAU: Just a minute.

THE COURT:

Just a minute.

There is no question.

Q Were there photographers and reporters present there?

A Yes. There had been reporters out in front of Dr. Stephen's home since 5 o'clock.

MR. MAHON:

I object to this.

Wait a minute. Objection.

Q Did you see them?

MR. MAHON:

Objection.

MR. DANACEAU:

Objection.

THE COURT:

Yes. Let's not go into these details, Mr. Corrigan. They don't prove anything involving the issue in this case. They couldn't possibly.

MR. CORRIGAN:

Well, I have to disagree with the Court on that.

Q Where were you taken from that place?

A I was brought down to the fourth floor of this building.

Q And what time did you arrive at the fourth floor of this building?

A I couldn't give you the time. Around 11 o'clock.

Q When you arrived here at the County Jail, that was Friday night, is that correct?

A Yes, sir.

Q And the next day would be Saturday?

A That's right.

Q Have you discovered since you have been in that jail -- have you always been on the fourth floor?

A Have I always been on the fourth floor?

Q Yes.

A That is where I have had my confinement.

Q That is, your confinement has been -- you have been assigned to the fourth floor?

A Yes.

Q And do you know what the visiting time is on the fourth floor, what the visiting day is?

A Yes. Today is visiting day.

Q Friday?

A Yes, sir.

Q Between what hours?

A I don't know. One and three, something like that.

Q Now, then, did you have any visitors until the succeeding Friday, that is, of your family?

A I think that Dr. Richard was allowed to visit for a few minutes. I'm not sure of the day, though.

Q Now, then, after you were placed on the fourth floor of the jail, the next day, Saturday, were you questioned by the police?

A Yes, I was.

Q And when did the questioning start?

- A Shortly after one o'clock the questioning started.
- Q Well, were you questioned in the morning?
- A I was taken up to the hospital floor and then given the so-called medical check, and I met Chief Story at that time, and also Dr. Green and Dr. Braden, I believe.
- Q Do you know who Dr. Green is?

MR. DANACEAU: Just a minute.

We insist upon an answer to the question.

Will you please read the question?

THE COURT: He is asking him
who Dr. Green is.

MR. DANACEAU: No. He asked a
previous question and the answer was not responsive
to the question at all.

THE COURT: Let's get the
question.

THE WITNESS: I was questioned by
Chief Story. Is that what you mean?

MR. DANACEAU: I don't mean anything.
I am merely asking that the reporter read the
question.

THE COURT: Just one minute.
Read the question.

(Question read by the reporter, as follows:

"Well, were you questioned in the morning?")

- A Yes. Not formal questioning, but --
- Q Did you see any police officers or anybody connected with the police department on Saturday morning?
- A Yes.
- Q Now tell who you saw up there on the 11th floor?
- A Mainly Chief Story.
- Q Well, did you see anybody else that you remember?
- A Dr. Braden and Dr. Green, and I may have met Dr. Mackowitz at that time.
- Q Do you remember an officer named Kerr?
- A No, I don't.
- Q You do not. Now, then, --
- A There were several people up there that I couldn't say --
- Q When did you first see your lawyers?

THE COURT:

You mean after that

time, or at any time?

- A The first time I saw my lawyers --
- Q After you were in jail.
- A After I was arrested?
- Q Yes.
- A Sometime the following day, on Sunday, as I recall.
- Q Yes. All right. Did you see any police officers during that Saturday?
- A I certainly did.
- Q After this morning session, when did you see police officers?

A Approximately one o'clock or shortly thereafter.

Q Do you remember who they were?

A Yes. I took some notes on the names of the officers that I had seen and had planned to give that to you, but --

MR. PARRINO: If the Court please,
he is not answering these questions.

THE WITNESS: I said yes.

MR. PARRINO: He asked you who
they were.

MR. CORRIGAN: You will have a chance
to cross-examine.

MR. PARRINO: Yes, I know, but
please have the witness answer the questions.

MR. CORRIGAN: Keep your questions
until I release the witness to you.

MR. PARRINO: Yes, but I would like
for him to answer your questions.

MR. GARMONE: He will answer them.
Don't show so much impatience.

THE COURT: Let the witness
try to get the question and merely answer the
question.

Q Do you know who the police officers were that started
to question you on Saturday?

A Yes, I do.

Q Who were they?

A Schottke and Gareau.

Q And when did they start to question you?

A Shortly after one o'clock, as I recall. I had no watch --

Q Well, it doesn't make any difference. Shortly after one o'clock answers the question.

Where did they take you?

A They took me to the same room which they had used before for interrogation.

Q No lawyer there?

A No, sir.

Q How long did they question you that afternoon?

A Well, I have a note on it.

Q Well, look at it. If you made a note on it --

A It was over two hours, I believe.

Q If it will refresh your recollection, look at it.

A From shortly after one to shortly before six in the evening.

Q All right.

MR. DANACEAU: May I see it, please?

MR. CORRIGAN: Well, why don't you
wait till the man gets through with it?

MR. PARRINO: I don't think that
is fair.

MR. DANACEAU: I merely asked to see it.

MR. CORRIGAN: Look at it.

MR. DANACEAU: Why did you object to it?

MR. CORRIGAN: Why didn't you wait till the man got through with it? You will have an opportunity to look at it.

MR. PARRINO: You people did exactly that for about five weeks in this trial any time any State's witness took out any paper.

MR. CORRIGAN: Well, now I am bawled out. Go ahead. Look at it, and when you get through looking at it, hand it back to the witness.

THE COURT: Let Mr. Danaceau look at it.

MR. DANACEAU: We have extended every courtesy to you, Mr. Corrigan.

MR. CORRIGAN: You have extended no courtesies to me.

MR. DANACEAU: All right.

MR. CORRIGAN: Nor have I asked for them.

(Mr. Danaceau hands paper back to the witness.)

MR. DANACEAU: Thank you, sir.

Q Now, who were the first men that came there from Detective McArthur's department and questioned you?

A Officers Schottke and Gareau.

Q They were the two men that had accused you of the murder

of July the 4th, weren't they?

A Officer Gareau never accused me.

Q But Schottke did?

A Yes, he did.

Q And what was the questioning?

A The questioning was in relation to the case.

Q What time did they depart from the County Jail that afternoon?

A Well, now, --

Q Look at your notes.

A I haven't told you all about the questioning yet.

Q I will come to it. I will come back to it.

A They departed around six, I'd say, or shortly before.

Q And when they left at six, did any other officers come in?

A Yes, sir.

Q Who came in then?

A Officers Lonchar and Becker.

Q What time did they come in and what length of time did they question you?

A Well, they came in shortly after six. I was given time to eat a hasty supper, as they call it.

Q How long did they remain with you?

A Well, from shortly after six till nine.

Q And after nine o'clock who came in, if anybody?

A Officers Doyle and Lockwood, Sergeant Lockwood, here in

court.

Q This gentleman here?

A Yes, sir.

Q How long did they stay with you?

A Not as long as the others, about an hour, from around nine to around ten, I think.

Q Did anybody come in after ten o'clock?

A Yes, sir.

Q And who came in after 10 o'clock?

A Officer McHugh and Officer O'Hara.

Q And how long did they stay with you?

A Until just before midnight, as I remember.

Q So you were quizzed from one o'clock in the afternoon till midnight on Saturday by different groups of officers?

A That's correct.

Q Now, tell the jury what this questioning consisted of.

A I can remember certain things about certain pairs of officers. Each pair of officers naturally carried with them a different personality, together and separately --

MR. PARRINO: If the Court please,
we object to the officers' personality. What
was said and what was done, please?

THE COURT: The question is:
What was said and who said it, of course.

A

Well, Officer Schottke initiated the question period, and went into my background. He went into his visit to California and Miss Hayes --

MR. MAHON: I object to the summary. Instead of "Going into" let's have the words.

THE COURT: You are beginning to give us a narrative statement. They want the questions and who asked them.

MR. CORRIGAN: I don't understand your Honor.

THE COURT: The Court said that the witness was beginning to give us a narrative statement, while he is to answer what the questions were and who asked them.

MR. CORRIGAN: How could any man, your Honor, you or I or anybody else remember what was said or questions and answers?

MR. MAHON: Well, give him an opportunity to answer, will you?

THE COURT: He doesn't have to be precise. All right. Let's get it. As near as you can recall, Doctor, tell us what the inquiry was in as orderly a fashion as you can, and who made it.

THE WITNESS: Well, I can't give you, sir, the identical --

THE COURT: I don't think you can, that is true, but give us as near as you can the substance of it, as near as you can.

A Yes, sir. The question period included questions similar to those in the written statement which have been entered as testimony here. Most of the questions varied from the testimony or the statement that I have given.

In other words, the officers would say, "Now, you said that you turned on the light as you went upstairs," for instance, "And when you did, what did you see?"

And, of course, I would correct the officers, that I didn't say that I turned on the light, and then they'd say, "Well, did you or didn't you?"

And I would try to give an answer, and on each point there would be -- they would say, well, now, you said so and so and so and so, and invariably that would not be correct, and I didn't say that, and I would attempt to correct them in their assumption or their statement to present it as I saw it and as I know it, and correct their statements, you see.

Q Now, that went on for a number of hours with those officers?

A Well, yes. Then Officer Gareau went into a sort of a lecture

about activities with women, and what his wife would do, and so forth, and they both agreed that if they were in my position, they would have done as I did in relation to previous testimony about Miss Hayes.

Q You had up to that time denied any relations with Miss Hayes, is that so?

A Any intimate relations, yes, sir.

Q Now, then, that process went on for several hours. Then what was the next group that came in? What did they do? What did they ask you?

A Well, the next group were Officer Lonchar and Officer Becker, and this was probably the most vigorous couple of questioners. Their line of questioning was similar as to the way of questioning, as far as assuming or trying to get me to agree that I said things that I didn't say.

Officer Becker insulted my family, insulted my profession --

Q How did he insult you?

MR. DANACEAU: We object to this.

THE COURT: You may say what he said.

MR. MAHON: Yes, what he said.

Q What he said about those things, you tell the jury.

A Before I go on to those two, Officer Schottke made a statement that --

MR. DANACEAU: Just a moment.

MR. MAHON: It's all right.

Let him say it.

MR. DANACEAU: I thought there was --
all right, I will withdraw the objection. I
thought there was a question pending that hasn't
been answered.

Q Go ahead. Officer Schottke made a statement.

A He just made a statement that he had personally done
everything that he possibly could to involve Dr. Stephen
Sheppard in this case, but up to that point he hadn't been
able to find anything against him.

Q I see. You get to the next group now. Let's hear their
methods.

A One more thing about Officers Schottke and Gareau:

They stated, and I believe it was Officer Schottke,
that when I could prove to him that there was someone else
that did this thing, he would consider it, and I merely
stated that I certainly was in rather poor condition to
prove to Officer Schottke anything at that time.

Q What was that?

A I told him that I was in a poor condition to attempt to
prove anything to Officer Schottke at that time. Officer
Gareau was more considerate, and indicated to me that he

had a conscience, that all he asked was for me to tell the truth.

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- Q Now, then, let's go to the next group of examiners or inquisitors.
- A That was Officer Lonchar and Becker, and Officer Becker did most of the questioning at that time.
- Q Now, was there any profanity used at that time or any language that would not be fit to be heard in ordinary circles?
- A Yes, sir, there was.
- Q And who used the profanity and language of that character?
- A Officer Becker did.
- Q Tell what he said, but leave the profanity out. We can imagine it.
- A Well, he indicated that I was the dirtiest, most low-down individual that he had ever encountered. He made comments about both of my brothers that were, in my opinion, very unfair.

MR. MAHON: Well, I would like to know what the comments are. If we are going to have this, let's have the whole thing without conclusions, if your Honor please.

THE WITNESS: Do you want me to say what he said?

MR. MAHON: Yes.

THE COURT: You may say what

he said, in any event.

THE WITNESS: Without the
profanity, I can't tell you what he said.

MR. MAHON: Well, give us
the profanity, then. Let's have the whole
thing out here without something covered up,
if your Honor please.

THE COURT: All right. If
the officer said it in your presence at that
time, you may say it no matter what it is.

MR. CORRIGAN: If the Court
please, I object to Mr. Mahon.

THE COURT: No. Mr. Mahon --

MR. MAHON: I don't care
whether you object to me or not. I'm making
a request to the Court that if we are going
to have these questions along these lines,
let's not have conclusions, let's have every-
thing that was said.

THE COURT: Yes. All right.
The officer said -- the witness says he cannot
say what the conversation was without using the
profanity. The Court will say that he may use
the profanity and everything else that was
said. All right. Go ahead.

THE WITNESS: I don't have a question now.

THE COURT: What was said?

Q Doctor --

THE COURT: What was said?

There was objection to what you said about Becker, and now he wants you to say what Becker said that you say included this profanity.

Q Was the --

MR. MAHON: Well, let's have an answer to the question now.

THE COURT: Yes.

MR. CORRIGAN: I am withdrawing the question now, sir.

MR. MAHON: Well, then, we ask that the entire thing, all of it, be stricken out, if your Honor please, everything that has been said here in response to the question that was asked, we ask the jury be asked to disregard all of it.

MR. GARMONE: We are agreeable at this time that the conversations that he has testified to between himself, Becker and Lonchar be at this time stricken from the

record and you, your Honor, may instruct the jury to disregard it.

THE COURT: No, Mr. Garmone. We are not going to let him -- a witness start telling about some conference with police officers in this particular case and then leave a good deal of it out.

MR. GARMONE: Well, your Honor --

THE COURT: We are entitled to the substance of it and not just part of it.

MR. CORRIGAN: Your Honor, we were just trying to be polite.

MR. MAHON: Oh, well, you haven't shown it up to this time.

MR. GARMONE: We have withdrawn the question.

THE COURT: All right.

MR. GARMONE: And they have made a request that it be stricken from the record, and we have agreed to it.

MR. DANACEAU: Not the question stricken from the record.

MR. GARMONE: The answers.

MR. DANACEAU: No. All of the testimony.

MR. GARMONE: Regarding the
Becker and Lonchar, that's right, and we have
agreed to it. Is there anything more fair
than that?

THE COURT: The Court will
not strike it from the record, and the Court
will permit the Prosecutor to go into it
fully when he cross-examines the witness.

MR. CORRIGAN: We have no
objection, and we raise no objection to
the Prosecutor going into it fully.

THE COURT: All right. Go
ahead.

Q Now, who were the next group that came along?

A Well, I might add that during this examination --

MR. PARRINO: The question was:
Who were the next group that came along?

THE COURT: Listen to the
question, Doctor.

MR. CORRIGAN: Don't pay any
attention to all these people hollering at you,
Doctor. Just listen to my question.

MR. PARRINO: We have no
objection to him answering Mr. Corrigan's question.

THE COURT: The objection will

be sustained unless he is answering the question.

Now, will you put your question again, please?

Q Who were the next group that came?

A Officer Lockwood and McHugh.

Q That's --

A Officer -- Sergeant Lockwood.

Q How long did they stay with you?

A About an hour.

Q And will you tell what they said to you and --

A I recall only Officer Lockwood talking with me, and he was the most considerate of -- well, you don't want that.

Officer Lockwood's questions were general. One of the only questions that I remember that he asked me was: "Doctor, how can you possibly put up with this ordeal?"

Q What did you answer?

A I told him that I still had faith in the truth and I had faith in God and Marilyn was with me, and with that faith, I thought I could take on anything.

Q Well, what was the next group that came?

A Correction. I think that was Doyle and Lockwood, and the next group was McHugh and O'Hara, according to my notes here.

Q They arrived about what time?

A Around ten.

Q And stayed until midnight?

A Yes, sir.

Q And what was their conversation and what was their questioning?

A Well, Officer O'Hara said that he didn't want to ask me any questions, that he was just going to tell me what kind of a character he thought that I was, and --

Q What did he say?

A He said I was a dirty, lowdown son-of-a-bitch.

Q What else?

A Well, he said that I had ruined Bay View Hospital. He said that I had ruined the Mayor. He said that they had definite evidence of other people being involved in this thing and trying to cover up as accomplices or an accomplice.

He said that they had never run into anyone as dirty and low as I. He said that they had run tests on my trousers, and that there were absolutely -- there was absolutely no evidence of sand in the trousers.

He said they had run tests with the socks and shoes and they had put shoes and socks in the lake of different kinds and different makes to test whether there would be sand present after a certain period, and he said my shoes displayed no evidence of sand and neither did the socks.

He asked me about the T-shirt, and I explained to him that if I had attempted to cover up anything, it would have been very simple to get a clean T-shirt out

of the drawer and put it on.

He talked almost continuously, telling me what effect this would have on my little boy, saying that people would point out my little boy in years to come and say, "His father killed his mother."

That's about all I can remember specifically.

Q During this day -- during the period of that inquisition --

MR. MAHON: I object to
that, if your Honor please.

MR. CORRIGAN: Questioning.

I'll withdraw it.

Q (Continuing) -- was there an effort made by these men
and these various groups of men to have you confess to
the murder of your wife?

A Yes, sir.

Q Tell me about that?

A Well, each and every group defined to me the various degrees
of murder, and each one seemed to have a story, except
Sergeant Lockwood and his partner, about some man that
had killed his wife or some person that had killed some-
one who had done it under certain circumstances and he
had been declared not guilty because of momentary insanity,
or he had gotten manslaughter and been out in 11 months
after being in the penitentiary. And they all told me
that in this case there was absolutely no evidence of

premeditation, and they could practically assure me an indictment of manslaughter if I would agree to confess to this thing. And I, in each and every case, told them that I couldn't confess to something that I didn't do. And Officer Gareau, for one, said that he had a conscience and he didn't expect a man to confess to something that he didn't do.

There were others who later expressed the same sentiment.

MR. CORRIGAN: Do you want to have a recess now?

THE COURT: All right, if it is all right with you.

Ladies and gentlemen of the jury, we will have a few minutes' recess at this point.

Please do not discuss this case.

(Recess taken at 2:55 o'clock p.m.)

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(After Recess, at 3:10 o'clock p.m.)

Q During that first day of questioning, was there any pictures presented to you?

A Yes, sir, there were.

Q And what were the pictures?

A They were pictures of my house, pictures of the beach, pictures of the rooms, and pictures of my wife.

Q Will you describe to the jury how the pictures of your wife were presented to you?

A Well, I was shown pictures of the home and the beach and the stairs and the rooms separately, and questioned with each picture, and then the picture of my wife was thrown in front of my face.

Q Were those the pictures of your wife as she lay murdered in her bed?

A Yes, sir.

Q And were you requested to look at those pictures?

A Well, I was forced to look at them momentarily, and then I closed my eyes.

Q Now, what time did you get to bed in your cell?

A The first night?

Q Yes, on Saturday night.

A Approximately midnight.

Q And did the officers come back again the next day?

A Yes, they did.

Q And who were the first ones that came?

A Well, that's the day I was given the opportunity to see you and Mr. Petersilge.

The first officers were Schottke and Gareau.

Q Now, at what time did they come to the jail?

A About 1:30.

Q Before they came to the jail, were you in conference with your attorney?

A With Mr. Petersilge, yes, sir.

Q And what occurred?

A The Sheriff told Mr. Petersilge that he'd have to go.

Q And did you protest and did Mr. Petersilge protest?

A Mr. Petersilge did, yes, sir.

Q Did anybody pay any attention to his protests?

A Just to tell him to get out.

Q Told him to get out?

A Yes, sir.

Q And after he was put out of the jail, your attorney, who were the next people that appeared on the scene?

A Officer Schottke and Gareau.

Q And where were you taken then?

A To the same room for interrogation.

Q And how long did they remain with you interrogating you on Sunday afternoon?

A About -- until around 4:30. These times are not clearly

and definitely accurate, but approximately.

Q What was the questions that they put to you, and what were the answers that you made on that Sunday afternoon?

A I don't know if this was the time or not, but --

Q Give your recollection.

A I don't recall the specific questions and answers, but I informed the officers at that time something, I think.

Q What did you inform them?

A Well, I informed them that I had done everything in my power to give them the facts as they stood, and I felt that they had been unfair to me; I felt that their method of questioning the previous day had been unfair, but I subjected to it because I wanted to display any and all facts that I could, or relate any and all facts that I could; I felt that from there on their methods were merely in an attempt to pin something on an innocent man, and that on that basis I felt that I shouldn't answer further questions in regard to the specific incidents of this tragedy, and that I had been advised in that regard by my lawyer.

Officer Schottke questioned me then about my background, high school, college, some of my medical preparatory work, athletics, and at the end of the interrogation Officer Gareau agreed that I certainly should follow the advice of my lawyers now.

- Q There was a considerable conversation that went on between the two of you that day?
- A The three of us.
- Q The three of you?
- A Yes, sir.
- Q Who was the next group that appeared on Sunday?
- A I believe it was Officer Boyett and Lonchar.
- Q Was Boyett the one that had questioned you the day before in the insulting manner?
- A No, sir.
- Q That was -- what was it -- Becker?
- A Yes, sir.
- Q And what time did Boyett and Lonchar come and when did they go?
- A They came at 4:30 and left at 8:30. They hesitated a short time and watched me eat.
- Q You had an opportunity to eat your supper?
- A Well, I was not sent back to my cell. They brought something into the room, and I -- what I wanted to eat was to be eaten there in front of them.
- Q Now, then, what was the questioning by those gentlemen, Boyett and Lonchar?
- A The specific questions that I recall by these two were put to me by Officer Boyett, and he questioned me about various points that were not particularly important, and he would

then turn suddenly and say, "Sam, why did you do it?"
or "Sam" --

Q How would he say it?

A Beg pardon?

Q How would he say it?

A Well, he'd say, "Sam, why did you do it? Why did you kill your wife?"

And then he'd put his hands over his head like this, and bring them down like this (indicating) and say, "Down, down, down, down, down." (Indicating).

Q And that was the type of questioning that group had?

A Well, I told him that I didn't do it, I couldn't do it.
I told him that I couldn't do it to any human or any animal.

Q Did you tell him anything else why you couldn't do it?

A I believe that I told him, as I had told Officer Lockwood, that I couldn't possibly have done such a thing under any circumstances.

Q Did you mention the fact about your unborn baby in those conversations?

A I told them, the officers, that Marilyn was to have a baby, we both were very pleased about it.

The officers made comments about questioning the fact that I was the father of the baby --

Q They what?

A They questioned the fact of my being the father of the baby.

Q Who did that?

A Officer Becker did, that I recall. He is the only one that I can recall specifically. He also examined my arms for hypodermic needle marks here and here (indicating).

Q To determine whether you were a dope fiend?

A That was my assumption. He asked if I had ever taken dope or medication, and I told him certainly not at any -- any more than very slight doses in relation to this injury that I had just recently had.

Q What time did they depart?

A Officer Boyett?

Q Yes.

A Around 8:30.

Q That was at night?

A Yes, it was.

Q Now, that brings you to Monday. Did you see any police officers on Monday?

A From this point on -- yes, I did.

Q What?

A Yes.

Q When was the next time you saw police officers?

A Well, my notes are --

Q What?

A My notes are not really adequate, complete on this point.

I saw officers McHugh and O'Hara, I believe on Monday.

Q Do you know what time?

A I'm not sure.

Q Well, did you see any other officers besides McHugh and O'Hara?

A I saw two officers that were new to me, Pagel and Doren.

Q They were two new ones?

A Yes, sir.

Q Did they question you?

A Yes, sir.

Q Now, tell me about their questioning.

A Well, I told them what I told the other officers, and their questions were mainly in relation to background. The one -- I believe it was Officer Doren had been -- he said he had been quite a track star, and he commented about having a steak dinner that night, and about how he was going to the ball game, and wouldn't I like to go with him, and he commented on sports and track and how nice it would be to be out in the lake, and he discussed the fact that if I should agree to confess and were on an indictment of --

Q Agree to confess what?

A If I were indicted upon manslaughter, I could be out on bail and I'd be out and could enjoy life, and so forth.

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Q And the entire attempt of all these officers along the line was to get you to confess?

MR. MAHON: Well, now, I object.

THE COURT: Objection sustained.

Q Well, what was their attempt of all of them, what was the attempt of all of them?

MR. MAHON: Objection.

MR. DANACEAU: We object to that.

THE COURT: Objection sustained.

MR. CORRIGAN: All right.

Q Now, then, on Monday night, were you taken out of the jail?

A Yes, I believe it was Monday night, but I can't say specifically what date it was. I believe it was on the 11th.

Q What?

THE COURT: He believes it was on the 11th.

A No. No, it wasn't either. It was from seven in the evening until around eleven o'clock at night. I think it was --

Q It was the 2nd of August. Do you remember that?

A Yes. I remember going out, but I can't give the definite

date. It was around the 2nd or 3rd, I would say.

Q Was that the night that you first saw Fred Garmone?

A Yes.

Q What?

A Yes.

Q What time were you taken out of the jail that night?

A About seven o'clock.

Q And who took you out of the jail?

A Officer Rossbach and Officer Yettra.

Q Did they tell you where they were taking you?

A No, sir.

Q Was there anybody else accompanied you?

A Yes.

Q Who were they?

A Officer Boyett, of the Cleveland Police Force, and Officer Lonchar, I believe. Lonchar drove, I think.

Q Were you manacled?

A Yes, sir.

Q Who to?

A Officer Rossbach, I think.

Q Now, then, where did they take you to?

A Well, they eventually ended up at City Hospital.

Q And was there any stops between the County Jail and City Hospital?

A Well, they took a devious route to get away from the

reporters, and we cruised around down in the flats for some few minutes, and they commented on trying to make a connection, time connection or something.

Q Did they tell you where you were going?

A No, sir.

Q And what they were going to do with you?

A No, they didn't.

Q Did you object to leaving the jail? Did you raise any question about it?

A I asked where I was being taken.

Q And they didn't tell you? What did they answer?

A They said, "You'll find out."

Q Now, then, you finally arrived -- discovered that the destination was City Hospital?

A Yes.

Q Where were you taken in City Hospital?

A I was taken to the X-ray room.

Q And when you were taken in the X-ray room, did you see anybody there that you knew?

A I saw Dr. Braden, that I had met here some time before, and I saw an X-ray -- I saw a doctor that I had met at City Hospital some time before -- I should say I had seen him at a clinical pathologic conference. He didn't know me.

Q Was there anybody else in the room except those two men?

A Officer Boyett. Well, Dr. Green was around.

Q Do you know him?

A No, I don't. I had met him here at the jail.

Q You knew who he was?

A Yes.

Q And who was he?

A Well, he is a Cleveland Police physician.

Q And was there anybody else in there?

A A technician and Officer Boyett, of course, and the other officers that brought me. There was a Dr. Slade around and one or two others.

Q Now, did they take off some of your clothes?

A They took off all my clothes.

Q Took off all your clothes. And after they took off all your clothes, what was done with you then?

A Well, first they took some X-rays before they -- they took off my shirt and asked me to remove my collar which I had on at that time so they could take some X-rays.

I believe I commented at that time that X-rays that long following an injury of my type would be of rather questionable significance, but they wanted them anyway.

Q Then did they take off the rest of your clothes?

A Later they did. Dr. -- the doctors, three of the doctors examined me, but they each observed the other examination. One would examine me and the others would watch, and then

one of the others would examine me and the others would watch.

Q Your body was naked then?

A Yes, sir.

Q How did they go over your naked body?

A Oh, they subjected me to a neurologic examination.

Q Tell the jury what that is so that they understand what these men did to you that night?

A Dr. Braden and his apparent assistant --

Q His what?

A A younger doctor, which seemed to be Dr. Braden's assistant, but whom I learned later was at that time supposed to be under the direction of Dr. Elkins, went over me checking my reflexes, the area of relative numbness around my eye and my face, checking the amount of weakness in my left arm, checking for areas of numbness.

They checked my reflexes repeatedly, but they at no time checked my reflexes in a rapid repeat method. By rapid repeat method, I mean the stimulation of a reflex rapidly, such as if I put my leg over my knee and it is tapped with a reflex hammer, the reflex occurs. And the rapid repeat method is a continuous rap on the tendon or whatever the particular point happens to be.

(Demonstrating).

Q Did they stick any pins in you?

A Yes, sir.

Q Where did they stick the pins?

A In various areas to -- they went over me pretty much from head to toe, and then one of the doctors checked pretty carefully muscle strength in my arms, legs, abdomen and the neck. He insisted on moving my neck in various areas, which was quite uncomfortable.

Q Now, then, how long were you there?

A I can't say specifically. Some time.

Q Well, you then returned to the County Jail?

A Yes. I was brought back to the County Jail by the same officers.

Q And have you any idea when you got back to this jail?

A Well, I took a note on it.

Q Well, look at your note and see what it is.

A About eleven.

Q About eleven?

A Yes.

Q Now, after you got back to the jail, did you -- was an attorney admitted to see you?

A Yes.

Q And that was Fred Garmone?

A Yes, sir.

Q That's the first time you ever saw him in your life?

A Yes, sir. I wouldn't talk to him.

Q Or ever heard of him?

A No, I never had heard of him before.

Q And you wouldn't talk to him?

A No, sir.

Q And did you later --

A Not until he produced a note from Dr. Stephen Sheppard's prescription blank.

Q And then you talked to him?

A Yes, sir.

Q Now, then, was there another time when you were taken out of the jail?

A Yes.

Q Do you recall what date that was? I'm not referring to the times you went to Court.

A No, I don't remember the date.

Q And where were you taken?

A To the Central Police Station.

Q And what was done at the Central Police Station?

A I was given a Bertillon picture with numbers and finger-printed and palm printed, and I saw Inspector McArthur in passing.

Q And you were -- a number was hung around your neck, was it?

A Yes, it was.

Q What?

A Yes, sir.

Q And it was printed in the press, wasn't it?

A That night.

Q That night. Now, then, you were in jail then until you appeared before Judge Thomas of the Common Pleas Court, is that correct?

A I was in jail until I appeared before Judge Thomas, yes.

Q And after a hearing, Judge Thomas released you on bail, didn't he?

A Yes, he did.

Q He fixed the bail at \$50,000?

A Yes, sir.

Q That was on the 16th of August?

A I couldn't give you the date.

Q Well, you went home?

A Yes.

Q And how long were you home until you were arrested again?

A I was home until the next evening, dinner time.

Q What time did you get home on the day that you were released on bail by Judge Thomas?

A I don't know. Around noon, I would gather.

Q Did you see any members of your family after you were released on bail?

A Yes, sir.

Q Who did you see?

A Well, I saw my mother and, of course, I spent a great deal of time with Chip.

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Q And then when was the next time that the officers came and took you?

A Well, the following evening I was rearrested.

Q And what time did they come and rearrest you?

A Around dinner time, around 6.

Q And who rearrested you?

A Officer Rossbach and Mr. Weitzel, I think was with him, Deputy Weitzel.

Q And were you again manacled and brought to the jail?

A Yes, sir, I was.

Q And were you served with an indictment returned by the Grand Jury?

A Yes, sir, I was.

Q The indictment that we are here on trial for charging you with first degree murder?

A Yes, that's right.

Q Were you arraigned in this courtroom on the succeeding Friday?

A I was arraigned in this courtroom. I'm not sure of the date, though.

Q Before Judge Day?

A Yes.

Q Photographers and reporters present in great numbers, were they not?

A They certainly were.

Q In the courtroom. Now, then, on the 3rd day of November you went out to the house, your home, at the same time that the jury went out there?

A Yes, I did.

Q And that was the first time you were in your home since when?

A As I recall, the first time since we removed some of my clothes in the two vehicles.

Q As we walked around the house, and as we were in the den, do you remember me picking up some papers?

A Yes.

Q And asking if I could take those papers with me?

A Yes, I do.

Q Do you remember that?

A Yes.

MR. CORRIGAN: Mark these Defendant's Exhibits 19, 20 and 21.

(Defendant's Exhibits 19, 20 and 21, being paper writings, were marked for identification.)

Q Handing you Defendant's Exhibits 19, 20 and 21, will you identify them?

A Yes, sir.

Q And what are they?

MR. MAHON: Objection.

MR. GARMONE: Show them to the Court.

(The Court examines Defendant's Exhibits 19, 20 and 21.)

THE COURT: Objection will be sustained.

MR. CORRIGAN: Except.

Q After looking at those exhibits, Defendant's Exhibits 19, 20 and 21, does it refresh your recollection as to anything that occurred on Saturday afternoon before you went over to the Aherns?

A Yes, sir.

Q And what occurred, now that your memory is refreshed, what occurred on Saturday afternoon before you went over to the Aherns that you haven't told?

MR. MAHON: That is July the 3rd?

MR. CORRIGAN: July the 3rd.

MR. MAHON: All right.

Q Saturday afternoon, July the 3rd.

A Before we went over to the Aherns, Marilyn and I agreed that there were some business matters that we should get out of the way which entailed itemizing some expenses that are to be included in business expenses on forms. In other words, if there were any expenses that we took care of personally that represented --

MR. MAHON:

Well, now, I object to this, if your Honor please. What did you do? -- is the question.

A All right. We made out some forms in regard to our personal business in relation to my professional business.

Q Where was that done?

A In my little den there.

Q That is, the two of you worked together on that afternoon when you went over your finances, is that so?

A Yes, sir. She took care of that end of things with my help. That is her writing on that.

Q Doctor, did you have a bank account?

A Yes, sir.

Q Where was your bank account located?

A Well, I have confused that more than once. National City or Central National. I think it is National City Bank.

Q Where is it located?

A Rocky River.

Q You mean just there opposite the Westlake Hotel?

A Yes.

Q Well, that is the National City.

A National City.

Q I believe I have a check here of yours. Maybe you can identify it and then you will be sure.

Handing you a blank check -- or a cancelled check

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solely for the purpose of refreshing your recollection on this point, where is your bank account?

A National City Bank.

Q Rocky River?

A Yes.

Q And did Marilyn also have a bank account there?

A Yes.

Q Now, who did the banking for the family?

A Marilyn did.

Q And how long had Marilyn been doing the banking for the family?

A Ever since we were married.

Q You were on a salary, were you not, from the Sheppard Clinic?

A Relatively.

Q What?

A Relatively.

Q I can't understand that. I can't understand what that means, "relatively."

A Do you want me to explain our business relationship?

Q Were you on a salary? That's all I want to know.

A No, sir.

Q What?

A Not exactly.

- Q Well, did you receive some money each month from the Sheppard Clinic?
- A Yes, sir.
- Q And that money came in what form? How was it paid?
- A It came in a check.
- Q Paid in a check?
- A Yes, sir.
- Q And when you would get the check, what would you do with it?
- A I endorsed it and turned it over to Marilyn and she banked it.
- Q She did the banking?
- A Yes.
- Q Now, did you have two accounts at the bank?
- A Yes, sir.
- Q And your account, and what was the other account?
- A It was Marilyn's household account. It originally had been a combined account, but we -- it had been turned over to Marilyn as her account, household account.
- Q And when she cashed the check at the -- or when she endorsed the check and deposited it in the bank, was there any division of the amount of that check into one account and into the other?
- A Marilyn took what she needed for household expenses and put the rest in the other account, which was considered our business account, the surplus of which was to go in the

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savings account, and we were able to do so --

Q All right. And that continued all the time that you lived in Bay Village, that was your relationship in money matters with your wife?

A That type relationship existed in California.

Q Yes. All right. Now, then, you have heard testimony here in regard to the fact that some police officers went into your house in July, and the Coroner and Mary Cowan, and they found some blood spots in your house. Do you remember that testimony?

A Yes, sir.

Q Well, now, will you tell the jury how long that carpet had been down in your house, as far as you knew?

A Except for a portion in the southeast corner of that living-dining area, which was burned at the time of the fire, it had been down ever since we lived there.

Q Since you lived there. Now, during the period that you lived there, did you always have the dog Koko or Koke, or whatever his --

A I got Koko shortly after we moved in.

Q And Koko was a female dog?

A She still is, as far as I know. I mean she is still living.

Q She is still living. Was Koko spaded at any time?

A No, sir.

Q Do you know of your own knowledge whether Koko had been in heat a number of times before July the 4th?

A Yes, she had.

Q Now, will you tell the jury what your observation was as to the blood that was dropped by Koko in that house during the various times that he came in heat?

A She came in heat.

MR. GARMONE: She came in heat.

I used "he."

MR. CORRIGAN: I don't know, I'm getting tired.

Q She.

A Well, she bled all over the house and Marilyn complained that she bled on a couple of the beds, and even on one -- I don't think she mentioned chairs, but she did mention on a couple of beds she had to send, I think one of the spreads out, or something like that. She bled all over the house.

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Q There is a picture here of a part of the garage, which is introduced in evidence by the State. Here's a picture, Defense Exhibit VVV, and will you look at that and tell me what part of the garage that is?

A That's the north room over the garage -- no, the south room over the garage.

Q Well, what's it used for?

A It had been used at that time for storage.

Q Do you remember when you were up in that room last?

A When I was at the house with the jury.

Q Well, before that?

A Oh, it had been some time.

Q How long before the 4th of July?

A I couldn't say.

Q I couldn't say. There is, pointing to --

A It was in the spring.

Q You better come down so I can show the jury what I am doing.

A It was in the spring, early spring, I would say.

Q You better come down here, because I want to show them what I am talking about.

(Thereupon the witness left the witness stand and stood in front of the jury.)

Q There's a lot of stuff shown in that picture. What is this?

A This is a table that the young boys made out of two by fours and covered with linoleum, and it's upturned and one leg of it is sawed off. One of the boys wanted to make Chip a raft that floats, and he used this piece of wood.

Q And what is this along here, this dark spot?

MR. CORRIGAN: (To the deputy.)

You don't need to follow the man over to the jury box, sir. He's not going to run away.

MR. GARMONE: Let him stay there.

MR. CORRIGAN: Well, all right.

MR. GARMONE: If those are the rules, we'll live by them.

Q Get up close.

A That's a part of the couch that one of the -- oh, some other person in the community donated to the cause of the young boys.

Q And what are these things on top of it?

A Oh, packages, baby clothes, I don't know, Marilyn's things.

Q And there is indicated a spot of blood under that table in the testimony. You didn't crawl under there, Doctor, did you?

A Not that I recall.

MR. CORRIGAN: (To the deputy.)

Have you got a gun, sir?

DEPUTY ZEPP:

Not with me.

(Thereupon the witness resumed the
witness stand.)

Q Now, during the period that you lived in that house, was
there any time when Chip bled?

A Chip?

Q Chip, your boy.

A Bled?

Q Yes.

A Yes.

Q And do you recall the incidents in which Chip shed some
blood?

A There were many.

Q What?

A There were quite a few incidences when Chip --

Q Well, you tell me the incidences, now?

A Well, the most recent were when he had had some teeth
pulled.

Q Who pulled the teeth?

A Dr. Novotny pulled two of his front teeth.

Q Were they pulled at the house or was he taken down to the
office?

A He was taken to the office -- they were solid at that
time -- in order to attempt to apply this device to pull

his chin back. And I pulled --

Q Well, when he came home, was there any blood coming from his teeth?

A He had a little bleeding at the time he came home, but -- definitely enough to spit out at times, and I pulled two teeth within a month or six weeks of this, of July 4th, myself.

Q Did you pull them both together?

A No, sir.

Q At the same time?

A No, sir.

Q When was the first tooth pulled by you?

A I can't give you a date on that, but he --

Q Well, about how long before July 4th?

A About six weeks, probably.

Q And where was that tooth pulled?

A Oh, I think it was in the kitchen. He was eager to get what the fairy would bring him.

Q Get what?

A He was eager to get the money that the fairy would leave him when he had a tooth out.

Q I see. And did the mouth bleed at that time when you pulled that tooth?

a Yes, sir, it did.

Q And what kind of a -- was it -- just describe whether it

was just a loose tooth or whether --

A Well, it was one of his baby teeth that was slightly loose, and he had found it to be slightly loose and he wanted me to get it out so he could put it under his pillow.

Q Well, then, did his mouth bleed at any time during that period?

A Yes, sir.

Q What?

A Yes.

Q And do you know what he did with the blood that come from his mouth?

A Well, he, I don't know, swallowed it, spit it out. I don't think he spit in the house, but --

Q Was there a second tooth that was pulled?

A Yes, sir, there was another one shortly thereafter.

Q And where was that tooth pulled?

A As I remember, I was sitting in the front room and he asked me to pull on it or twist. The way I would get it would be a twisting action, and it would move a little and hurt him, and he would run away. And I told him to let it go and let it come out naturally and, no, he wanted it out. And I remember my wife commenting that the fairy was getting poor and wouldn't be able to do so well by him if he kept that up.

Q And did you finally get the tooth out?

- A Yes, sir.
- Q And was there any bleeding at that time?
- A Yes, there was.
- Q Was there any other bleeding around that house, that you can recall, that would leave any blood spots?
- A Chip on several occasions has cut himself on usually glass on the beach or in the yard when he was wearing -- not wearing shoes, I should say.
- Q Wearing what?
- A He, in the summertime, went without his shoes most of the time, and there were -- there was glass around the beach at times, and he on occasion last summer cut his foot. I believe on one occasion that I recall. I can't give you the definite time or date. He always had a nick on his shin or a bruise on his elbow or nicks and small cuts, as youngsters do.
- Q Now, according to the testimony, there was a great many boys around that property during the time you lived there.
- A That's right.
- Q What?
- A Yes, sir.
- Q And they came into the house and they seemed to have free run of the house, as far as the testimony goes here?
- A Pretty much so, yes.
- Q And do you know of any occasions where any of those boys

cut themselves or bruised themselves or caused blood to flow?

A Oh, I remember the event that Mrs. Paine mentioned, in which her son had a fish hook in his back and I --

Q What is that?

A Her son had a fish hook, a plug, in his back. He had thrown his rod back and the plug had whipped back and hooked into the back of him, in his skin, and I removed that. He bled at that time.

Larry Houk had a bad cut, but I don't believe he bled in our house.

Q Now, the --

A I might say --

Q What did you say, Doctor?

A I recall times in which Marilyn has bled on the floor.

Q You can?

A Yes, sir.

Q And when were those occasions?

A Well, that was during the period that she was under Dr. Steve's care, and she had difficulty with her periods and she had quite a bit of flow and she did have trouble.

Q Well, now, in regard to Marilyn, was there any time in which she had this difficulty with her period that she could not or did not control it?

A Yes, sir.

Q And when was that?

A In months or year?

Q Yes.

A She had trouble from -- well, she had trouble in 1950, and that is one reason that she consulted --

Q I mean after you moved into that house. In 1950 you weren't in there.

A She had trouble in '51 and early '52 decreasing.

Q And was there times when she dropped blood on any part of the house?

A Yes, sir, and I had her on medication to stimulate blood formation.

MR. CORRIGAN: I wonder if we can adjourn now? I'm pretty tired. The witness has been on all day, and I am going to a new subject.

THE COURT: Ladies and gentlemen of the jury, as far as this case is concerned, this court will now be adjourned until 9:15 on Monday morning, and will you please be careful over the weekend not to discuss this case with anyone. Have no hearing if you can avoid it of anything that is said about it by any means of communication by anybody.

(Case adjourned at 4:10 to 9:15, Dec. 13, 1954.)

Monday Morning Session, December 13, 1954, 9:15 o'clock. a.m.

Thereupon SAMUEL H. SHEPPARD resumed the stand and was examined and testified further, as follows:

DIRECT EXAMINATION (CONTINUED)

By Mr. Corrigan:

- Q Doctor, when we left here on Friday/^{we}were discussing something of the presence of blood in that house, and you told of a number of incidents. Now, do you remember of any other incident where blood was shed in the house?
- A Yes, sir, I do.
- Q What was that?
- A What was it?
- Q Yes. What was it?
- A It was the blood of my niece, Margaret Sheppard, Dr. Richard's daughter.
- Q When did that occur?
- A That was in the summer of 1952, which followed the fire that we had in our home. I should say followed our moving in our home after the fire.
- Q Will you tell about it, please?
- A Yes, sir. Dr. Richard had come to our home with his youngsters, and they were playing with my little boy in the

yard. They were playing on and around the swing, that I think you may have noted --

Q Without going into all the details in that regard --

A Well, the swing hit the youngster in the head and cut her head.

Q And then what happened when her head was cut?

A Well, she became very upset and she ran into the house trying to find her mother. I'm not sure whether her mother was present at the time -- I don't believe that she was -- but the youngster was somewhat dazed, evidently, and was trying to find her mother, and ran through the house.

Finally, Dr. Richard and I quieted her and took her to the hospital and I sutured her head, as I recall.

Q Well, was there bleeding from the wound?

A Quite profuse bleeding. It was a high forehead wound, and it was down to the bone.

Q Now, then, how long will blood give a reaction?

A A reaction -- a chemical reaction for blood?

Q Yes.

A Indefinitely.

Q Indefinitely?

A Yes, sir.

Q Now, then, that was shortly after the time of your fire?

A It was shortly after we moved in. It was quite a time after the fire.

Q When was the fire?

A I believe it was February of 1952.

Q And how long was the house vacant at that time?

A Well, it was vacant until --

Q No, how long was it vacant?

A About five months.

Q About five months?

A Yes, sir.

Q And during that time, it was being repaired?

A Yes, it was.

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- Q Now, take the question of blood coagulation, and you have had a lot of experience with blood, haven't you, Doctor?
- A Yes, sir, I have.
- Q Can you give the jury how long, in your experience, how far blood will drip after you get, for instance, a lot of it on your hands or on any instrument of any kind, how long it will drip, how far it will drip before it coagulates?
- A Three or four feet. After that it congeals and remains on the surface.
- Q Yes. Dr. Gerber testified about digestion, and that digestion is complete at the end of five hours. What do you say about that?
- A Well, the word digestion is something that we must define. The 5-hour time refers to stomach emptying, and stomach emptying is consistent with the digestive process of the stomach itself. Five hours is the least period that we expect the stomach to carry out its portion of the digestion and empty, but that does not include digestion in the first part of the small intestine.
- Q And what will angry quarrels or excitement, what effect does it have upon digestion?
- A It delays it or halts it.
- Q And will you explain that?
- A Well, within our bodies we have two nervous systems. One we call the sympathetic nervous system, which is responsible

for what we call the flight and fright mechanism. It is the nervous system that enables us to become angry, to react to adverse situations, to prepare ourselves for athletic contests, and that sort of thing. And that nervous system sends the blood in our bodies, the major portion of the blood, to the brain, to the muscles of the extremities and to the chest, heart and lungs. So that the individual can fight, he can flight, he can run, he can carry on what is necessary that might be consistent with a quarrel or with an athletic contest.

The other nervous system is the parasympathetic nervous system, which is responsible for and is in ascendancy during periods of digestion, during periods of sleep, during periods of sedentary activity, sexual activity, and this nervous system is responsible for shunting blood or encouraging blood into the area that is active at that particular time. During our period following eating, a great portion of the blood in our body is found in the intestinal tract, in and around the stomach and the small intestine, and it is a well known fact that if a person is subjected to violent physical activity or strain, immediately following eating, very commonly they throw up even. The process is not only stopped and halted but it is reversed. Track runners who think they can get by in a track meet after a meal

find out that they can't do it.

Q In your experience in working on accidents, have you ever made any observation as to the effect of blood on leather?

A Yes, sir, I have.

Q And will you tell the jury what you have noticed about blood on leather?

A Well, blood tends to soak into leather and produce a spot which is almost impossible to remove.

Q Now, Dr. Adelson testified here that there was no difference between the frontal suture and the coronal suture. What do you have to say about that?

MR. PARRINO: I object to that.

He didn't say that.

MR. CORRIGAN: He says they were the same.

MR. PARRINO: He says he uses them synonymously.

MR. CORRIGAN: Well, make your objections.

MR. PARRINO: Well, you made a statement to me, and I am responding, that's all.

MR. GARMONE: May we have the Court's ruling?

MR. CORRIGAN: Let's have the question.

(Question read by the reporter.)

THE COURT:

Well, he may

state his opinion.

A Well, I think Dr. Adelson is mistaken.

Q Is there a difference?

A Yes, sir.

Q And will you explain it?

A Well, the coronal suture is the suture which is found joining the frontal bone here in front and the two parietal bones on either side. It is called coronal, referring to crown, crown of the head. The frontal suture refers to the suture which is found between the two portions of the frontal bone and is present in early life and sometimes it persists, but not always.

Q All right. Now, have you had an experience with destruction or partial destruction of the frontal plate of the skull?

A I certainly have, sir.

Q What do you say to the jury as to your personal experience as to whether the destruction of the frontal plate of the skull is fatal?

A It isn't necessarily fatal.

Q Have you seen cases of that kind?

A Yes, sir.

Q What particular case can you call to mind?

A Well, one in particular which I call to mind is a man who, in attempting to commit suicide, placed a 12-gauge shotgun in his mouth and shot it off. It blew off the entire one side of the face, one eye, the entire frontal bone and the entire frontal lobe of one side of his brain and partial removal of the frontal lobe of the other side of the brain.

Q Did he live?

A Yes, he did. He is alive today, as far as I know.

Exhibit 3
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- Q Now, there was a great deal of talk about the fact that you did not have on a T-shirt. As I remember, you said you didn't know whether you had one on or not when you were found in the morning?
- A I didn't until someone called my attention to it. I don't remember --
- Q You had one on the night before, you know that?
- A Yes, sir, I know I had one on the night before.
- Q Now, there was in evidence here brought in from the Coroner's office by me a T-shirt. Do you remember?
- A Yes, I do.
- Q During the trial of this case?
- A Yes, sir.
- Q That was testified it was found at Schuele's beach or Schuele's pier. Was that T-shirt ever shown to you before you came into this courtroom by the police or by the Coroner or by anybody else?
- A No, sir, it wasn't.
- Q Did you look at it during the time that -- during the course of this trial?
- A I certainly did, yes.
- Q Now, can you state to the jury what your reaction is after you looked at that T-shirt?

MR. DANACEAU:

Objection.

THE COURT:

Objection sustained.

Q Well, is it your T-shirt?

A It certainly could be my T-shirt. I'm not sure.

Q There was also brought into this courtroom a wallet.

MR. CORRIGAN: Will you get the
wallet for me, please? Three twenty-dollar bills.

Q Defendant's Exhibit T is your wallet. Now, there was three
twenty-dollar bills. Now, on the morning of July the 4th --

MR. CORRIGAN: These three one-
dollar bills were not there.

Q Now, in the morning of July the 4th was there any money in
this purse or in this wallet, or --

A Well, I have been told that --

Q Now, wait a minute. The night of July the 3rd, when you
went to bed or went to sleep, was there any money in this
purse?

A Yes, sir.

Q And where was the money?

A Well, I had money in the regular compartment that we
ordinarily keep money in a wallet.

Q Show me the regular compartment where you ordinarily keep
money in the wallet. Just hold it up and show it to the
jury.

A Here, and this check was also with the money, but it was
under this flap. There was a flap that you can use to

slip checks under, and the check was under there, as I recall.

Q Just put the check in the way it was.

A Well, you can see where it was folded. This is my habit to carry checks under the flap, if I had to carry them, like that (indicating).

Then there was money in here, between thirty and fifty dollars, I couldn't say for sure (indicating).

Q Was that missing the next day?

A I understand that it was, sir. I didn't examine the wallet carefully.

Q Now, was there any other money in the purse besides the --

A Yes.

Q And what else was in there?

A Well, there was money kept in a secret spot that I usually carry it for emergency purposes.

Q Is it in there now?

A I don't know.

Q Look and see.

A It is not -- it is not where I usually keep it -- yes, here it is.

Q Now, where was that money kept? Will you hold that up to the jury and show -- you better step down here and show them so they can see what you are doing.

(Witness leaves witness stand.)

A The check is in here, and the other money --

THE COURT: You will have to
speak louder so the reporter gets it.

A The check was here under the flap, and the other money was in that compartment, and the \$60 dollars was hidden back under this fold of the wallet, this one or this one, I couldn't remember which one, and there was no particular differentiation, but is actually a fold in the way the wallet is made. It is a wallet made to produce no seams, and in producing the wallet without no seams, these folds were produced or found and I used to keep the money there.

Q All right.

(Witness returns to witness stand.)

Q Put the money back where it was. And these three one-dollar bills, where were they? Were they in the wallet?

A They were in my pocket, I believe.

Q Now, the blow that you received to the back of the neck and that you testified to, would you tell the jury, when you receive a blow such as you received, what is involved in that type of a blow that renders a person unconscious, and how is it that they become unconscious from that type of a blow to the back of the neck?

A Well, any blow to the head which is sufficient enough to produce transmission of the force may produce and often produces unconsciousness.

Q And what is the process whereby unconsciousness is produced by that type of a blow?

A Well, this particular type of a blow tends to produce the transmission of this force into the area of the brain which contains the vital centers, and I think there has been some reference here to the so-called rabbit punch, which this area represents, and it is a very dangerous area. It can actually produce death if the injury is severe enough.

Q Well, what are the vital centers that are involved there that are interfered with by a blow?

A Particularly the centers of respiration and the centers of regulation of the heart. Also the centers that control all of the involuntary functions of the body, the reflex centers of the sympathetic and parasympathetic portions of the nervous system, that I just described to you, but a blow anywhere to the head, if transmitted in severe enough force, will produce unconsciousness by affecting the blood supply to the brain, by producing a jarring reaction on the brain itself and cutting down momentarily that blood supply, producing unconsciousness.

You can place your fingers on the two major arteries to the brain yourself and hold them for a few seconds, and you can actually render yourself unconscious or close

to unconscious by merely placing your finger and thumb on the two major arteries in the neck. That will display how altering circulation of the brain will affect the brain very readily, rapidly, and I might add that actually a blow that does not produce fracture occasionally transmits the force to the brain more heavily than does a blow that produces fracture, like a broken bat in baseball -- a broken bat hit never goes over the fence, but the broken bat hit is a short hit. The force is absorbed into the bat, and, therefore, it is not transmitted to the ball and doesn't produce a long hit.

Q Well, now, is it necessary, in order to have a spinal contusion or a brain injury to have a fracture?

A No, sir.

Q What?

A It is not necessary to have a fracture in order to have spinal cord contusion or basal concussion.

Q And if you have a case, irrespective of a fracture, you consider the fact of concussion or spinal cord contusion, isn't that correct?

A Oh, yes. Fracture merely indicates the force of the blow.

Q Now, I want to ask you a few questions about reflex.

Can you control muscular reflex?

A No, sir, you can't.

Q Will you explain that to the jury?

A The deep muscle reflexes or muscle stretch reflexes, as we call them, which is represented by the knee kick that you all know, is a muscle reaction resulting from the stimulation of the sensory nerves in the muscle to this stretch or to this tapping. The tapping produces a stretching as though you have a rubberband here and tap it and the tap stretches the rubberband. As the stimulus -- as the tap is produced, the sensory fibers takes that impulse up to the spinal cord, as I think was demonstrated or mentioned. The sensory impulse is then very rapidly transmitted to the motor nerve or the nerve to the muscle, the nerve that controls the muscle, and that is transmitted back down to that muscle and an action is produced.

If an individual tries to prevent the action of one of these muscle reflexes, it actually has the tendency to reinforce it, to make that reflex more discernible than it would be normally.

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Now, Doctor, I want to clear up something about X-rays --

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I might just add on reflexes, there are some reflexes associated with respiration and swallowing, for instance, that we can control up to a very, very short period. In other words, we can hold our breath while we dive under water and hold it until we come up and get another breath, but if we have to stay under water too long, we can't control that respiration, of course, and swallowing is the same way. Even though we expectorate or drool, the swallowing reflex takes over, and I defy anyone in this court room --

MR. MAHON:

Wait a minute.

MR. DANACEAU:

Wait a minute.

MR. MAHON:

I object to this
defying, if your Honor please.

THE WITNESS:

All right, then.

The swallowing is something that will take place.

Q

Let it go, Doctor.

A

You might try to prevent yourself from swallowing for a minute, and see what happens.

Q

Now, then, I want to clear up something about X-rays and -- the question of examining X-rays when they are wet and when they are dry.

There is, I know, some idea among some people that an X-ray is a photograph. Is it a photograph?

A Not in the true sense of the word, no.

Q Now, what is depicted on the X-ray? Can you explain that in ordinary language so that the jury understands just what you get on an X-ray film?

A The X-ray represents the shadow of the more intense or the -- to put it in plainer language -- the harder structures in the body. The X-rays penetrate the body structures, and these rays penetrate the softer tissues of the body much more readily than they do the harder tissues, such as bone. The rays thereby, in penetrating certain portions and not penetrating other portions, represent a relative shadow which affects itself on this plate, this negative, this plate we call an X-ray plate.

Q That is, when you take the tube and aim it through the head, for instance, the X-ray plate that is on the other side of the head, some of the rays go through the soft parts and the tissue and other rays are stopped?

A That's right.

Q By the bony structure?

A That's right.

Q Consequently throwing on this plate a shadow?

A That's right.

Q Of the bony structure in the head?

A And to display this shadow representation, we know that the X-ray pictures or plates that we see vary in size

according to the distance from the source of the X-ray tube. Just like making shadows on the wall for your youngsters of rabbits and things, you can make a bigger one or smaller one by varying the distance of your hand from the light source that is back here. (Indicating).

We can take sometimes under adverse circumstances of emergencies and all, we have to take X-ray pictures at odd positions, and the head may be or the part that we are examining may be twice or almost twice the size of the actual bone that we are X-raying, or it may vary in size. It is distorted at times, in other words.

Q Now, will X-rays show muscle damage or blood vessel damage or nerve damage or ligament damage or connective tissue damage?

A No, sir, not unless that muscle is incised or cut so that there is a cleavage mark that can be seen. There are techniques for soft tissue X-ray, but they are not well discernible.

Q I see. The X-ray principally is to show bone damage and bone breaks, that's what it's for?

A Well, in recent -- that's true, Mr. Corrigan, but in recent years it has been used for many things.

Q Yes, but I mean in the ordinary emergency X-ray, in accidents, it is used to show bone damage, bone breaks?

A Yes.

- Q All right. Now, on the question of wet and dry X-ray plates, what is the usual method in emergency of examining X-ray plates? I mean in emergency cases.
- A Well, the X-rays are taken and developed as soon as possible, naturally, and the last process of handling or developing X-rays is a wash period, and that wash is to take about half an hour to an hour period to make sure that all foreign material is removed from the X-ray plate. This wash period is usually halted at its early stage for emergency films. The films are removed and placed somewhere for the visualization of the X-ray physician and the physician in charge, and when the X-ray physician, such as Dr. Flick, looks at the films, the films are then replaced back in the water bath so that the continued complete washing is continued and then the drying process.
- Q Now, I will hand you --
- A That usually occurs in my particular type work. I look at the X-rays, and then they go back in the water.
- Q Here's State's Exhibit 26-A. Do you recognize it as your watch?
- A It --
- Q Is it your watch?
- A I believe it is.
- Q Examining the band, here, do you know how that break came in the band?

A No, sir, I don't.

Q Was it on -- was that break in the band on July 3rd when you went to sleep?

A Well, I --

Q Well, was it or was it not?

A It was not on July 3rd, the last time I remember the watch.

Q All right. And you are referring now to the break that appears in the wrist band of the watch?

A Yes, sir.

(Mr. Corrigan holds watch up in front of jury.)

MR. CORRIGAN: So you can see it.

Q Now, Doctor, in your life, have you committed any sins?

A I have succumbed to human frailty, yes, sir.

MR. CORRIGAN: Cross-examine.

CROSS-EXAMINATION OF DR. SAMUEL H. SHEPPARD

By Mr. Mahen:

Q Doctor, you have testified here this morning that you have seen fractures of the frontal bone in which the person lived following those fractures, is that so?

A Many.

Q And you gave an example of someone who was shot with a shotgun and a portion of the frontal bone was shattered and still lived, is that right?

A No, sir, I don't.

Q Was it on -- was that break in the band on July 3rd when you went to sleep?

A Well, I --

Q Well, was it or was it not?

A It was not on July 3rd, the last time I remember the watch.

Q All right. And you are referring now to the break that appears in the wrist band of the watch?

A Yes, sir.

(Mr. Corrigan holds watch up in front of jury.)

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MR. CORRIGAN: Cross-examine.

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By Mr. Mahen:

Q Doctor, you have testified here this morning that you have seen fractures of the frontal bone in which the person lived following those fractures, is that so?

A Many.

Q And you gave an example of someone who was shot with a shotgun and a portion of the frontal bone was shattered and still lived, is that right?

A No, sir. The entire frontal bone was shot off and a portion of the brain.

Q All right. And the person still lived?

A Yes, sir.

Q You have seen the pictures of Marilyn and the fractures that she had on her head, have you not?

A No, sir.

Q You have not seen them?

A No, sir.

MR. MAHON: Will you get them,
Tom?

A I have seen them very fleetingly, and I don't care to look at them.

Q Well, I don't care whether you care to look at them or not, Doctor.

You know that Marilyn was found to be dead shortly after six o'clock by your own brother, Dr. Richard, do you not? You know that, don't you, Doctor?

A I've been told that.

Q Well, you'll take the word of your brother for that, won't you?

A I'll take the word of my brother for anything, sir.

Q All right, sir. You know that your wife received many wounds about the forehead in the frontal part of her head, crown of her head, do you not?

A Yes, I do.

Q You don't want to infer, do you, Doctor, the fact that you have seen people live with fractured skulls, frontal bone, and some with the bone shattered or taken away entirely, that your wife did not come to her death as a result of the wounds that she received?

A I don't mean to infer anything, sir.

Q Is there any doubt in your mind, Doctor, but what she died as a result of the wounds that she received?

A Do you mean a direct result?

Q A direct result, yes.

A Are you asking me my opinion of the cause of death?

Q I am asking you if you doubt what the cause of her death was, that it was other than from the wounds that she received?

A No question in my mind --

Q No question about that.

A -- about the basis, not question at all.

Q So there is no particular purpose in describing other people who lived with fractures, is there, no purpose to that at all, is there?

A You would have to ask Mr. Corrigan that, sir.

Q Well, you didn't want to infer that your wife didn't die as a result of those wounds, did you?

A I merely am answering the questions, sir.

Q I see.

A I didn't mean to infer anything.

Q Now, Doctor, this home that you have over there, you said that you had a fire there in 1952, February, is that correct?

A I believe that's the date. I can't be sure of the date and time. I don't really remember.

Q And you have told us of many sources of blood that have dripped around on the floors of that house, haven't you, Doctor?

A I have tried to answer the questions, yes.

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Q Well, you told of someone who had a fishhook in their back and you took it out. Did blood run all over the floors from that, Doctor?

A Not that I recall.

Q Did any blood run on the floors in that instance?

A It might have. I don't really recall.

Q Well, where did you take the fishhook out?

THE COURT: You mean where in
the house or --

Q What portion of the house did you take it out?

A I can't really recall.

Q Well, it wasn't in your living room, was it?

A It might have been. It might have been on the porch, it might have been in the living room, it might have been in the den.

Q Do you want to infer, Doctor, that blood dripped on the floor from that?

A I am not trying to infer anything. I am merely trying to answer the questions, sir.

Q You told of pulling of baby teeth from your son. Do you want to infer that blood dripped all over the floor from that, Doctor?

A Oh, I wouldn't say blood dripped all over the floor, but blood certainly could have been in evidence on the floor in one place or another.

Q He would have to spit it out, wouldn't he?

A Or drip it. Playing with the dog on the floor and drip, or something like that.

Q Well, it didn't bleed to that extent, did it, Doctor?

A It bled, yes, sir.

Q To that extent?

A To what extent?

Q That it would drip out of his mouth?

A Well, it dripped into his mouth. It could have dripped out of his mouth.

Q And then you told us that your wife dripped blood, is that right, Doctor?

A Yes, sir. That was one complaint that she sought Dr. Stephen's advice for.

Q And you want to infer that she dripped blood all over the house?

A I can remember a morning, sir, when she called --

Q Doctor, do you want to infer that she --

MR. CORRIGAN: Objection.

Q -- dripped blood all over the house?

MR. CORRIGAN: I ask that he be permitted to answer the question.

THE COURT: He may answer that.
This is cross-examination.

MR. CORRIGAN: I ask that he be permitted

to answer the question between the shouts.

THE COURT: This is cross-examination, and that has been suggested by the doctor's direct testimony.

MR. CORRIGAN: I know, but he wasn't permitted to answer the question.

MR. MAHON: He is not answering the question.

THE COURT: Let him answer.

MR. MAHON: Read the question.

(Question read by the reporter, as follows:

"Doctor, do you want to infer that she dripped blood all over the house?"

Q You can answer that yes or no.

A I don't believe that I can answer that yes or no and give the proper impression. I can remember of times when she dripped on the floor --

Q Mr. -- Doctor, I am asking you if you infer that from the fact that you said she was dripping blood that there was blood dripped all over the floor?

MR. CORRIGAN: He didn't say that.

A I am saying, sir, that she has dripped on the floor. She has had to have Betty Sheppard bring her help. She has called from her bed because she was afraid to get out of

bed because she was dripping.

Q Well, Doctor, we are not talking about bed.

A Well, when she got out of bed, that was the problem, sir.

Q You mean she took no protection from that?

A Yes, sir, she did.

Q Then you want to tell us that as she walked along in the house she dripped blood on the floor?

A At times, sir, she did, yes. It was a definite problem with her.

Q And then you told us here this morning that Richard's daughter cut her head and her head was bleeding. Do you want us to infer, Doctor, that she was dripping blood all over the house?

A She dripped blood somewhere.

Q Did she --

MR. CORRIGAN: Did she what?

A She must have.

Q You mean that blood from her head went down on the floor, Doctor?

A It would have to.

Q You mean it was spouting out?

A It was squirting. She had a bleeder or two that I had to clamp and tie off at the hospital. I had to use catgut suture to tie them off, sir.

Q You mean it was spurting out?

- A Yes, sir, that is what I mean. We had to use --
- Q And you say that that was all over the floor?
- A I don't believe I said it was all over the floor.
- Q Well, was it on the floor at all, Doctor?
- A Yes, sir.
- Q Where?
- A I don't know.
- Q Well, where did you see it on the floor?
- A I saw her in the living room. She ran in various other parts of the --
- Q Where did you see blood on the floor from that?
- A Where did I personally see spots of blood on the floor?
- Q That's right, sir.
- A About the only place that I can say that I saw spots on the floor was in the kitchen where there was linoleum, and we could see it, and wiped it up.
- We applied pressure to prevent any further bleeding, of course.
- Q Now, Doctor, you said that that carpeting was on the floor when you purchased the house.
- A You mean the carpet in the front room, sir?
- Q On the living room, yes.
- A Yes.
- Q And that was never removed?

A Well, there was a portion that was burned in the corner. The southeast corner of the room was not an archway as we went into that home, from the hallway. There was an archway into the dining-living area.

Well, that archway was not there at the time of the fire. It used to be that we had to come in the other way.

Q There was some portion of the carpet removed, was there?

A A small portion in that area, yes.

Q And how large a portion?

A A strip -- the carpeting comes in strips, as I think we all recognize, about this wide (indicating), and there was a strip about that wide, oh, maybe eight feet long that was removed.

Q And was anything done with the rest of the carpet?

A Well, it was cleaned, cleaned up. It was not taken off the floor.

Q Was it cleaned by a carpet cleaning company?

A It was cleaned by the people that fixed the carpet, yes.

Q Wasn't the entirely northerly end of that carpet, right across that living room, removed, right from the north wall?

A It was rolled up, I believe, but not removed.

Q Wasn't it taken to the carpet cleaning company and cleaned?

A No, sir.

Q And wasn't the carpet patched?

- A Yes, the carpet was patched.
- Q And it was taken to the carpet cleaning company for that, wasn't it?
- A It could have been.
- Q And it was cleaned while it was there, wasn't it?
- A Possibly. I can't say for sure. That was not my particular job.
- Q And then didn't the carpet cleaning people come out to the house and clean the balance of the carpet, even including the L?
- A Yes, that's what I said.
- Q Yes.
- A They cleaned it on the floor --
- Q That's right.
- A -- used a material on the floor.
- Q Yes. A chemical carpet cleaner, isn't that right?
- A I couldn't say what they used.
- Q Well, they cleaned the carpet. Whatever they used, they cleaned the carpet?
- A They used a material on it, yes.
- Q And that was when, Doctor?
- A That was just before we moved back in. Sometime in early spring, 1952.
- Q The fire was when?
- A As I say, I'm not really absolutely sure, but I believe

it was around February, 1952.

Q And you were out of there for five months?

A Approximately.

THE COURT: Let me get the year.

What year was that February fire?

THE WITNESS: 1952, I believe.

Q Well, it was in the summer of 1952 that the carpet was cleaned, then, was it?

A Well, it was before summer. Spring.

Q Well, you didn't go back in there to live until about July, did you?

A Oh, we were sort of half-living there and half-living elsewhere. I don't know as I'd say it was July or June. We spent a great deal of time there from early June on. I can't say when we began to sleep there.

Q All right. Then it was June when you went back to live there?

A I can't say, sir.

Q Well, you said the fire was in February and you went back about five months later. That would be July, wouldn't it?

A Approximately. I couldn't say definitely one time or another. It could have been late June or early July. We went back in stages.

Q Well, now, Doctor, you finished high school when?

A In 1942.

Q And during high school, during those years, you had been interested and participated in various athletic endeavors, had you not?

A Yes, sir.

Q And what were they?

A As I believe I said the other day, chiefly football, basket ball and track.

Q And when you went to college, you continued those activities?

A Yes, sir.

Q And when you went to California, you continued those activities there?

A There was no opportunity in California to continue any varsity athletics. A professional school offers no organized varsity athletics.

Q Well, did you play basketball while you were out there?

A Occasionally we would get a few boys together and play half court.

Q Did you play football out there?

A Oh, passed the ball, kicked. Not vigorous football as we would term a game.

Q And did you engage in any track work out there?

A No, sir.

Q You did take up tennis out there?

A My wife and I took up tennis, yes.

Q You were married in 1945?

A Yes, sir.

Q And you were quite active in tennis from then on until you came to Cleveland?

A I wouldn't say quite active, no, sir. We played when we could.

Q And as I understand it, from what you said the other day, that you and your wife were quite proficient at it?

A We stood up fairly well with the other doctors, but that doesn't mean we were very good.

Q Well, the ordinary person -- for the ordinary person, you were quite proficient?

A Not the ordinary person who plays tennis. The ordinary person -- the average person --

Q The ordinary run-of-mine person that uses it for exercise?

A That doesn't play tennis.

Oh, average, possibly.

Q I thought you said something the other day that there was a standing challenge that you and your wife --

A That's right.

Q -- would take on any two men out at the hospital?

A That's among the interns at the hospital, most of which play very little tennis and like to come out, get some exercise, and I certainly wouldn't take on two men like

Dr. Hoversten, for instance, who has played tennis in his day.

Q By the way, you met Dr. Hoversten out there at college in Los Angeles, didn't you?

A Yes, sir.

Q And you and he became pretty close friends?

A When?

Q Well, following the time that you first met him?

A Yes. I'd say we became pretty good friends.

Q He was a class mate of yours, wasn't he?

A Yes, he was.

Q And during your years in college there, you and he went around together?

A Somewhat; not a great deal.

Q And after your marriage in 1945 that same relationship continued on, did it not?

A Dr. Hoversten and I didn't know each other very well really until after we were married. We were class mates and friends, but --

Q Well, when did you start out there at school, Doctor?

A I believe it was July of 1944.

Q July, 1944. And you were married when?

A Married the following February.

Q So you hadn't known Dr. Hoversten very long up until the time that you got married, had you?

A No, sir.

Q And so after your marriage you became better acquainted with him?

A Not necessarily contingent on the marriage, but he continued to be a class mate, and we knew each other as the years went on, naturally.

Q And you went around together somewhat?

A Very little, I would say, as far as -- you mean out of school?

Q Yes. Out of school. Yes.

A Not much.

Q Well, some?

A Very little, I would say.

Q Did you go to any social events with him?

A No, sir. We would meet at the social events.

Q Your wife would be along, would she?

A Yes, sir.

Q At all of them?

A Yes, sir. Are you referring to the entire stay?

Q That's right.

A Well, my wife was not present at all social events that Dr. Hoversten was present at during my entire stay in California, if that is what you mean.

Q Well, you remained in California until -- was it 1951?

A 1951, yes.

Q And what month in 1951?

A Spring. I believe it was June. Early June, I believe.

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- Q And after you got married, your wife came back to this territory on vacations, did she not?
- A I think the first visit she and I came back together.
- Q When was that?
- A The years are somewhat confused in my mind. I can't say definitely what year that was, but I believe that it was 1947, I believe.
- Q And then each year, did you come back to Cleveland or to Bay Village?
- A Now, wait a minute. It must have been 1946, that following summer, that we came back.
- Q All right.
- A The following year, I believe that Chip --
- Q You came back together at that time?
- A Yes, sir.
- Q And then in 1947, did you come back to this district?
- A I think Chip was born in 1947.
- Q Did you come back to this district, is my question, Doctor?
- A No.
- Q You did not?
- A No, sir. I did not.
- Q Did your wife?
- A I believe she did.
- Q All right. In 1948, did you and your wife, or either one of you, come back to this district from California?

A I may have in 1947. I don't believe I did in '48. I believe she came back alone.

Q In '48, how about '48?

A In '48, I believe she came back alone, flew back, and I believe that's the year that I spent the time at the County Hospital when I was confined.

Q And how long was she gone in 1948?

A I don't really remember.

Q Was it a month?

A I said I didn't remember. It could have been a month, six weeks, less; it could have been three weeks. I don't really remember.

Q In 1949, did you or your wife, either of you, come back?

A Yes, sir.

Q Who came?

A We both came back and we spent a short vacation here and both went back together.

Q In 1950, did either of you come to Cleveland?

A Yes, sir.

Q And who came?

A We both did.

Q In 1950?

A Yes, sir.

Q And when in 1950?

A During the summer.

- Q And then the following year you came --
- A To Cleveland.
- Q To Cleveland?
- A We moved back.
- Q You moved back permanently then, is that right?
- A That's correct, sir.
- Q Now, then, in 1950, did you and your wife come to Cleveland together?
- A She came back, she flew back ahead of me.
- Q And do you know when she came back to Cleveland at that time?
- A I don't remember. It was earlier than I came.
- Q Well, how long after she had left was it that you left to come to Cleveland?
- A There, again, I'm not sure. Probably about a month.
- Q And then when you came on to Cleveland, you remained here how long?
- A I can't say, sir. A couple of weeks, probably. Around --
- Q And then -- pardon me.
- A About two weeks, I think. I'm not absolutely sure.
- Q All right. And then you both returned to California?
- A Yes, sir. We took two youngsters with us. I should say young people, younger than we.
- Q Now, in 1950, after your wife left to come to Cleveland, did you write a letter or compose a letter to her?

A I composed and sent a letter to her.

Q Did you submit that letter to Dr. Hoversten?

A I don't recall submitting any letter to Dr. Hoversten, no, sir. I recall mentioning it to him.

Q You recall mentioning it to him?

A I recall mentioning that I had written Marilyn, casually.

Q And didn't he advise you not to send the letter?

A He advised me not to send the letter, but his comments as to what was in the letter, I think, are a little mistaken.

Q He did advise you not to send the letter, though, didn't he?

A That's my impression.

Q And the reason that he advised you that was, sir, was it not, that it was mentioned in that letter about a divorce?

A No, sir.

Q Isn't that right?

A That's not correct.

Q What?

A That's not correct.

Q Well, will you tell us why he advised you not to send the letter?

A Yes, sir, I will.

Q All right. Tell us.

A Dr. Hoversten had shortly after my wife left been invited, as were all the residents at the hospital, to a school

dance. A junior prom is actually what it was, put on by the junior and senior students. And the resident physicians were sent bids to this dance free. They were asked to come gratis.

Dr. Hoversten had obtained a date for this dance with a young lady that he had previously introduced me to. He thereafter -- or, I should say, after he had made this date, he found that he was unable to keep it because he was going to have to work that particular night. I offered to work for him, but he said no, he couldn't -- he couldn't take over my duty, he couldn't repay me for my working for him. And he asked me to take this young lady to the dance.

I indicated that I thought it would be best if I didn't do that, but he suggested that no one would think anything about it, my wife was out of town, and he felt that there wouldn't be any particular reason why I shouldn't.

I took the young lady to the dance, and met her family and her brothers -- brother, I should say, sister. And shortly thereafter I wrote a letter to my wife telling her what had occurred. I mentioned it to Dr. Hoversten, and Dr. Hoversten said no, he didn't think I ought to write and tell her because she might get some wild idea or wrong idea, and I informed him that, after all, I had taken her to a school dance, I didn't want her to find out

from anyone but me, and I felt that I should let her know what happened.

Q What was the young lady's name?

A Margaret Kauzor.

Q Margaret Kauzor?

A Yes, sir. But I did send the letter.

Q Well, following that incident, when you talked to Dr. Hoversten about the letter --

A I didn't talk to him particularly. I commented about it, and he talked to me.

Q Well, when he talked to you, you talked to him, didn't you?

A I didn't seek his advice. I told him what I was going to do.

Q Well, you did talk to him about it, didn't you?

A Well, I listened. I stood there. I didn't tell him to shut up.

Q Well, you talked also, didn't you? You told him what was in the letter, didn't you?

A I told him what I planned to do.

Q Yes. Well, that's all I'm asking you, Doctor, if you talked to him about it.

A Yes, sir.

Q Yes. Following that incident, didn't you talk to your father by telephone?

A Yes, sir, I did.

- Q And wasn't there some talk with your father about divorce?
- A No, sir.
- Q Didn't you relate that to Dr. Hoversten?
- A Do you want me to tell you what I related?
- Q Didn't you relate that to Dr. Hoversten?
- A I related to Dr. Hoversten what my father had said.
- Q What did you tell him?
- A I told him that my father had learned that Dr. Hoversten encouraged me to take this young lady to the school dance and my father didn't agree with Dr. Hoversten's sentiments, and he didn't want me to bring Dr. Hoversten back to Cleveland with me, as we had planned, that summer. Dr. Hoversten was quite broken up over it.
- Q Is that all that was talked about?
- A Between my father and me?
- Q Between you and Dr. Hoversten. Did you relate that to Dr. Hoversten?
- A Yes, sir, I did, and I told Dr. Hoversten that possibly Marilyn and my father didn't quite understand the innocence of the situation, and that when I came back to Cleveland I would certainly tell my parents and Marilyn that it was an innocent situation, Dr. Hoversten wasn't trying to lead me astray, that he wasn't someone to be disliked or anything of that sort, that I would like to have him visit us sometime.

We had very definitely planned for Dr. Hoversten to proceed to Cleveland with me that summer and visit in my parents' home up until that time.

Q Well, now, Doctor, following that, in 1951 you came to Cleveland permanently?

A Yes, sir.

Q And then later Dr. Hoversten came here, did he not?

A Yes, he did.

Q You say Dr. Hoversten did come here?

A Not in 1951.

Q Well, later on, let's say, he came on, did he not?

A The following year, yes, sir.

Q And was that at someone's invitation?

A It was following Dr. Heversten's application. There isn't a -- we don't invite people to be residents, sir.

Q He filed an application?

A Yes. I notified him that the position was available. Do you mean that? Is that what you mean?

Q You did notify him that the position was available and he made application for it?

A Yes, sir.

Q And he was appointed?

A Yes, sir.

Q And when did he come to Cleveland?

A I believe it was in July of 1952, two years ago last July.

Q Did your father or had your father felt that Dr. Hoversten was a bad influence on you?

MR. GARMONE: Object to the question.

THE COURT: I suppose the question is objectionable, Mr. Mahon.

Q Well, did your father ever voice any disapproval of Dr. Hoversten?

A He did in 1950, until I talked with him.

Q But in 1952, did your father approve Dr. Hoversten as a resident at Bay View Hospital?

MR. GARMONE: Objection.

THE COURT: He may answer that, if he knows.

MR. MAHON: How?

THE COURT: He may answer.

A Did he approve of him?

Q Yes.

MR. GARMONE: If the Court please, the purpose of my objection is not to prohibit the witness from answering the question, but I think we should first determine for the jury what the mechanics are that follow an application that is made for a position at the hospital. We are assuming now that Dr. R. A. Sheppard, Sr.,

is in full authority. We do not know that.

MR. MAHON: He can tell us,
if he wants.

MR. GARMONE: All right. I
will withdraw the objection.

THE COURT: There is apparently
some three-way relationship here: Dr. Sam,
Dr. Hoversten and the father. Now, the question
here is directed to that relationship. He may
answer that.

A Well, an appointment in residency and surgery has nothing
to do with personal likes, dislikes, or personal approval,
unless it becomes something that is severe to the point of
insults to society, and that sort of thing generally.
What is more, Dr. Sheppard, Sr., is not in control of
residency appointments.

Q Who is?

A The Department of Surgery.

Q And who is in the Department of Surgery?

A Dr. Sheppard, Sr., is a member of the Department of Surgery.

Q Yes.

A Dr. Stephen Sheppard, Dr. Richard, myself, Dr. Foster,
Dr. Rench, Dr. Leonard Nagel, Dr. -- do you want me to
name all of them?

Q Well, do they all have to approve someone?

A They can all disapprove, if they wish.

Q And if one of them disapproves, is a person allowed in?

A It isn't like a fraternity, if that's what you mean.

It's --

Q Well, who is it that decides whether someone should come in as a resident?

A It's decided by the Department, on the basis of the man's qualifications, his training, where he has gone to school, what background he has, what his intent is.

Q You say by the Department, Doctor, and the Department is made up with a score of doctors, is that right?

A Yes, sir.

Q Well, supposing that a third of them disapprove of someone, how are they appointed?

A Well, if there were a third of the members of the department that disapproved on a legitimate basis, the man would not be appointed. But the basis is usually a matter of professional evaluation. For instance, if a man came in and wanted a residency, and he did not have an approved internship in an approved hospital, there would probably be some objection and the man would probably not be appointed.

Q Well, the only ones on that board who knew anything personally about Dr. Hoversten was yourself and, to some extent, your father, is that right?

A Actual knowledge was myself. My father merely relied upon what I had told him, as did the others.

Q Yes.

A In other words, I spoke for him.

Q You spoke for him, and it was principally upon what you said that he was appointed?

A No, sir.

Q How?

A No, sir.

Q It was not?

A Principally on the man's qualifications.

Q On his qualifications?

A I couldn't get you a residency at the hospital.

Q Of course not. I'm not a doctor.

A Well, or a doctor that is not qualified. I don't -- I could -- no matter what I did, I couldn't get him a residency, but if the man is qualified and has the preparation otherwise, my voice was absolutely unnecessary. Dr. Thomas Dozier, that you saw in the court room here, made application on the very same basis.

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Q

Well, Doctor, you initiated the events that led up to Dr. Hoversten's appointment, didn't you?

A

I appraised Dr. Hoversten of the fact.

Q

That's right.

A

(Continuing) That the residency was available, and I knew that he was interested because he had been terminated at the Los Angeles County General Hospital.

Q

Well, when he came here, -- do you remember what month that was or what part of the year it was?

A

As I said, I believe it was July.

Q

He went to live at your home, did he not?

A

Yes, he did.

Q

And that was after the fire?

A

No, sir.

Q

In '52?

A

The fire must have been in '53.

Q

The fire was in '53?

A

It must have been.

Q

Dr. Hoversten had been here before the fire?

A

Yes, sir. The fire must have been in '53.

Q

And he lived at your home, is that right?

A

For a short time.

Q

For how long?

A

I don't remember. I was asked that by Detective Rossbach and said "a short time," and then he refreshed my memory

that it was longer. To remember of my own knowledge, I can't really say. Some period of time.

Q Well, was it as much as a month?

A Thinking back now, I think it was.

Q Was it more than a month?

A Are you asking me to be definite?

Q No. Approximately.

A I don't know, sir.

Q All right. And then following his living there he went to live, I believe, at the apartment above the Clinic, is that right?

A Above and back.

Q The Clinic is located on Lorain Road?

A Yes.

Q In Fairview Park?

A Yes, sir.

Q And the offices are on the first floor, are they?

A The offices are a converted store, is what they are, and it is just one floor on the front portion of the building, like many store buildings. The front --

Q My question is: Was it on the first floor?

A It is on the only floor in that portion of the building, sir.

Q Well, there is a second floor in the building, is there not?

A In the back, yes.

Q Well, it is all one building, isn't it?

A Yes, but the floors don't run clear through the building.

Q There are apartments on the second floor, are they, or one apartment, at least?

A There are three levels to the apartment portion, sir.

Q Three levels. What do you mean by three levels?

A Well, the first level is -- you can't exactly call it a basement. It is sort of -- you might call it a first floor, or you might call it a basement.

Q Well, Doctor, let me see if you -- pardon me for interrupting. Go ahead.

A The second level is slightly above that and is not as low as the ground, but it is not high enough to call a second floor, and the third level is above that.

Q Let me see if I understand it, Doctor:

This building, which is on Lorain Road, the front part of the building is a one-story structure, is that right?

A Yes, sir.

Q And in the front part of that building is located the Clinic, offices of the Clinic?

A Yes, sir.

Q Is that right?

A That's right.

Q The rear portion of the same building contains apartments?

A Yes.

Q One apartment on the ground floor?

A It is actually counter-sunk. It is actually --

Q It is down in below the ground level?

A Yes. Half and half.

Q Speaking of the floors of the apartment.

A About half and half.

Q And then there is a second tier?

A Yes.

Q And then there is a third tier?

A Yes, sir.

Q And are all of those occupied by tenants of separate apartments?

A They were at that time.

Q And did the doctors or interns from the hospital occupy those apartments?

A Just the one was used.

Q The one, and which one was that?

A The one on the top floor.

Q And the other two below that had other tenants who were not connected in any way with the hospital or Clinic?

A Yes. The building did not belong to the hospital or Clinic.

Q I didn't say that.

A Other people --

Q They were occupied by people who had no connection with the Clinic or the hospital, is that right?

A Yes, sir.

Q And how many rooms did that third -- let's call it the third floor, how many rooms did that apartment have?

A Five. Four, actually. The bathroom --

Q Is that where Dr. Hoversten went to live after he left your home?

A Yes. I believe --

Q In 1952?

A I believe it is, yes.

Q And he continued to live there for how long?

A He was there until shortly before he left. I can't say -- I believe he was there until he left, but I don't -- I'm not sure. He may have moved back to the hospital for a week --

Q Can you tell us when he left?

A No, I can't.

Q And after he left, he went to Dayton, did he not?

A Yes, he did.

Q To a hospital in Dayton?

A Yes, he did.

MR. MAHON:

Do you want to take

a recess?

THE COURT:

Whenever you are ready.

Ladies and gentlemen of the jury, we will have a few minutes' recess at this point.

Please do not discuss this case.

(Thereupon the jury retired from the courtroom.)

(Thereupon Mr. Corrigan made the following request to the Court in the absence of the jury):

MR. CORRIGAN: If the Court please,
I want to make a request at this time that the
charge in this case be in writing. I want to make
it now so you will have plenty of time on it.

THE COURT: All right.

(Thereupon at 10:45 o'clock a.m. a
recess was taken.)

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(After recess, 11:05 o'clock, a.m.)

Q Doctor, I believe before the recess we were discussing the set-up at the Clinic on Fairview -- or, Fairview Park?

A I don't recall discussing the set-up of the Clinic.

Q Well, we were talking about the apartments that were there.

A Well, they are not part of the Clinic.

Q In the same building as the Clinic?

A Yes, sir.

Q And that's where the interns and some of the doctors, I think, who were connected with Bay View Hospital resided, is that right?

A Dr. Hoversten resided there alone for a while, and then some of the interns resided there, also.

Q I see. Were there housekeeping facilities there?

A You mean a stove, refrigerator?

Q Yes, to cook meals, and so forth?

A Beg Pardon?

Q To cook meals?

A There were the material for keeping food and cooking food, but not pans and pots and all that sort of thing.

Q Did Hoversten and whatever other doctors there were that stayed there, did they have their meals at the hospital?

A Yes, sir, as far as I know, they did.

Q Can you tell us when Dr. Hoversten left Bay View Hospital, the date?

- A I can't tell you specifically. It was a year ago this last fall, I would say, sometime.
- Q That would be in the fall of 1953?
- A I believe so. He stayed a little over a year.
- Q Well, in the spring or early summer of 1953, didn't you have some discussion with Dr. Hoversten, concerning a divorce?
- A I would say it would be fair to state that he mentioned divorce to me, sir.
- Q There was some discussion, was there?
- A Well, Dr. --
- Q Concerning that subject?
- A Dr. Hoversten was obtaining a divorce himself, you see.
- Q Well, Doctor, wasn't there some discussion between you and Dr. Hoversten about a divorce between you and Marilyn?
- A Dr. Hoversten mentioned that, yes.
- Q And what was the discussion?
- A Do you want me to relate the discussion between Dr. Hoversten and myself?
- Q Relating to a divorce between you and Marilyn.
- A Well, it ties up with Dr. Hoversten's problems. Dr. Hoversten had been married, as has been testified here, and that marriage was rather short-lived, and he was in the process of separation at that time and was attempting to get a divorce. He was having legal difficulties. And at

that time Dr. Hoversten commented on, "Why don't you consider getting a divorce? We could live together and enjoy living together." Something of that sort.

In effect, I took it as misery loving company. Do you want my reaction?

Q I'll ask you if I want your reaction, Doctor.

A Well, you wanted the conversation.

Q I wanted the conversation, yes.

THE COURT: Just the conversation, yes.

Q What did you tell him in reference to a divorce, Doctor?

A I told Dr. Hoversten that Marilyn was the finest girl I could ever find anywhere, and that if he ever wanted to go out, go play poker, or if I ever wanted to do anything with the boys or anything else, that there was no objection from Marilyn. And that I felt that our situation was ideal for me. I believe that at that time we discussed further his problem, his little boy, and so forth.

Q Was there any further discussion concerning a divorce between you and Marilyn?

A There might have been -- I may have at that time stated to Dr. Hoversten that the only problem that Marilyn and I ever had was a minor one of Marilyn's having a loss of some of her sexual aggressiveness following the birth of

Chip, which she recognized, which I recognized, and which was being improved in various ways.

Q You say you did discuss that with Dr. Hoversten at that time?

A I may have at that time, sir. I don't remember specifically.

Q Now, do you recall any further discussions concerning a divorce at that time?

A None, except Dr. Hoversten commented about it. I can't give you any other --

Q Didn't Dr. Hoversten advise you to forget about a divorce?

A No, sir. Dr. Hoversten -- I never sought Dr. Hoversten's advice and --

Q Whether you sought it or not, didn't he give it to you?

A I'm afraid not, sir. If anything, he was sort of hoping that I would consider a divorce. That was my impression of the conversation.

Q Well, in reference to that subject of a divorce, didn't Dr. Hoversten say to you, "You might be jumping out of the frying^{pan}/into the fire"?

A No, sir. I explained to Dr. Hoversten that I felt that I was -- had a pretty wonderful situation with Marilyn.

Q Was the expression used of "jumping out of the frying pan into the fire"?

A No, sir, no, sir.

Q That was not expressed at all?

A

No, sir, not that I remember; and if it was, it -- and if it was used by Dr. Hoversten, it was likely his method of agreeing with my statement that yes, he agreed that Marilyn was a wonderful girl and he agreed that she had done a wonderful job.

MR. PARRINO: If the Court
please, I'll object to this. It is not
responsive to the question.

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Q Doctor, you and Hoversten were good friends at that time, were you not?

A We were not as good friends as we had been, I'll put it that way.

Q Well, after -- withdraw that for the moment.

Did you ever discuss with Dr. Hoversten leaving this country?

A Leaving this country?

Q That's right.

A I discussed his leaving this country for work, yes.

Q Did you ever discuss the both of you leaving this country?

A Oh, Dr. Hoversten stated possibly, at various times, how he would enjoy going abroad for study, and how enjoyable it would be if we could go together, just the two of us, study together and play together, have the experience of going abroad, and so forth. I may have agreed that that would be enjoyable.

Q Well, after Dr. Hoversten left Bay View Hospital and went to Dayton did you and he correspond?

A Just slightly.

Q What hospital was Dr. Hoversten at?

A I believe it is --

Q I mean in Dayton.

A Doctors' Hospital. I don't recall the name. Is it Doctors' Hospital?

- Q Or was it the Grandview Hospital?
- A Grandview Hospital, that's right. Grandview Hospital.
- Q Do you recognize this envelope, Doctor?
- A Yes.
- Q You received that letter?
- A Yes.
- Q It is from Dr. Hoversten?
- A Yes.
- Q And is this the letter?

MR. CORRIGAN: Is it a letter from
him or Dr. Hoversten?

MR. GARMONE: No. It is a letter
from Dr. Hoversten to him. Isn't it Hoversten
to him?

(Witness reads letter.)

- A Yes. This is the letter. It pretty well exemplifies his
attitude, too.
- Q This letter you received from him?
- A I believe I did.
- Q And you have seen this letter before, haven't you?
- A I believe I have, yes.
- Q Is there any doubt in your mind about it?

MR. GARMONE: I think the witness
has answered the question to the best of his ability.

THE COURT:

He may ask him if

there is any doubt in his mind.

A Well, do you mean --

Q Is there any doubt in your mind but what you received this letter?

A It could be -- it could have been written since that time. I believe that is the letter I received. It is possible that it is not the same letter. I didn't memorize the letter.

Q What is the date -- the postal date on that envelope?

A May 18th.

Q What year?

A 1954.

Q 1954.

A That is not on the -- the post stamp is not on the letter. I believe that is the letter, but it could be otherwise.

Q Doctor, we understand that the postmark is not on the letter, but I asked you about the envelope that contained the letter, and the postmark on that is May 18, 1954, is that right?

A That's right.

Q Yes.

MR. GARMONE:

May we -- oh, you

haven't offered it. I'm sorry.

Q

Now, in this letter, Dr. Hoversten --

MR. GARMONE: Object to the reading of any of the contents of the letter until it has been offered and we have the right and privilege of looking at it.

THE COURT: Have they seen it?
Better let them see it, I think.

MR. MAHON: I haven't offered it, your Honor.

MR. GARMONE: Well, you are going to read from portions.

THE COURT: I know, but if you are going to read part of its contents --

MR. MAHON: On cross-examination?

MR. GARMONE: That doesn't make any difference whether it is cross or direct.

THE COURT: Let them see it.

MR. MAHON: You can see the whole thing. Sure.

(Defense counsel examine exhibit.)

MR. GARMONE: We have no objections to the marking of the letter as an exhibit, the introduction of it, and the examination of its contents.

MR. MAHON:

Well, if there is no objection to that, we will certainly have it marked.

(State's Exhibit 87-A, being an envelope, and 87-B, being letter, was marked for identification.)

Q Now, Doctor, in order to get it in the record here, this envelope, which you have testified to before, which is now marked State's Exhibit No. 87-A, that is the envelope that contained the letter and the envelope that bears the date May 18, 1954, is that right?

A Well, you say that that is the envelope that contained the letter. I take your word for it.

Q Well, Doctor, I want to show you now State's Exhibit No. 87-B, and ask you if that is the letter that you received?

A I believe, sir, that it is.

Q All right. And that was contained in State's Exhibit 87-A?

A As far as I know, yes.

Q Now, Doctor, in one paragraph in this letter it says, "Received a letter from Margaret Kauzor last week. What are your plans for the future? Shall we go to capital S period, capital A period, or capital S period, Africa?"

Do you know whether that capital S and capital A stands for South America?

A I don't know. I imagine that was his representation.

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Q And the capital S before the word Africa refers to South Africa?

A Yes. I think he was referring to Timbuktu, or the end of the world, or the end of the earth, or go somewhere.

Q Did you and he ever have any discussion about going to South America or to South Africa?

A Certainly not.

Q Are you sure about that, Doctor?

A Oh, he might have come in or I might have come in after a hard day and said, "Well, things are pretty tough. Let's go to South Africa."

Or some comment like that, merely a figure of speech, or Mexico.

Q Well, why do you say that, then, Doctor?

A Anyplace.

Q What?

A It's a figure of speech, sir. Like someone saying, "Well, let's go to Timbuktu."

Q Did Dr. Hovcrsten say in conversation with you anything about South America?

A No, sir.

Q Did he say anything about South Africa?

A Not that I recall.

Q Did he say anything about anyplace?

A Not that I recall, until he came -- arrived at my home on

the 4th. He talked about --

Q On the 4th of What?

A On the 3rd, or when he arrived, in July.

Q You mean this last time?

A Yes.

Q But prior to that time?

A As I commented before, he may have commented something about going abroad or taking study, and at times he became quite depressed, as he states in the letter, that he would become exceedingly depressed and make a statement, "Well, let's go to Alaska or South America or South Africa." I can't say specifically what he said.

Q Now, the Margaret Kauzor that he mentioned having received a letter from, that is the same Margaret Kauzor that you were with out in California when Marilyn came east on a vacation, is it?

A Yes, sir, as far as I know, it is.

Q And you have told us that you were with Margaret Kauzor on that particular occasion out there. Were you out with her on any other occasions?

A I don't remember specifically taking her out. I may have. I visited in her parents' home a number of times. I came to know her father, her mother, her brother and sister.

Q How many times did you visit in her home?

A I couldn't say.

Q Can you tell us approximately how many times?

A I really couldn't say.

Q Did you ever go swimming with her?

A Yes.

Q Do you know a Dr. Miller?

A Yes, sir.

Q Was he along at that time?

A Yes, I believe he was.

Q How many times did you go swimming with her?

A I would say once, but it could have been twice.

Q And was that all during your wife's absence?

A Was that all during my wife's absence?

Q Yes.

A Yes, sir.

Q And after your wife returned, did you continue to see this girl?

A Oh, I may have seen her once or twice.

Q You took her out?

A I don't recall taking her out.

Q Where would you see her?

A At her home.

Q You called at her home?

A I'd stop and see her, see her mother, see her brother, see them all. They were very fine people.

Q And while you were seeing that girl, wasn't there some talk

about the differences in your religion?

A There was talk about religion, and I came to respect the entire family for their tremendous faith in their religion and their tremendous reaction to religion. And we discussed religion as a science or as a study.

Q Well, didn't that come up, Doctor, as a sort of an impediment or something that was interfering with your interests in this girl?

MR. GARMONE: Object to the question as to its form. There is no evidence before this Court and jury that there was any interest.

MR. MAHON: No evidence? Why, he called on her a number of times.

MR. GARMONE: I have made my objection.

THE COURT: There is some evidence that --

THE WITNESS: I called on her mother, too.

THE COURT: Go ahead. Let him answer.

MR. MAHON: Will you read the question now?

A The answer is no.

Q You remember the question, do you?

A I believe I do.

Q Will you tell us how many times you took this girl out?

A As I say, I can't recall.

Q I should have added, while Marilyn was away from California?

A I really can't say. I really don't recall.

Q Haven't you any idea at all?

A No, I haven't. Not very many times. The chief association was in their home or in the surroundings of the family.

Q Well, Doctor, after Dr. Hoversten went to Dayton, which was in, you say, the fall of 1953, is that right?

A That's my recollection.

Q Did he visit you after that during 1954?

A Did he stay in the home?

Q Yes. I mean other than this last time that he was there?

A I don't believe that he actually stayed in the home, no, sir.

Q Well, did he visit Cleveland in which you saw him?

A Yes, he visited, but he didn't want to -- yes.

Q And when did he visit Cleveland in 1954?

A I can't recall.

Q Well, do you know --

A On one visit he started to -- beg pardon?

Q Do you know what season of the year it was?

A He visited a couple of times.

Q Well, can you tell us the seasons of the year that he visited?

A No, sir, I can't truthfully remember. I think that he visited around Christmas.

Q That would be Christmas of 1953?

A A year ago.

Q Yes.

A I believe, but he could have been in Dayton over Christmas. I don't know, really.

Q Well, did he visit in 1954, outside of this last visit in July?

A I believe he did.

Q Do you know when in 1954 that was?

A No, sir, I don't. He did not stay at our home.

Q All right. But you did see him when he was here on a visit, whenever it was?

A When he was here, I believe I must have seen him, yes.

Q Well, as a rule, he always stopped at the hospital, didn't he, when he was here?

A Yes. Well, he was -- yes, yes.

Q Now, in June of 1954, did he communicate with you that he was coming to Cleveland, that he had finished his job in Dayton and was coming to Cleveland?

A He communicated that his job -- that he had been terminated, that he was --

- 11 Q In fact, he said in this particular letter here that he was
mg coming to visit before he went back to California, didn't he?
- A He asked if he could stop at my home.
- Q Yes. And he did come to your home about July 1st, did he not?
- A Yes, about. I can't say specifically the date. I don't remember the dates.
- Q Well, he was there a couple of days before July the 3rd, wasn't he?
- A Yes.
- Q And on the day that he arrived it was late in the afternoon, wasn't it?
- A I believe it was, sir.
- Q And he had an appointment with someone for that evening for dinner, did he not?
- A Dinner date.
- Q He told you that, didn't he?
- A Yes. He asked me how to get there.
- Q And he was shown to his room and then he left to keep his dinner date?
- A After a chat in the yard; we were weeding the yard and he was chatting with us.
- Q Yes. And then he returned around midnight of that night, did he not?
- A I couldn't tell you what time it was.

Q Well, weren't you up at that time, Doctor?

A I believe that I was.

Q Hadn't your wife retired, and weren't you sitting there yourself when Dr. Hoversten came in about midnight?

A I believe that that is right. There were a couple of nights there that I am still somewhat hazy on.

Q And then you chatted for a few moments, and then you both retired, didn't you?

A We went almost directly upstairs.

Q Yes. And that was about midnight, wasn't it?

A I don't recall the time specifically. It was around then.

Q What time do you usually retire, Doctor?

A Around midnight.

Q That is a general custom you have?

A If I retire any sooner, I am usually called out, so I usually retire around midnight.

Q And then on the following night, which would be July the 2nd -- or the following day, rather, Dr. Hoversten had breakfast in your home?

A He may have, sir. Not to my knowledge. I don't know.

Q Well, didn't he have breakfast with you, Doctor, and didn't you both leave for the hospital at the same time, he driving his car and you driving yours?

A I don't believe that is true, sir.

Q Well, did you see him at the hospital?

A I saw him at the hospital later. The habit is to eat at the hospital.

Q Then did you see him that night, Doctor?

A Yes. On the 2nd?

Q That's right. Friday night.

A I don't -- I'm not sure.

Q What time did you retire that night?

A I really haven't -- I really don't remember. I haven't given it much thought.

Q Would you say it was about your regular time at midnight?

A It could have been -- it was probably a little earlier. I had been -- had had a rather heavy surgery that day and anticipated eight o'clock surgery the following morning. I don't really remember what time. Maybe 11:30.

Q Well, was Dr. Hoversten at your home when you did retire?

A I don't know. Not that I recall.

Q Well, then, did you see him on the morning of July the 3rd?

A I saw him when he peeked into surgery to look at a specimen that I had removed from -- a surgical --

Q Didn't you and he have breakfast that morning, that Saturday morning, July the 3rd?

A At my home?

Q Yes.

A No, sir, we didn't.

- Q Did you have breakfast at your home?
- A I had breakfast at the hospital, sir, with Dr. William Selnick.
- Q Do you usually eat breakfast at the hospital?
- A Almost invariably I ate breakfast at the hospital when I had early surgery so that I wouldn't make Marilyn get up and prepare the breakfast. Breakfast is prepared at the hospital ready to go, so I would eat at the hospital in the morning and save her that trouble, and if I had guests and they wanted to eat breakfast or got up in time for breakfast, I always took them to the hospital to eat. It was much easier on everyone. If I slept late, naturally, I'd eat at home.
- Q Now, Doctor, you have testified that there were a number of boys that used to come around your home there and engage in throwing a basket ball about.
- A Shooting baskets and playing basket ball, yes.
- Q And you participated in that with them, did you not?
- A On occasion.
- Q And did you play some basket ball in the gymnasium, also?
- A Yes, sir.
- Q And who did you play basket ball with?
- A Oh, a group of has-beens, something like me, that like to get together and just play. One night a week.
- Q And how long a period of time did that extend over?
- A That occurred during last winter, maybe one night a week

for a couple of months, and then I missed occasionally.

Q Did you engage in any other athletic endeavors?

A When?

Q After you came to Cleveland.

A Yes, sir.

Q What were they?

A Water skiing, swimming. I bought myself a punching bag and learned how to punch it, how to use it. We played tennis possibly three times in the three-year period, or maybe a little more than that.

I, on maybe two occasions, got out and punted a football and droppedkicked and showed a couple of boys my method; maybe passed the football a little bit.

I have done ~~some~~ -- well, fishing isn't really an athletic.

Q Some weight lifting, Doctor?

A Not to any extent. The weight lifting bothered my back. I would say I only tried weight lifting once or twice, and I found that my back wouldn't take it. The next day I'd have a backache, so I put the weights out in the garage so the youngsters could use them, and the boys would come in and use them at their leisure, at their convenience.

Q How much do you weigh, Doctor?

A Now?

Q Yes, how much did you weigh --

A I don't know.

Q How much did you weigh last July?

A Last July, I can't say specifically, but probably 175, maybe 180.

Q How tall are you?

A About six feet.

Q And you were in pretty good physical condition last July, weren't you, I mean prior to the 4th?

A Prior to the 4th, I would say I was in fairly good physical condition for my particular situation. I wouldn't say I compared to Otto Graham, or someone who takes part in that sort of thing.

Q Well, Otto Graham is a professional football player, isn't he?

A Yes, sir.

Q And, of course, he has to train for that, doesn't he?

A Yes, sir.

Q You were in pretty good physical condition in comparison to the average man, weren't you, who is not a professional in athletics?

A I would say so. I tried to keep myself in good condition.

Q Now, Doctor, you were quite active, also, in the sport car field, were you not?

A No, sir.

Q Well, didn't you belong to a club of owners of sport cars?

A Sports' Car Club, yes.

Q Yes.

A You asked me if I was quite active.

Q You did belong to a club?

A I did belong to a club.

Q Were you active in the club?

A No, sir.

Q You were not. You did attend many events of races concerning those -- that type of car?

A No, sir, not many.

Q Well, you did drive in a race at one time, I believe you testified?

A Yes, sir, in a three-year period, I attended two races and I drove in one race.

Q You attended two and you drove in one race?

A Yes, sir. One race of the day. The race day is made up of several races.

Q And that took place, I believe you testified, at Put-in-Bay?

A That's correct.

Q And when was that, Doctor?

A That was in June of this year.

Q And had you been to Put-in-Bay before that time at all?

A Yes, sir. The year just before that, at the same event.

Q That was at the races, also?

A Yes, sir.

Q And were you there on any other occasion?

A At Put-in-Bay?

Q Yes.

A Yes, sir.

Q When was that?

A Sometime later in the summer.

Q In what summer?

A The summer of 1953.

Q That was not at a race?

A No, sir.

Q Who were you with at that time?

A I was with my wife and Mr. and Mrs. Lossman.

Q And how did you get to Put-in-Bay?

A On the Lossmans' boat.

Q What kind of a boat did they have?

A Mr. Lossman at that time had a 27-foot Chris Craft cruiser.

Q And how long were you at Put-in-Bay on that occasion?

A As I recall, we were just there overnight.

Q And where did you stay there?

A Stayed on the boat.

Q Yourself and your wife and Mr. and Mrs. Lossman?

A Yes, sir, that's right. There are sleeping facilities for four people on that type boat.

Q And was there anything special doing at Put-in-Bay at that time?

A No, sir.

Q You just went there for a boat ride?

A No, sir.

Q Well, did you have some particular purpose in going there?

A Yes, sir.

Q What was it?

A We were on our way to Detroit.

Q And was there something special in Detroit?

A Mr. and Mrs. Lossman had asked Marilyn and me, but particularly Marilyn, if she had ever seen the Detroit River or gone to Detroit by boat. Of course, we never had. They spoke of how interesting it was, asked us if we would like to make the trip with them.

Q And so the stop at Put-in-Bay was just for overnight, and then you continued on your way to Detroit, is that it?

A That's true.

Q And who are the Lossmans?

MR. CORRIGAN:

I object.

THE COURT:

Oh, he may answer

that, who they are.

A Well, Mr. Lossman is the man that owns MG Motor Sales, the

man who -- which is a sports car agency, a foreign car agency, and incidentally, the man that I purchased my automobile from.

Q Which automobile?

A My Jaguar.

Q When did you purchase that from him?

A Oh, I don't know the specific date. Late last summer -- not last summer, the year before, in 1953.

Q 1953?

A Yes, sir.

Q And did you use that Jaguar in making trips to see patients?

A Yes, sir. That was my car. I enjoyed driving it enough to put up with the inconvenience, and drive it as my automobile.

Q Did you carry any medical supplies in the Jaguar?

A Yes, sir.

Q And what did you carry?

A I carried this bag that is in evidence here in the Jaguar, as evidenced by the scuff marks on the one side where I had to fit it into the small compartment.

Q Did you have any other bag in that car?

A I believe there was a little Boston bag in that car that belonged to my father years ago.

Q Did you carry any orthopedic wrenches in that car?

A You mean the brace adjusters?

Q Well, I'm not familiar with what an orthopedic wrench is.
What is it?

A Well, an orthopedic wrench is a rather broad term, sir.
I carried some brace adjusters. They are a wrench type --
you might call them a wrench. I don't term them --

Q Well, what do you call them, Doctor?

A Brace adjusters, sir.

Q Brace adjusters?

A Yes, sir. You might call them a wrench.

Q And that is for braces that are worn by patients for what
purposes, Doctor, broken bones or something of that nature?

A For various back problems, fractured backs, back problems
following disc surgery, following surgery for tuberculosis
of the spine, various problems involving the spinal column,
and a portion of the brace is metal, metal strips that go
up the back, you see, and other metal strips that come
around the lower portions, and these need rather constant
readjustment.

Q And how large are these instruments that you call adjusters,
brace adjusters?

A About as long as you have just indicated.

Q That would be -- how long would you say that is, in inches?

A I wouldn't want to judge just exactly how long. In fact,
I have two pair of these wrenches or adjusters, and one
is longer than the other.

Q How much do they weigh?

A I couldn't say.

Q And did you carry those constantly with you in your car?

A No, sir, I didn't, not constantly.

Q Well, did you have them in your car a great deal?

A Yes. I carried them with me from various -- one place to another.

Q Would you carry them in your medical bag?

A On occasions.

Q And did you carry them loosely at times in your car?

A Yes.

Q And was that in the trunk section of the car?

A Occasionally in the trunk section, occasionally up front, depending on --

Q Where in front?

A Beg pardon?

Q Where in front? You say you carried them up front.

A Thrown on the floor, or on the seat, between the seats, behind the seats, in the pocket, anywhere I could -- I mean, no particular place, sir. In going to Youngstown and the various cities, I tried to have a pair available so I could take care of the patients without inconvenience to them.

Q Now, Doctor, you said that Mr. Lossman was the owner of an agency that sold sport cars?

A Yes, sir.

Q And where was his place of business?

A Well, he has moved. And at that time I believe the place of business was still on Lorain Road, slightly west of 117th.

Q And did you know Mrs. Lossman well?

A Yes, sir.

Q How long did you know her?

A Since the Lossmans had been in a quite severe accident and she became a patient of mine.

Q When was that, Doctor?

A I can't give you the date on that. It was sometime during the previous winter.

Q You mean in the winter of 1953?

A '3 or '52-'53.

Q '52-'53?

A I would say it was after the first of the year, but I'm not sure.

Q You mean after the first of the year of 1953?

A I believe so. I -- my memory is certainly not to be relied on on that, however.

Q Well, you went to Put-in-Bay with them in the boat, and that was in the summer of 1953, wasn't it?

A Yes, sir.

Q Well then, it was before that summer, then, that this

accident occurred that resulted in you first meeting Mrs. Lossman?

A Oh, yes.

Q And you think that was around the first part of the year of 1953?

A As I say, I'm not sure.

Q And she was a patient of yours?

A Yes, sir, she was.

Q And continued so for how long?

A Well, actually she was -- you might consider her a patient of mine when I was arrested.

Q And was she in the hospital?

A She certainly was.

Q How long was she in the hospital?

A That, I can't say, but for some time. She was very seriously injured.

Q Well, was it a matter of months?

A It was over a month, I would say, but not much over that. Maybe not even a month. She recovered very rapidly, did very well, and we were able to get her on her feet sooner than we had expected. So I can't say exactly how long she was in the hospital.

MR. MAHON: Does your Honor
want to adjourn at this time?

THE COURT: All right. Ladies

and gentlemen of the jury, we will now adjourn for the noon hour and return at 1:15 this afternoon. In the meantime, will you be kind enough not to discuss this case with anyone, not even among yourselves.

(Thereupon, at 12:00 o'clock, noon, the noon recess was taken to 1:15 o'clock, p.m., at which time the following proceedings were had:)

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Monday Afternoon Session, December 13, 1954.

(1:15 o'clock p.m.)

Thereupon SAMUEL H. SHEPPARD resumed the stand and was examined and testified further, as follows:

CROSS EXAMINATION (CONTINUED)

By Mr. Mahon:

Q Doctor, I believe that before we recessed for lunch, I had been asking you about Mrs. Lossman. I believe you stated that she had been a patient of yours in the hospital for a month or more, is that correct, Doctor?

A I don't believe I said a month or more. I said it may have been a month, more or less.

Q More or less. All right. Now, after she left the hospital did you further treat her?

A Yes, sir.

Q And over what period of time?

A Over a continuous period of time, sir.

Q For how long?

A She was under my care up until the time of my arrest, but very decreasingly so. She was practically at the point of discharge.

Q And where would you see her?

A In the office or in her home.

Q And by the office, do you mean at the Clinic on Lorain Road?

A Yes, sir. Sometimes at the hospital.

Q Did you ever see her when the relationship of doctor and patient did not exist?

A I remember of meeting her once, at which time I didn't really know whether a doctor-patient relationship was to be carried out or not.

Q And where did you meet her on that occasion, Doctor?

A She asked me to meet her --

MR. CORRIGAN: I object.

THE COURT: He may answer that.

MR. CORRIGAN: Well, he can't answer it, your Honor. If a doctor-patient relationship exists, he can't talk about anything that Mrs. Lossman talked to him about. It is privileged.

THE COURT: We are not going into any details of the doctor-patient relationship, I take it.

MR. CORRIGAN: He says she was a patient down to the time that he was arrested, and any relationship that these people had between that time would be a privileged relationship.

It is so set forth --

MR. MAHON: If it was a doctor
and patient, yes, I will agree with you.

MR. CORRIGAN: Yes, but he says --

MR. MAHON: No, Mr. Corrigan.

Read the question.

(Question read as follows by the reporter:

"Did you ever see her when the relationship of
doctor and patient did not exist?")

THE COURT: He certainly may
answer that.

MR. CORRIGAN: Except.

A I understood that a doctor-patient relationship was present
at that time. However, I met her somewhere in Fairview
Park. As I recall, it was behind the shopping center.

Q Behind the shopping center?

A Parking space there, yes, sir.

Q And did you go someplace with her?

MR. CORRIGAN: Object.

THE COURT: He may answer

that.

A She asked to go for a ride, sir. That's what we did.

Q And where did you go for the ride?

MR. CORRIGAN: Object.

THE COURT: He may answer.

A I don't really recall the entire -- just around the vicinity.

Q Well, did you go down into Metropolitan Park, Doctor?

A I believe we did.

Q Did you park down there?

A For a short while.

Q How long?

A I couldn't say.

Q Can't you give us any idea?

A I really can't say that I remember. Not a long time, certainly.

Q And what did you do when you were parked down there, Doctor?

MR. CORRIGAN: Object.

THE COURT: He may answer

that.

A Well, we chiefly discussed problems that Mrs. Lossman had.

Q Is that all?

A That's about all that I can remember.

Q Did you kiss her?

A Yes, sir.

MR. CORRIGAN: Object.

Q Was that part of your treatment to her?

MR. CORRIGAN: Object.

A No, sir.

Q Did you kiss her on more than one occasion?

MR. CORRIGAN: Object.

THE COURT: He may answer
that.

A Oh, there were occasions in which she had arranged social
functions at her home --

Q No. I am talking about that particular occasion, Doctor,
the one down in the Metropolitan Park, did you kiss her
more than once?

MR. CORRIGAN: I object.

THE COURT: He may answer.

A Well, I don't know whether I would say that I kissed her
or she kissed me.

Q Well, now, which is it?

A I would say the latter would be a little closer to the
truth.

Q That she kissed you?

A Yes, sir.

MR. CORRIGAN: Object and ask
that it all be stricken.

Q Did you kiss her?

A Well, I didn't push her away.

Q Did you kiss her, Doctor?

MR. CORRIGAN: Object.

THE COURT: He may answer.

A I believe I already stated, sir, that I did.

Q Did you kiss her more than once?

A Not that I recall. I might have.

Q And then was there anything else therebesides kissing?

A No, sir.

Q What time of the day or night was this?

A It was early evening.

Q About what time?

A I couldn't say.

Q Was it daylight or dark?

A It was daylight, dusk; daylight into dusk.

Q When had you made the appointment to meet her in the parking lot?

A Mrs. Lossman had called me and asked me to meet her.
I couldn't say when. Sometime that day.

Q After you left the Metropolitan Park, where did you go?

A I don't recall specifically, but very shortly thereafter I took her back to her automobile and that was -- went home or went about my business.

Q Then she got out of your automobile and got in her car, is that right?

A That's correct.

Q What time was it then, Doctor?

A I couldn't tell you.

Q Was it dark at that time?

A Yes, I believe it was dark.

Q And before you parted there in the parking lot, did you kiss her again?

A Not that I recall.

Q Did she kiss you?

MR. CORRIGAN: Object.

A Not that I recall.

Q About when was that, Doctor?

A I really can't tell you. I really don't know.

Q Well, was it before you took the trip to Put-in-Bay or after?

A I'm not absolutely sure, but I have the feeling that it was after.

Q On that trip to Put-in-Bay, when you and Marilyn and Mr. and Mrs. Lossman went there in his boat, while you were at Put-in-Bay after you had docked there, you and

Mrs. Lossman left the boat, didn't you?

A

We all left the boat.

MR. CORRIGAN: Pardon me now a minute. I want to, without interrupting, in order to preserve my record, I want to object to each and every question addressed to Dr. Sheppard by the Prosecutor in regard to this woman whose name is dragged into this case, Mrs. Lossman, and except to everything that is said about this particular incident in regard to Mrs. Lossman.

THE COURT: All right. The record may show a continuing objection to this line of questioning entirely. Exception noted.

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Did I understand you, Doctor, that you said that you all left the boat?

A That's correct.

Q Well, at some time while you were docked there at Put-in-Bay, wasn't there an occasion when just you and Mrs. Lossman left the boat?

A You mean that we were on the boat and left the boat together?

Q That's right.

A No, sir.

Q How?

A No, sir.

~~A~~ Q And weren't you and Mrs. Lossman gone for a couple of hours from that boat, leaving Mr. Lossman and Marilyn on the boat?

A We did not leave the boat together.

Q Well, did you meet someplace on the land there, you and Mrs. Lossman?

A Oh, no, sir. Would you like to know what occurred?

Q Isn't it a fact, sir, that you and Mrs. Lossman returned to the boat together after an absence of some period of time, and that Mr. Lossman slapped his wife in the face because you were gone?

A Yes, he certainly did.

Q And wasn't that because you and Mrs. Lossman had departed from the boat for some period of time?

A We hadn't departed from the boat. All four of us were on land. Mrs. Lossman made some comment about taking a long walk with me, and Mr. Lossman and my wife said, "Go ahead."

Q Well, you didn't leave the boat together, but you left while you were on land and went away together, isn't that what you want to tell us?

A Yes, sir, that's right.

Q And you were gone for how long?

A I couldn't say.

Q About how long?

A I really wouldn't be able to say.

Q And while you were gone Marilyn and Mr. Lossman remained down near the boat there, didn't they, or on the boat?

A I don't know where they were. I imagine they remained near the boat.

Q Well, they weren't with you and Mrs. Lossman, at any rate, were they?

A They -- no, sir, they weren't. They departed in one way and we departed in another.

Q Now, was that before -- I believe I asked you that before -- do you recall now whether that was before the incident in Metropolitan Park or after?

A I don't really know. I don't really remember.

Q Well, sometime after that -- withdraw that for a moment.

Had you and your wife and the Lossmans, Mr. and Mrs.

Lossman, attended social affairs together, too?

A Well, I would consider that a social affair.

Q What?

A I would consider that trip a social affair. We had attended --

Q Well, outside of that trip.

A Yes, sir. We had up until that time.

Q And what kind of social affairs?

A We had attended this race earlier in the spring together, and we had been at their home on a couple of occasions. I believe they were at our home on one occasion.

Q At some time did you and Marilyn and Mr. and Mrs. Lossman meet and have some discussion about your relationship?

A No, sir, not other than the night that I referred to, at which time Mr. Lossman slapped Mrs. Lossman, and I prevented --

Q Pardon me. Go ahead.

A Well, --

Q Was there some discussion about your relationship with Mrs. Lossman at that time?

A There was some comment by Mr. Lossman.

Q And what was it?

A Do you want me to repeat the words?

Q As near as you can, yes.

A Mr. Lossman had made some comments that were unfair and

untrue, and --

Q Doctor, will you tell us what the comments were, whether or not they were true or not?

A He made some very disparaging remarks about Mrs. Lossman, and I --

Q Doctor, whether they were discouraging or encouraging, will you tell us what was said?

A They are words, sir, that I wouldn't repeat before the ladies of the jury or the ladies in the courtroom.

Q What was said of your relationship?

A Very little in regard to our -- any relationship between Mrs. Lossman and me. Mr. Lossman was --

Q Well, Doctor, was it very little or very much? Will you tell us what it was?

MR. CORRIGAN: He hasn't finished
his last answer.

THE COURT: I think he ought to
say what it was.

A Well, he criticized Mrs. Lossman very vigorously.

Q What did he say?

A I can't remember specifically what he said, to tell you the truth.

Q Well, can you give us the substance of what he said?

A I think the substance would be that he was -- he felt that Mrs. Lossman liked me, and that every time that we were

out socially in the same group that she had displayed a like for me, and that he felt that she shouldn't display that like.

Q Did you say anything?

A Yes, sir.

Q What did you say?

A I said, "Don't hit her."

Q Anything else?

A I said that -- I said that I don't feel that he has a right to hit any woman, and I said that I -- I said Mrs. Lossman was still in bad condition as far as her leg was concerned, and I said that nothing had gone on between us, that we were merely kidding them when they told us to go ahead and take our long walk, and so forth; that we had done it more or less for spite, and that there was nothing that went on, and to take it easy.

Q You did it for spite?

A Kiddingly.

Q Well, what did you mean when you said you told them you did it for spite?

A When they urged us and said, "Why don't you two take a long walk?" and so forth --

Q Who were you trying to spite?

A We were kidding the others.

Q Kidding?

A I would say so.

Q Did you have a discussion at any other time with Mr. and Mrs. Lossman and Marilyn concerning your relationship with Mrs. Lossman?

A No, sir.

Q That was the only time?

A The only time that the four of us had any comment about it, certainly.

Q Well, was there any comment made at any time to you, yourself?

A By who?

Q By either Mr. Lossman or his wife?

A Yes, sir.

Q And where did that take place?

A Well, I got Mr. Lossman to take a walk with me at that time.

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Q And what was said at that time?

A Well, Mr. Lossman said that he didn't believe anything had gone on between Mrs. Lossman and me, but that he wouldn't blame me if it had, that he felt that that's the woman's part, to draw the line, make such decisions, and that he felt that Mrs. Lossman was wrong in what had happened. As far as her taking this walk, and so forth, he felt that she had gotten out of line and that he didn't like it, and that he felt no different toward me than he ever had.

Q Anything else?

A He told me about some of his personal problems.

Q I mean anything in connection with your association with his wife?

A No, sir.

Q That is all that was said about it?

A Well, he went over it several times. He had had some -- he had had some I believe it was champagne, or something like that, or some wine or something, and he kept repeating himself.

Q Well, now, on any other occasion at any time was there any discussion about it?

A Between Mr. Lossman and me?

Q Yes. Or Mrs. Lossman and you?

A Mrs. Lossman mentioned the event with me, yes.

Q And when was that?

- A Well, it could have been when I met her, when we met and talked.
- Q You mean on the occasion when you were down to Metropolitan Park, was that the time?
- A That's right. It could have been then or it could have been at another time that we talked, the place and time of which I am not -- I can't recall, but we did have occasion to mention that incident.
- Q And what was said about it?
- A Not much, except agreeing that it was a rather silly thing all the way around and that Mrs. Lossman had reassured her husband and that there was no major problem.
- Q And did you agree with Mrs. Lossman at that time that you would not see her anymore?
- A Oh, I don't know that that was specifically mentioned.
- Q Did you ever tell her husband that you had had her in your automobile in Metropolitan Park?
- A No, I didn't.
- Q Did you ever tell that to Marilyn?
- A I don't know whether I did or not. I told Marilyn that I had talked with Mrs. Lossman.
- Q What did Marilyn have to say about that incident at Put-in-Bay?

MR. CORRIGAN:

Object.

THE COURT:

He may answer.

- A Marilyn felt that Mrs. Lossman was too attentive toward me, and she felt that I was not -- she felt that I didn't push Mrs. Lossman away perhaps as much as I should have, or she thought perhaps that I was too receptive. She felt that it would be best that we not attend the social events that the Lossmans attended frequently, and I agreed with her.
- Q Where did that discussion take place with Marilyn?
- A Well, we mentioned it the following day on the way to Detroit.
- Q And after you got back home, was there some discussion about it?
- A She mentioned it again, and I agreed that the best thing would be to merely decrease any social activities with the Lossmans and not give rise to situations.
- Q You made that agreement in a talk with Marilyn, is that right?
- A Well, it wasn't a prolonged talk. It was --
- Q I didn't ask you whether it was a prolonged talk or not, Doctor.
- A We commented on it, yes, sir.
- Q And you came to that agreement after your talk with Marilyn?

MR. CORRIGAN: Object to this line of examination. Conversation between husband and wife is not competent.

THE COURT: I am not sure

that you are asking him --

MR. CORRIGAN: Unless it includes
some third person present.

MR. MAHON: What do you mean,
conversation between husband and wife is not
competent?

MR. CORRIGAN: Well, that's what
you are asking about.

THE COURT: He may say what
was said.

MR. CORRIGAN: We except and ask
it all be stricken out and the jury disregard
it, and we want a continuing objection to it
without interruption.

THE COURT: Your objection
continues. All right. Go ahead.

MR. MAHON: Will you read the
question?

(Question read by the reporter as follows:
"And you came to that agreement after your talk
with Marilyn?")

A Yes.

Q In 1950, after you had written a letter to Marilyn, after
she had come on to Cleveland on a vacation -- and then
you followed sometime later, is that right?

A That's right.

Q At that time, Doctor, when you were here in Cleveland, did you have some talk with your brother, Steve, about a divorce?

A Not about a divorce, no, sir.

Q Was there some talk about a separation?

A Dr. Steve discussed with me Marilyn's problems and her fears.

Q Doctor, was there some talk about a separation?

A Certainly no serious talk about a separation.

Q Was there a talk about separation, whether serious or not?

A Not between Dr. Steve and me. No, sir.

Q Was there with someone else?

A No, sir.

Q Doctor, did --

A Would you like me to tell you what Dr. Steve's discussion with me was?

Q Dr. Steve did talk to you concerning some marital difficulties between you and Marilyn, did he not?

A Physical marital difficulties, yes.

Q What were they?

MR. GARMONE: Objection.

That falls into the category of patient and physician and is certainly confidential.

MR. MAHON: His wife?

THE COURT: His wife?

MR. GARMONE: He is talking about his conversation with Dr. Steve after a discussion with Marilyn Sheppard.

THE COURT: Oh, no. He may answer that. Exception noted.

A Dr. Steve told me that Marilyn had seen him in his office which, incidentally, I had suggested to both Marilyn and Dr. Steve, or, I should say, suggested to Marilyn, and Dr. Steve was aware of her visit. And her chief complaint --

MR. GARMONE: Now, if the Court please --

A -- at that time --

MR. GARMONE: Just a minute. I think it should be determined at this time by your Honor whether or not this visit to Dr. Steve was as a patient or whether it was on a subject matter that pertains to the question that was put by Mr. Mahon about Marilyn's difficulties.

MR. CORRIGAN: Consulting physician.

MR. GARMONE: Consulting physician, I did say.

THE COURT: Mr. Mahon, we are getting pretty close now to a situation where

perhaps the door might be closed here. I take it that according to the Doctor's testimony at this moment, that Marilyn was at that time the patient of Dr. Steve.

MR. MAHON: I don't know.

That hasn't been brought out here at all.

THE COURT: All right. Proceed.

MR. MAHON: That hasn't been brought out, that she was a patient.

THE WITNESS: Dr. Stephen Sheppard testified to that, I think.

THE COURT: What did you say now?

Q He testified she talked to him.

A Dr. Steve doesn't talk to people in his office that aren't patients of his.

Q He never talks to anyone in his office that's not a patient?

MR. GARMONE: Now, I'll object to this.

A No, sir.

THE COURT: That's the statement that the Doctor made. That can be challenged.

A Unless it's his secretary or someone in regard to his office practice.

Q You mean that no one ever calls on Dr. Steve outside of a

patient?

A There are people who call on him who have business with him.

Q Well, he talks to them, don't he?

A Certainly, if they have business with him.

Q Why, certainly.

A Surely.

Q So Marilyn --

A Someone trying to sell him something or --

Q Yes. So that's right in his office, he talks with them, doesn't he?

A If he has -- if they have stated business, certainly.

Q So he does talk to people who are not patients, doesn't he?

A He doesn't talk to his relatives unless they are patients.

Q He doesn't talk to his relatives unless they are patients?

A Other than the doctors in the office.

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You mean he doesn't talk to his relatives at all without they are his patients?

A I mean that Dr. Steve runs his office schedule on a very rigid schedule, and he sees only people in the office who have business there. If my wife, my mother, or Dr. Richard's wife cared to see Dr. Steve in the office it must be on stated business in regard to a medical problem, or some other very specific business situation.

Q Well, it would be quite a specific business if Marilyn wanted to talk to him, the brother of her husband, about her marital difficulties; that would be specific business, wouldn't it?

A I don't have any idea what they might have talked about, but specific business would have been a doctor-patient relationship, yes, sir.

Q And there is no other that a doctor can have outside of a doctor-patient relationship, that specific --

A I didn't say that.

MR. CORRIGAN: Object to that.

THE COURT: He says he did not say that. That clears that up.

Q Well, you had some conversation with Steve in reference to Marilyn talking to him, didn't you?

A Yes, sir, I did.

Q And what was that?

MR. GARMONE: Objection.

THE COURT: Well, you confine
it to their marital problems --

MR. MAHON: That's right.

MR. GARMONE: Let's find out
whether it was marital or not.

MR. MAHON: That was the original
question.

MR. GARMONE: Your last question
didn't include the marital problem.

THE COURT: You may answer it,
Doctor, provided that you consider the question
directed to your marital problems.

A Dr. Steve discussed and described with me the physical
examination that he had performed, describing --

MR. GARMONE: If the Court please,
I will object to the testimony regarding any
physical examination that was performed by
Dr. Steve on Marilyn's visit --

THE WITNESS: I won't say --

MR. GARMONE: -- and the
conversation.

MR. MAHON: Now, wait a minute,
now you are talking about relationship. If one
of the parties tells somebody else, then certainly

it is not privileged any more.

MR. GARMONE: Well, who would have a better right to know about his wife's physical condition than the husband of that lady?

MR. MAHON: If a third party is told something about it, it is not privileged any more.

MR. GARMONE: Well, it is privileged when it comes under the rules of evidence.

MR. MAHON: I am talking about evidence.

MR. GARMONE: And privilege is when it is concerned in the trial of a case of this nature, and you know that that is the law, Mr. Mahon.

MR. MAHON: That is not the law.

THE COURT: All right.

Now, Doctor, --

THE WITNESS: Dr. Steve --

MR. GARMONE: Just a minute.

THE COURT: Let him answer.

MR. GARMONE: Exception.

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(Continuing) Dr. Steve explained why, from a physical examination standpoint, sexual relationship was painful to Marilyn.

MR. GARMONE: I will renew my objection and ask that it be stricken from the record and the Court instruct the jury to disregard it..

THE COURT: Well, --

THE WITNESS: He also --

MR. GARMONE: Just a minute until we get a ruling from the Court.

THE COURT: It will stand.

MR. GARMONE: Exception.

A (Continuing) He also discussed with me Marilyn's psychologic reaction which had occurred following the birth of our first baby, which was based on the fact that she had a quite prolonged labor, with quite a bit of pain, because the presentation was a posterior occiput, which means the head comes out reversed --

MR. CORRIGAN: There isn't any question before you, Doctor.

A -- and --

MR. GARMONE: Just a minute until there is a question.

MR. DANACEAU: There is a question. He hasn't completed his answer. He hasn't started his answer, as a matter of fact.

THE COURT: I take it he is

proceeding to continue answering the same question. That was my thought.

MR. MAHON: That is what I thought, too.

MR. CORRIGAN: If the Court please, we maintain this is error. This man is a doctor. This is a consultation between two doctors in regard to his wife.

THE COURT: Well, there is a relationship other than doctor here.

MR. CORRIGAN: Well, it can't be a relationship other than doctor because she consulted the brother, Steve, as a doctor.

THE COURT: He was asked, and it was made perfectly clear to him --

MR. CORRIGAN: I just take my exception.

THE COURT: -- that he was to say whether or not there was any discussion about their marital difficulties.

Now, that is what he is apparently answering.

MR. CORRIGAN: That doesn't go to the marital difficulties. That goes to physical difficulties.

MR. GARMONE: Physical difficulties.

MR. MAHON: Maybe it is marital difficulties, too.

THE COURT: It is his own statement and the Court can't help that.

MR. CORRIGAN: Well, all right. We take exception.

MR. GARMONE: The Court has a right to protect the witness and has a right to protect the relationship between --

THE COURT: Well, the Court --

MR. GARMONE: May I finish, please?

-- the relationship between a patient and a doctor who that patient seeks to interview about whatever may be wrong with her physically, and that is the rule that has been established in our courts and throughout the nation, not only a rule that has been established by case law, but the Legislature of our State thought it important enough to incorporate into the statutes of the State of Ohio that a relationship between a doctor and his patient shall be considered privileged.

MR. MAHON: That is not what we have here, though.

THE COURT: No.

MR. GARMONE: Well, it certainly is.

THE COURT: Go ahead, Mr. Mahon.

MR. CORRIGAN: Let him go. We will
take our exceptions.

THE COURT: Exceptions noted.

MR. CORRIGAN: Go as far as you
want.

A Do you want me to continue?

Q Yes. Continue your answer, if you will, Doctor.

A Dr. Steve discussed with me the further psychologic problem that Marilyn seemed to have or barrier that she had, which included the marked increase in responsibility which he had noted with Chip, and which had never involved her before. She had always been able to come and go as she wished, and had -- never really had such responsibility to shoulder before, and as a result she had developed a fear at that time of further pregnancy, and that seemed to relate itself to a loss of sexual aggression, a loss of --

Q Are you telling us now, Doctor, what Dr. Steve told you?

A Yes, I am.

Q All right.

A In fact, Dr. Steve's comments were a lot more than this.

I merely am trying to boil them down.

Q All right. As long as you are telling us what he said.
Go ahead.

A And he stated that she was fearful at that time that due to this loss of sexual aggression, that Marilyn was fearful that she was losing my attention.

There are other aspects, but that is just about the summary of what Dr. Steve told me at that time.

Q And what effect did that have on you, Doctor, as to divorce or separation?

A It had the same effect that the situation had had on me before in that I felt that Marilyn needed reassurance and help and medical care, and that the situation would certainly resolve itself.

Q Doctor, what effect did it have on you as to divorce or separation?-- was my question?

MR. CORRIGAN: Object to the
question.

A There was no question in my mind of divorce or separation.

Q No question in your mind?

A Certainly not.

Q You have testified that you knew a young lady by the name of Sue Hayes?

A I don't know if I have testified to it, but I do -- I did.

Q Well, didn't Mr. Corrigan ask you if you knew of such a young lady?

A Oh, yes, that's right. Yes, sir.

Q Is that right?

A Yes, I believe that's right.

Q She was employed at the Bay View Hospital, was she not?

A Yes, sir.

Q And she was employed there when you arrived in Cleveland to take up your work at the hospital, is that right?

A Yes, she was, as I recall.

Q And she was the technician there at the hospital?

A She was one of the technicians there, yes.

Q And you and her became quite friendly?

A Yes.

Q And she would go out on emergency calls, or would be called for emergency cases, let's put it that way, at the hospital, would she not?

A Yes.

Q And on occasions you would pick her up, would you not --

A On occasions.

Q -- at her home?

A Many of the doctors picked her up, yes.

Q Including you?

A Yes.

Q And you would take her home after the emergency had been taken care of?

A Occasionally I would, sir.

Q And these emergencies were mostly in the night season, were they not?

A The emergencies were not necessarily in the night season, but Miss Hayes during the day, of course, was in the hospital, anyway.

Q Yes. She wouldn't have to be picked up in the day, would she?

A Not unless it was a Sunday, or on a day off, or something like that.

Q Yes. So they were usually at night, weren't they?

A The emergencies were not necessarily usually at night.

Q The emergencies that Miss Hayes would be called out on?

A No, sir. She helped on all the emergencies.

Q Well, she was there all day working at the hospital, wasn't she?

A Yes, but you asked if the emergencies didn't usually occur at night.

Q I said that she would be called out on, the emergencies that Miss Hayes would be called out on?

A I thought you said called on.

Q Those would usually be at night, isn't that a fact?

A Called from home, yes.

Q Yes. And on these occasions when you took her home at night, did you have some relations with her, with relationship with her?

A On which occasions?

Q That you took her home when she had been taken out, or called out on an emergency and you were taking her home -- you said that you did take her home on occasions, didn't you?

A Yes.

MR. CORRIGAN: Object. Immaterial.

THE COURT: He may answer that.

A Are you asking me about each and every occasion, or --

MR. CORRIGAN: Miss Hayes has testified --

Q On some occasions.

A On some occasions.

Q Yes. Is that right?

A Yes.

Q Yes. You had some intimate relations with her, didn't you?

MR. CORRIGAN: Object. Immaterial.

THE COURT: He may answer. It has already been gone into, even.

A Yes, sir.

Q And these would usually take place in your automobile?

MR. CORRIGAN: I object.

A No, sir.

MR. CORRIGAN: Wait a minute, Doctor, until I get a ruling, will you?

THE COURT: He may answer.

Q What is your answer?

A I would say no, sir.

Q Where would they take place?

MR. CORRIGAN: Object. Immaterial.

THE COURT: He may answer that.

A You are asking me usually? It was not a usual thing.

Q Well, Doctor, you have testified that you have had intimate relations on some of those occasions, is that right?

A Yes, sir.

MR. CORRIGAN: I object.

THE COURT: He has already testified to that.

Q And I have asked you where they took place?

MR. CORRIGAN: I object.

THE COURT: He may answer.

MR. CORRIGAN: Immaterial.

Prejudicial.

MR. GARMONE: If the Court please, Miss Hayes testified her -- the jury has heard her story --

MR. DANACEAU: Well, are you conceding that everything she testified to is true, sir?

MR. GARMONE: I don't concede anything.

MR. DANACEAU: Well, then, let's proceed and let him tell about it.

THE COURT: Mr. Garmone, this is a very simple question. The doctor has admitted that he had intimate relations with her.

Now Mr. Mahon is merely asking where those took place.

Now, certainly, he may answer that.

MR. GARMONE: Well, I think in fairness to the young lady --

THE COURT: Well, we are not asking the young lady now. We are taking his testimony.

MR. GARMONE: If I may state my reasons for the objection?

THE COURT: All right.

MR. GARMONE: The primary purpose of this examination, as I gather it up to the point that Mr. Mahon has conducted it, is to determine whether there had been any activity between the young lady and Sam Sheppard. He has answered the question. I think anything beyond that point should not be permitted to be gone into.

THE COURT: The Court knows of no

rule that limits that, certainly.

MR. GARMONE: Well, is the Court going to permit the prosecutor to go into a detailed account of any activities that may have taken place between the young lady, who subjected herself probably to a great degree of embarrassment, and him? And that is the reason that I state for my objections.

THE COURT: Oh, no. He may answer.

MR. GARMONE: Exception.

A Now, what was the question?

Q The question is --

MR. MAHON: Will you read the question?

(Question read by the reporter, as follows:

"And I have asked you where they took place?")

A I would say chiefly in her apartment.

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- Q Did she live with anyone?
- A With her parents.
- Q And would her parents be home at the time?
- A No, sir.
- Q Now, you say chiefly at her apartment.

MR. CORRIGAN: We object,
without interrupting, to all the examination
in reference to the man's relation with
Miss Hayes. I want a continuing objection
to it and a continuing exception on the
ground that it's prejudicial and that it's
immaterial.

MR. GARMONE: And that it
has no proving point in the trial of this
lawsuit.

THE COURT: Well, gentlemen,
when this defendant is charged with murdering
his wife, certainly his relations with other
women must be competent, if it can be shown.

MR. GARMONE: Not to the
detailed account that your Honor is permitting
the prosecution to go into the subject matter.

MR. CORRIGAN: The girl said
that he loved his wife, and he was with her.

MR. DANACEAU: If the Court

please, we are not engaged in closing arguments here. The Court has ruled on this a number of times.

THE COURT: Let's go ahead, gentlemen. All right, Mr. Mahon.

MR. CORRIGAN: Let us have our continuing objection to this prejudicial type of examination.

THE COURT: All right.

Q You said, Doctor, that they principally took place in her apartment, is that right?

A I would say so.

Q And on occasions did they take place someplace outside of her apartment?

A Yes, sir.

Q And where did they take place?

A Right where Miss Hayes said they did.

Q In an automobile?

A Yes, sir.

Q And did that relationship continue up until the time that she left the hospital?

A Well, it certainly wasn't a continuous thing.

Q You say it was not a continuous thing?

THE COURT: Yes, that was his statement.

- A It was not a regular thing.
- Q It was a continuous thing, though, wasn't it?
- A What do you mean by -- certainly not continuous.
- Q Well, what do you mean by "regular"?
- A Well, I mean at regular intervals.
- Q When did Miss Hayes first leave the hospital?
- A I can't give you that date.
- Q That was sometime in 1953, wasn't it?
- A It could have been. '52 or '53. I think it was '52.
- Q Well, she was gone for a period of about six months, wasn't she?
- A I don't really remember. She was gone for a while.
- Q And while she was gone from that hospital, did you see her?
- A Well, I certainly didn't see her while she was in California. I saw her a few times --
- Q Now -- go ahead. Go ahead if I interrupted.
- A I saw her a few times after she had initiated her work downtown.
- Q How many times did you see her then?
- A I really couldn't tell you.
- Q Could you give us any idea at all?
- A Well, my work took me downtown each Friday, and many times I would pick her up near the bus stop and take her home.
- Q And was that a few times or many times, Doctor?
- A Well, what do you consider many, sir?

Q Oh, a half a dozen or a dozen.

A I would say half a dozen at least.

Q At least a half a dozen times?

A Yes, sir, took her home.

Q And during that period of time, did you have intimate relations with her?

A I can't tell you. I can't say that I remember.

Q You don't remember, is that it?

A I don't remember of any specific event.

Q And then she returned to the hospital, didn't she?

A Yes, she did.

Q And do you know when she returned to the hospital?

A I don't know the date, no.

Q Do you know the month?

A No, sir.

Q Do you know when she left the hospital on that second occasion?

A The last time she left the hospital?

Q Yes.

A I can't give you the date, the month, no.

Q Well, it was in the early part of the year of 1954, wasn't it?

A I would say generally that, yes.

Q And do you know how long she had worked there, over what period of time that last employment there?

A I don't know.

Q And during that time of employment, was she called out for emergency cases?

A Yes, sir, she was.

Q And did you take her home on occasion?

A On occasion.

Q And did you have intimate relations with her on those occasions?

MR. CORRIGAN: Object.

THE COURT: He may answer.

A Certainly not every occasion, no, sir.

Q Did you on some of those occasions?

A Yes, sir.

Q Now, outside of the relations that you had in your automobile and at her apartment, was there any other place that you had intimate relations with her?

A Yes, sir.

Q And where was that?

A Right where Miss Hayes said it was.

Q Where?

A In Dr. Hoversten's apartment.

Q You mean the apartment in the building where the Clinic is?

A That was his apartment at the time, yes.

Q Had you made some arrangements with Dr. Hoversten so that you had the use of that apartment?

A No definite arrangement, no.

Q On how many occasions did you have relations with her at that place?

MR. CORRIGAN: Object. We object.

THE COURT: Overruled.

A I couldn't say, sir.

Q That was before Dr. Hoversten left to go to Dayton, was it?

A It had to be.

Q So that would be back in 1952, is that right?

A It was before he left, certainly.

Q Well, when did he leave?

A I believe I testified that I wasn't absolutely sure. He arrived in 1952, July, and he stayed a little over a year.

Q So would it be -- it might be the early part of 1953, then?

A Possibly.

Q Now, during the latter part of 1953, did you speak to Sue Hayes about a divorce?

A No, sir. I believe she spoke to me about divorce.

Q And what was said about that?

A I said, "I love my wife very much and I love my little boy," and I --

Q What did she say? What had she said?

A I don't recall specifically. She -- I can't give you her exact words.

Q Well, can you give us the substance of what she said?

A I really can't.

Q Well, you remember that you said, "I love my wife and my little boy."

A Yes, sir.

Q Now, can't you tell us what she had said?

A I can't give you a specific statement.

Q Well, can you give us the substance of what she said?

A She mentioned divorce.

Q And what was said about it?

A I think about the only thing that I can remember is that she referred to Dr. Hoversten and his divorce saying that, "Some men get divorced," or, "Hoversten can get a divorce," something like that.

Q Well, why would that -- you be called upon to say that you loved your wife and son, if that is all she said?

A Well, she was relating that to me, I gathered.

Q Well, wasn't she asking you about a divorce?

A That was my assumption, yes. There may have been further statements by Miss Hayes at that time that I really can't relate to you.

Q You can't recall them at all?

A I can't recall them enough to give you a substantial breakdown of what she said.

Q You can't even give us the substance of what it was?

A I thought I had, sir.

Q Well, the only substance you gave us was she was talking about Hoversten's divorce.

A Yes, in relation to the fact that, "Some men get divorced. Why can't you?" to that effect.

Q Now, when Sue Hayes left the Bay View Hospital, that was in the early part of 1954, is that right?

A That's possible. I don't remember the date, again.

Q You knew that she was going to go to California, didn't you?

A Everyone knew that.

Q I'm asking you if you knew it. Did you know it?

A Yes. Everyone knew.

Q I'm not asking about everyone. I'm just asking if you knew it, sir.

A Well, I'm included in everyone, I thought.

Q You knew it, didn't you?

A Yes, sir.

Q Yes. Did you and her have some discussion about that?

A About her going to California?

Q That's right.

A Yes, sir.

Q And what she was going to do there?

A Yes, yes, sir.

Q And did you have some discussion about that you might see her there?

A Yes.

Q Did you obtain from her the address where she was going to be?

A She gave me two addresses, one of which she said she'd be at.

Q And did she give you some telephone numbers, too?

A Yes, she did.

Q And you went to California, was it in the latter part of February that you went, did you say?

A I don't believe I said. I, again, can't remember just when we left for California, but it was in regard to some work that I had planned the early part of March. It must have been the latter part of February that we went.

Q Well, does that refresh your mind as to when Miss Hayes left for California?

A No, sir. Our trip wasn't necessarily related to Miss Hayes. In fact, it wasn't related at all.

Q Well, when you arrived in California, you called up one of these numbers where Miss Hayes was, didn't you, Miss Hayes had given you, rather?

A No, sir. Not when I arrived.

Q Well, how long after you arrived?

A There, again, I can't say for sure just how long it was. I was -- when I found the time and the opportunity, I called her.

Q When you arrived in -- it was Los Angeles you went to, was it not?

A Yes, sir.

Q Did you and Marilyn stay someplace there?

A I believe I testified the other day that we called Dr. Chapman, who was with his wife. Dr. Chapman and I attended one of the hospitals that evening, and I assisted him in some brain surgery. His wife and my wife proceeded to Dr. Chapman's office where she spent the night.

Q That was the first day that you arrived there?

A Yes, sir.

Q And then the following day, your wife and Mrs. Chapman left to go up north in California, didn't they?

A Yes, they did.

Q Is that right?

A Yes, sir.

Q That's up around Monterey?

A Yes, sir.

Q Some 300 miles or more north of Los Angeles?

A That's right.

Q Is that right? You were -- the first night, or day that you went to Los Angeles, you were with Dr. Chapman at some operation that he had there, is that right?

A Yes, on into the night.

Q And where did you stay that night?

A I registered at a motel late that night, slept there.

Q And where did you stay the next night?

A Well, I don't recall the names of the motels, but I woke up and found it necessary to move to another motel up on a hill out of the smog, and that's where I spent the next day.

Q The second night in Los Angeles you stayed at a motel?

A Yes, sir.

Q Did you sleep there that night?

A Yes, sir, as I recall.

Q Now, when did you call Sue Hayes up?

A I can't tell you for sure, as I stated.

Q Well, how many nights did you stay in that motel?

A There, again, I'm not absolutely sure. I believe on the second day I called her, or maybe -- it must have been the third day.

Q That would be the day after your wife had left to go up north in California?

A Yes.

Q And you reached Miss Hayes?

A Yes, sir.

Q And you made an appointment to see her?

A I told her I had been invited to Millers for dinner.

MR. PARRINO: I didn't hear
that. I'm sorry.

MR. MAHON: He'd been invited
to Millers for dinner.

MR. PARRINO:

Thank you.

Q And did you ask her to accompany you?

A Yes, I did.

Q And did she accompany you?

A Yes, she did.

Q And who are the Millers?

A Dr. and Mrs. Miller.

Q And where did they live?

A Up until just recently -- I couldn't recall the name of the street, although I used to know it very well.

Q Well, what place -- did they live in Los Angeles proper or one of the suburbs?

A I believe it's shortly over the line into Glendale. Glendale is -- well, do you want to know the location of Glendale?

Q Well, it's one of the suburbs of Los Angeles, isn't it?

A Yes, sir.

Q And you went there for dinner on that night?

A That's right.

Q And after dinner, what did you do?

A I think Dr. Miller showed me some medical slides that he has in regard to bone disease.

Q Well, did other people come to the house there besides you and Miss Hayes?

A Either that night or one of the nights following. I can't say for sure.

Q Well, that night that you had dinner, did you leave after dinner?

A No, sir. The Millers asked Miss Hayes to stay with them and insisted that I stay with them.

Q And you and Miss Hayes occupied a bedroom there together that night, didn't you?

MR. CORRIGAN: I object.

THE COURT: He may answer.

MR. CORRIGAN: Except.

A Yes, sir.

Q And had intimate relations?

A Yes, sir.

MR. CORRIGAN: I object.

THE COURT: He may answer.

Q The Millers knew that you were married, didn't they?

MR. CORRIGAN: I object.

THE COURT: Yes, I think --

we are not interested in whether they knew or not.

MR. MAHON: All right.

Q You had known Dr. Miller, I believe, had you not, Doctor, at college?

A Professional school, yes, sir.

Q Yes. In Los Angeles?

A Yes, that's right.

Q Now, after that night at Millers, what, if anything, did you and Sue Hayes do?

MR. CORRIGAN: Object.

THE COURT: He may answer that.

A Just as I have told you, looked at slides.

Q Well, did you and Sue Hayes go someplace?

A We could have. I don't remember of going anyplace.

ke 19 Q Well, let me see if I can remind you, Doctor. Didn't you
ng go out to where she was staying with The Shablas in
Downey, California -- that is another suburb of Los
Angeles -- and there she obtained some clothing?

A I don't believe Downey is a suburb of Los Angeles, sir.

Q Well, whether it is or not --

A No, not that I recall, not that night.

Q No. I don't mean that night. You stayed at the Millers
on the night you went there for dinner?

A Well, you said that night, didn't you?

Q I said the next day.

A I don't believe you did.

Q Well, I am saying it now, Doctor. You remained at the
Millers overnight, you and Sue Hayes, is that right?

A Yes, sir.

Q The next day did you go someplace with Sue Hayes?

A Late in the day, yes.

Q Where did you go?

A We went to pick up some things of hers, as you say, in
Downey, California.

Q And where did you take those things?

A To Dr. Miller's.

Q And when you say things, you mean clothing, don't you?

A Clothing.

Q And other toilet articles, probably, is that right?

A I don't know what the young lady took. I didn't --

Q Well, did she have a suitcase?

A I really don't remember. She had a small case, certainly. Toilet case.

Q Well, was there some clothing that was carried loosely then?

A It could have been loosely; it could have been in the suitcase.

Q And that was taken back to Dr. Miller's home, is that right?

A Yes, it was.

Q And then did you stay at Dr. Miller's that night?

A Yes.

Q And did anyone else come there at the Miller home that night?

A I don't know. It could have been that night that some others came. I'm not sure.

Q Well, was it the first or second night that you stayed at the Millers that a number of doctors came there and they played poker?

A Yes.

Q Yes. Was that the first or second night?

A It could have been the third, sir. I really can't tell you, but it was one of the first --

Q Who were the doctors that came there?

A Do you want the names of the doctors?

Q Yes.

A Dr. Chapman, I believe, was there; Dr. Bueno; Dr. Dorothy

Marsh. There may have been others, but I don't recall.

Q How many days and nights did you remain at the Miller home with Sue Hayes?

MR. CORRIGAN: Object.

A I couldn't --

THE COURT: He may answer.

A I couldn't say. I never numbered them.

Q Well, can you give us any idea?

MR. CORRIGAN: May I have a
continuing objection to this, your Honor?

A My original answer was around five days. It could have been longer.

Q And then what did you do?

A Well, I completed my work at the college and picked up Dr. Chapman and we proceeded to his ranch.

Q Now, when you left the Miller home with Sue Hayes did she take her clothing with her at that time?

A I took her back to the Shablas' home.

Q You drove her back there?

A Yes, sir.

Q With her clothing?

A Yes, sir.

Q What did the Miller family -- what constituted the Miller family?

A At that time, Dr. and Mrs. Miller and a little baby.

Q A little baby?

A A little boy.

Q How old is he?

A I don't know. Six or eight months, probably, maybe not quite that old.

Q Now, while you were with Sue Hayes, did you take a trip down to the southern part of California to attend a wedding?

A Yes, sir.

Q And can you tell us when that was?

A No, I can't. It was during this period that we were at the Millers', however.

Q It was during the time that you and Sue Hayes were staying at the Miller home?

A That's right.

Q And I believe the Shablas went down to attend that wedding, also, did they?

A Yes, sir. I asked Dr. Buono, and he suggested that I bring the Shablas along.

Q And did Dr. and Mrs. Miller go down also?

A Yes.

Q And on that trip Sue Hayes lost her wrist watch, didn't she?

A That's correct.

Q And you purchased another wrist watch for her?

A I purchased a wrist watch which was consistent with the one

she lost in price.

Q And then after remaining at the Millers, you say that you and Dr. Chapman -- and after you finished your school work there, you and Dr. Chapman went up north to his home up there?

A That's right.

Q And that is where Marilyn was staying?

A That's right.

Q By the way, while you were in Los Angeles you obtained this Lincoln automobile, is that right?

A That's right.

Q And you traded your Mercury in on that?

A I traded even, sir.

Q The Mercury is the car that you drove out to California in, is that right?

A That's right.

Q And when you went to get this Lincoln, Sue Hayes went along with you, didn't she?

A Miss Hayes happened to be with me when I spotted this car in a lot.

Q And she went with you when you closed the deal?

A She certainly wasn't with me when I closed the deal. She was around the lot looking at other cars, and so forth.

Q Well, she wasn't alongside of you, probably, but she was in the vicinity, she was in your company, wasn't she?

A Yes, but she had nothing to do with the deal.

Q I didn't say that she did, sir. I merely asked you if she was along with you at the time?

A She was in the vicinity, yes.

Q And she rode away from you -- or with you, rather, in that car, didn't she?

A Well, she didn't stay with the Mercury. She went with me in the Lincoln, yes.

Q I don't suppose she did go with you in the Mercury, Doctor, because you didn't take the Mercury out of there, did you?

A I beg pardon?

Q You didn't take the Mercury out of there?

A No. I left the Mercury.

Q Yes. You said that Miss Hayes didn't go with you in the Mercury. She went to the place with you in the Mercury, and then you got a Lincoln and she left there in the Lincoln with you, isn't that the fact?

A Yes.

Q And then you and Dr. Chapman went up to his home around in Monterey there someplace, is that right?

A Yes, that's right.

Q Did you have some talk with Dr. Chapman about divorce?

A Not about divorce between Marilyn and me, no, sir.

Q You say not between you and Marilyn?

A That's right, I said not between Marilyn and me.

Q On your way -- on your drive up to Monterey you had some trouble with the car, didn't you?

A Yes. We had two flat tires.

Q Was there some talk about divorce on that trip with Dr. Chapman?

A I don't remember the word divorce being brought up, and Dr. Chapman definitely confirmed that with my brother, not over a couple of months ago.

Q You don't recall or you don't know?

A No, the word divorce was never brought up, that I recall.

Q Did you have your brother check with Dr. Chapman as to what was said on that trip?

A I didn't have my brother check with anybody about anything, but Dr. Chapman happened to be in the company of my brother in the early part of October.

Q Well, you said something here a few minutes ago that Dr. Chapman confirmed that with your brother. What do you mean, he confirmed what?

A What I just said.

Q That there was no talk of divorce?

A That's right.

Q And did you ask your brother to ask Dr. Chapman about that?

A No, sir, but I have had conversation with my brother since this thing has happened.

Q But you didn't ask him -- ask your brother to ask Dr.

Chapman whether there was any talk about divorce?

A No, sir. My understanding is that Dr. Chapman was quite unhappy that that had been said, and spoke to my brother about it.

Q And when was that?

A When was that?

Q When was it that you said that Dr. Chapman was quite unhappy about it and talked to your brother about it?

A In October, as I stated.

Q And where did that conversation take place?

A I understand it took place at the Surgeons' Convention.

Q Where?

A In Texas somewhere, in Texas. Dallas, I believe.

Q Your brother went to the convention?

A Yes, he did.

Q Which brother was that?

A They both went.

Q Steve and Richard?

A Yes, sir.

Q How long did you remain at the Chapman home after you arrived there?

A I'm not absolutely sure. Three -- between two and four days, I would say.

Q And then you drove on back to Bay Village?

A Yes.

Q Do you know when you arrived back in Bay Village?

A The date? I couldn't tell you.

Q The approximate date.

A Middle of March, probably.

Q Did you have some talk with Marilyn concerning the watch that you had given to Sue Hayes?

A I told her about it.

Q Was she upset about that?

A She was not upset when I explained to her the situation. She was somewhat concerned when I first told her about it, but she understood that -- the circumstance under which it occurred.

Q When did you tell her about it?

A Either on the trip home or shortly thereafter. I believe it was on the trip home.

Q Are you sure about that?

A I said I'm not sure.

Q You are not sure?

A That's right. I believe it was on the trip home, however.

Marilyn was a working girl at one time and could understand what it might mean to lose a watch like that.

MR. MAHON: Do you want to have
a recess here, Judge?

THE COURT: We will have a few minutes' recess at this point.

Ladies and gentlemen, please do not discuss this case.

(Thereupon at 2:45 o'clock p.m. a recess was taken.)

(After recess, 3:05 o'clock, p.m.)

MR. MAHON: Judge, I don't know whether I formally offered these two exhibits into the evidence or not.

THE COURT: No, you didn't, but there was no objection and --

MR. MAHON: State's Exhibit 87-A and 87-B.

THE COURT: It could be construed as an admission, but they will be admitted.

MR. MAHON: All right.

(State's Exhibit 87-A and 87-B received in evidence.)

Q Doctor, did you give Sue Hayes any other presents?

A Yes, sir.

Q What were they?

A The only other two that I can recall was the ring entered in evidence here and a suede jacket, I believe.

Q When did you give her the ring?

A I gave her the ring following the time she left the hospital and returned to the hospital to do some special work on my -- some papers of mine, spending about five days and receiving no payment for it.

Q And when did you give her the suede jacket?

A Sometime a year or so ago.

Q Now, Doctor, after you returned from California, you and your wife, did you have any correspondence with Sue Hayes?

A I did have some. I don't -- yes, I did have some correspondence with her.

Q You wrote to her, did you?

A Yes.

Q And she wrote to you?

A Yes, sir.

Q How many letters did you send to her?

A I don't know.

Q How many did you receive from her?

A I couldn't tell you.

Q Did you tell her where to address the letters?

A I don't recall of that, no, sir.

Q Do you recall telling her to address the letters to the Clinic on Lorain Road?

A I don't recall telling her that.

Q Did you have a secretary at the Clinic by the name of Bailey?

A Yes, sir.

Q Mrs. Bailey?

A Yes, I did.

Q Do you know if by mistake she opened one of those letters from Sue Hayes?

A I can't say for sure. She may have. She did open some personal mail from time to time that I had asked her to leave unopened.

Q Didn't she open one of the letters from Sue Hayes, and didn't you caution her not to open mail that was marked personal?

A As I say, sir, I don't know whether she did open a letter from Sue Hayes or not, but I requested Mrs. Bailey to leave all of my personal mail unopened, whereas she had been in the habit of opening it for others.

Q Now, Doctor, getting down to the night of the 3rd of July, you had as dinner guests that night Mr. and Mrs. Ahern?

A Yes, sir.

Q And before dinner, you and your wife and child went to the home of the Aherns?

A Yes, sir, that's right.

Q And while you were there, you were called to the hospital?

A That's true.

Q Had you left word with someone that you would be at the Aherns?

A I called the hospital, sir, and left their number.

Q You mean when you went over to the Aherns you --

A I believe I did, yes.

Q You had a couple of drinks there at the Aherns, did you, a couple of cocktails?

A I had started on one when I was called, as I recall, and I may have finished that or had had another one when I returned, I can't say.

Q And when you returned from the hospital, you went to the Aherns' house and your wife had already gone back to your own home, isn't that right?

A I'm not sure of that, sir.

Q You are not sure whether or not she was at the Aherns when you got back from the hospital, is that what you mean?

A Yes, that's correct. My impression is that -- do you want my impression?

Q Your best recollection.

A Well, I can't be sure.

Q If you don't know, why, say so.

A I don't really know, but it seems to me that I rode down to my home in the Aherns' car. I don't really remember my wife being there, but our car must have gotten down some way and my wife must have taken it.

Q All right. But after you arrived at your house and the Aherns were there, while dinner was being prepared you and Mr. Ahern went down to the beach, did you?

A Not that I remember, sir. I should say I don't remember that.

Q All right. Did you go down into the basement where the punching bag is and show the boys how to use the punching bag?

A I believe Mr. Ahern and I both went and we did that, yes.
I believe --

Q You do recall that?

A I recalled that after Mr. Rossbach refreshed my memory.

Q All right. And then following that sometime, you had your dinner on the porch?

A Yes, sir.

Q When you went down into the basement to use the punching bag there, you had been wearing a jacket, had you not?

A I don't have any recollection of a jacket. I doubtlessly had been.

Q All right. But while you were out on the porch eating -- and the porch is an open porch and it is screened all the way around, isn't that right?

A Yes, sir, it's screened north, east, and west.

Q And it was -- the wind was blowing?

A It was windy.

Q And it was pretty chilly?

A Moderately. I would say chilly because of the wind rather than actually cool.

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Q Well, it was chilly enough so that you did obtain a jacket and put it on, is that right?

A Yes, sir, and I -- yes, sir.

Q Before you put that jacket on, all you had on was the T-shirt, I mean on the upper portion of your body?

A Yes, sir, and I had been evidently a little active in punching --

Q Little what?

A I had evidently become a little warm in showing the children how to hit the bag.

Q Well, you still had that on when you started to eat, didn't you?

A What?

Q The T-shirt.

A As far as I know, yes, sir.

Q And then you obtained this corduroy jacket and put that on, didn't you?

A Yes, sir, I did.

Q And Mrs. Ahern brought some wrap or sweater of some kind for Mr. Ahern to put on because of the chilliness, isn't that right?

A That's very likely. I don't recall that, sir.

Q Do you know about what time the meal was completed?

A I really don't know.

Q Well, anyway, after it was, you retired inside the house in

the living room there, is that right?

A Yes, sir.

Q You and Mr. Ahern, and Mrs. Ahern and your wife started cleaning up the table?

A I can't say, Mr. Mahon that I remember my wife and Mrs. Ahern cleaning that table or our going into the living room. I really can't say that I remember anything until the television set was on and Marilyn and I were sitting in the one chair together.

Q The children had eaten in the kitchen, hadn't they?

A Yes, sir, I believe so.

Q And after the meal was over didn't Mr. Ahern take his children home?

A He doubtlessly did, but I don't have any recollection of that.

Q And didn't you do something about repairing a toy for your child?

A I couldn't say. I have a very, very faint recollection of fixing that airplane, and I didn't remember the event at all until in the house I saw the airplane again and remembered that at sometime I had fixed it, but I can't say, sir, that I remember fixing it that night. It could have been the day before or sometime within the recent time, but --

Q There had been some talk, had there not, Doctor, about going

to a picture show?

A I recall some talk about going to a picture show.

Q And then it was decided it was too late after you completed your dinner?

A I think so.

Q And you decided to stay at home there and watch a movie on the television, is that right?

A Yes, sir.

Q And so you watched a movie there?

A Yes, we did.

Q You, your wife, Mrs. Ahern and Mr. Ahern?

A After -- again, after Mr. Rossbach refreshed my memory, I remembered that Mr. Ahern had first sat over in the corner next to the lamp with the ivy in it, and listened to the ball game while we watched television, while the rest of us watched television.

Q And from time to time he announced what the progress was in the baseball game, didn't he?

A Yes, he did. That is my feeling.

Q And sometime during that period you went over to lie down on the couch there?

A Well, I believe Mr. Ahern came over in front of the television set before that occurred.

Q What do you mean he came over in front of the television set?

A Well, I believe that he came over to watch television along

with the rest of us.

Q All right. At least, all of you then were watching the television set, and then you decided that you wanted to lie down on the couch?

A Yes, sir.

Q And you did go over and did lie down on the couch?

A Yes, sir, I did.

Q With your head to the north?

A Yes, toward the lake.

Q And while you were on the couch there I believe you were on your stomach with your chin propped up with a pillow?

A Yes, sir.

Q And you were watching the television?

A Yes, sir.

Q Is that right?

A That is true.

Q And you fell asleep?

A Evidently I did.

Q What is the next thing you remember after you fell asleep, Doctor?

A I have a very, very faint recollection of being aroused, partially aroused.

Q When you went over to lie down on that couch, you still had on that corduroy jacket, didn't you?

A I couldn't say from my own knowledge, sir, whether I did

or not.

Q Well, can you say from your own knowledge that you ever took it off?

A No, sir.

Q How do you wear your watch, Doctor, the face of it?
Is it on the bottom of the wrist or at the top of the wrist?
Where do you have the face of your watch?

A Usually on the top of the wrist. It sometimes slips.
My wrists are small.

Q And you wear it on which arm?

A Usually the left.

Q Well, do you ever wear it on the right?

A I can't recall of wearing it on the right.

Q I only ask you that because you said usually on the left,
but you have no recollection of ever wearing it on the right?

A No. I was -- when I said usually, I was referring to the
face business.

Q Now, what is your first recollection after you fell asleep?

A It's a very, very vague and distant recollection of being
partially aroused.

Q Well, what aroused you, Doctor?

A I can't truthfully say for sure, but I have the feeling that
it was Marilyn.

Q Down there alongside of you?

A I can't say, sir.

Q What?

A I can't say. I don't know.

Q Well, were you aroused?

A I have that feeling.

Q Well, what do you mean you have that feeling, Doctor?

A Well, I mean that I was not completely aroused, and I'm not absolutely sure.

Q You don't know whether you were aroused by anyone or not, is that it?

A Not absolutely sure, no, sir.

Q Well, what was the first thing that awakened you that you do know about?

A My wife crying out.

Q And is that a loud cry?

A I would say so.

Q What did you do immediately upon hearing that cry?

A I can't tell you, sir. It awakened me, and I initiated the attempt to gather enough sense to navigate up the stairs.

Q Was the light lit in the living room when you awakened?

A I don't believe so.

Q Do you know whether or not it was, Doctor?

A I saw no light, sir.

Q Then the room where you had been sleeping was in total darkness?

A I wouldn't say total darkness.

Q You would say, you said?

A I wouldn't say. There was light from somewhere to see the bare essentials.

Q Where did that light come from?

A I couldn't say for sure. It could come in one of the windows. I wouldn't say absolute, total darkness.

Q Well, how close is the nearest house to you?

A Nearest house?

Q That's right.

A Oh, right next door, maybe --

Q How far is that house from your house?

A 30 feet, maybe.

Q 30 feet?

A 20, maybe. I'm not a good judge of distance. I wouldn't know.

Q Do you think there might have been some light shining from that house over into yours?

A No, sir.

Q How?

A No, sir.

Q Well, where would the light be coming from if it was not in total darkness?

A The street.

Q Are there street lights there?

A There are lights from somewhere that drift into the windows, yes, sir.

Q Well, the street lights are quite high, are they not?

A I never measured them. They are quite high, sir.

Q And the trees block off that street light from your home, isn't that right?

A Not completely.

Q How far does your home stand back from the street, from the roadway?

A I wouldn't know for sure.

Q Well, it is quite a distance, isn't it, Doctor?

A It is a fair distance. I don't really know the measurements.

Q Can you give us any idea in feet how far it is?

A Well, sir, you have seen it. I am not a good --

Q Would it be 50 feet?

A I doubt if it is that far, but it could be.

Q Well, would it be 40 feet?

A I wouldn't give you -- I wouldn't want to guess.

Q So when you got up from the couch, then you started upstairs, is that right?

A I don't know how long it took me to come to a standing position and start upstairs, but yes, I did start.

Q Well, there wasn't anything the matter with you, was there, Doctor?

A Well, I was awakened from a quite deep sleep, evidently.

Q Well, you don't have to shake yourself when you come out of a deep sleep to know where you are and what you are doing, do you?

A Yes, sir, I do.

Q You do?

A I wouldn't say shake myself, but--

Q Well, how long does it take you to come out of a deep sleep?

A I am not absolutely sure.

Q Well, were you out of the deep sleep before you started up the stairs?

A I certainly wouldn't say that I was as alert as I am here today, sir.

Q Well, you knew, Doctor, that your wife had called out for help, is that right?

A That was my impression.

Q What had she called?

A She called my name, sir.

Q In a loud voice?

A Yes, sir.

Q On one occasion or more than one?

A At least one and possibly two.

Q What did she say, "Sam, Sam"?

A Yes, sir.

Q How?

A Yes, she did.

Q And didn't that startle you?

A It awakened me.

Q Well, you realized what woke you, didn't you?

A I can't say that I had any realization at that time of anything for sure.

Q Well, when you went up the steps, did you light a light?

A No, sir.

Q How?

A How?

Q You say you did not?

A Oh. No, sir.

Q There is a light switch right on the wall as you go up the steps, isn't there?

A Yes, there is.

Q Don't you use that?

A Don't I use it?

Q Yes.

- A Very rarely.
- Q Well, when the house is in darkness and you are ascending the stairs, don't you switch on that light?
- A The house was not in darkness.
- Q Well, it was dark downstairs, wasn't it?
- A You said the house was in darkness, sir.
- Q The downstairs section of the house was in darkness, is that right?
- A Relatively.
- Q And the light in the hall upstairs was not lit, was it?
- A The main light in the hall was not lit.
- Q But you did not switch on that light?
- A I didn't give it a thought, sir.
- Q And you proceeded up the steps. Did you hurry?
- A I hurried as fast as I could under the circumstances.
- Q Well, were there-- was there anything that was holding you back?

MR. CORRIGAN: Object to that question.

THE COURT: He may answer that.

MR. CORRIGAN: "Was anything holding him back."

Q Well, sir --

THE COURT: He has indicated

that he went as fast as he could. Now he is asking him --

MR. MAHON: Under the circumstances. Now I want to find out what the circumstances were, what might have been holding him back.

THE WITNESS: Beg pardon?

THE COURT: Was there anything holding you back? That's the question now.

A Well, as I indicated, I was in a half drowsed state, which is not consistent with the greatest efficiency.

Q Well, when you got halfway up the steps, were you out of that groggy condition?

A I would say no, sir.

Q Well, were you out of the groggy condition when you got to the top of the stairs?

A This situation was not a matter of a stair-step progression. It happened very rapidly.

Q I know. You were there, though, weren't you?

A Yes.

Q Sure. Were you out of that grogginess when you reached the top of the steps?

A I would say no.

Q There is a light switch in the hallway that operates that

hall light too, isn't there, upstairs I mean?

A Yes, sir.

Q That light can be either turned on upstairs from a switch in the hallway or it can be turned on from a switch downstairs alongside the steps, isn't that right?

A That's true.

Q When you reached the top landing there in the hallway, what happened?

A It wasn't a matter of reaching the top landing, sir. It was a matter of going up and into the room, trying to get to Marilyn.

Q Did you get in the room?

A Yes, sir.

Q Is there a light in the room?

A Yes, there is.

Q That was not lit, was it?

A No, sir, it wasn't.

Q Where do you light that light?

A That light switch is on the south wall.

Q Is that near the door?

A Fairly.

Q How close to the door?

A I couldn't tell you.

Q And that is a ceiling light, is it?

A Yes, it is.

Q Was it light or dark in that bedroom?

A There was some light.

Q And that light reflected from a light that was lit in that what has been called here that dressing room, is that right?

A I believe it was from there, sir.

Q Well, that light, do you usually leave that light on?

A It's usually left on until -- if one of us goes to bed, it's usually left on for the other to dress -- or undress by and then it is turned out, sir.

Q And how far into the room did you get?

A I couldn't say.

Q Well, did something happen?

A Yes, sir, it did.

Q What happened?

A I was engaged or grappled and hit from behind.

Q Did you see anyone in the room?

A As I stated the other day, I saw a light top form.

Q Now, will you tell us what you mean by a light top form, Doctor?

A Well, I saw a light garment.

Q Yes.

A It had the appearance of having someone inside of it, shoulders. That's about all.

Q Did you see a head?

- A I can't say that I did.
- Q All you saw then, is something light, which you figured was on a body, is that right?
- A I can't say that I figured that at the time, but as I look back, I felt that.
- Q And what was this object doing there?
- A I don't know, sir.
- Q Did you see it doing anything?
- A I can't say that I definitely could see this form doing anything.
- Q How far did you get in the room before you were struck?
- A I don't know, sir.
- Q How?
- A I don't know.
- Q Well, how far is the -- as you walk into the room, there are twin beds there, are there not?
- A Yes, sir.
- Q And where is the head, which wall is the head of the bed against?
- A The south wall, sir.
- Q The south wall?
- A Yes, sir.
- Q And the foot of the bed would be to the north?
- A That's correct.
- Q Now, as you enter the door, the nearest bed was occupied

by who?

A By my wife.

Q And that would be -- would that be to your left as you enter the door?

A That's true, that's correct.

Q How?

A Yes, sir.

Q And where was this form in relation to that bed?

A Again, I can't say definitely, but I would say next to the bed at the foot of the bed. You are asking me, sir, to give specific things about something that happened just before being knocked out and undergoing this situation, and I just find it impossible to state some of these things clearly. It's like an individual who is in an automobile accident at night --

Q Well, now, wait a minute. We are not going into a --

THE COURT: There is no question.

THE WITNESS: Well, it parallels that situation.

Q Where were you struck, Doctor?

A I have a feeling I was struck from behind.

Q And how far was this form in front of you when you were struck?

A I can't say, sir.

Q Well, was that form within reaching distance?

A I can't say for sure. It must have been.

Q Well, do you know whether or not it was that form that struck you?

A I don't know.

Q Did you grapple with anything?

A Yes, sir, I did.

Q What did you grapple with?

A Something in front of me.

Q Well, was it that form that you have told us about?

A I have the feeling that it was.

Q What do you mean you have a feeling that it was?

A I don't remember definitely.

Q You don't remember definitely? You are sure, though, that you did grapple with something?

A Yes. At the time I was --

Q And what part of this something did you grapple?

A I can't say, again, definitely. I would say the upper part.

Q Do you know whether or not it was the upper part?

A Sir, I don't know any of this for absolute clarity's sake.

Q Do you know whether or not it was the upper part, Doctor?

A I have that impression. I don't know.

Q What did you feel when you grappled?

A I can't be specific, sir. I felt that I was withheld, that

I was intercepted, I was being -- I was prevented from going to my wife.

Q Well, what was preventing you?

A I don't know.

Q How long after you grappled with this thing was it that you were struck?

A Immediately, sir.

Q Was it possible for this thing to have struck you?

A Yes, sir, I would say so.

Q And where were you struck?

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A I felt that for sure -- the most positive sensation that I recall as being struck as though from behind.

Q Where were you struck, Doctor?

THE COURT: Where on his body?

MR. MAHON: That's right.

A Where on my body?

Q Yes.

A I again can't, from my memory of that particular situation, be specific.

Q Well, were you struck on the neck?

A Doubtlessly I was.

Q Well, not doubtlessly, Doctor. Do you know whether or not you were struck on the neck?

A I know that I was struck on the neck by incidents that happened later, and by what I felt later and what I know occurred later, but from my knowledge of that entrance into the room I couldn't say whether it was the neck or the head or --

Q Well, doctor, were you struck in the face when you entered that room?

A I may have been, yes.

Q Well, don't you know?

A Not for sure.

Q Well, you certainly were awake at that time, weren't you?

- A I would say not definitely and clearly awake, no, sir.
- Q You mean that after you grappled with a thing, that you weren't awake?
- A After I grappled with the thing, I was struck down. In fact, I was struck down practically as soon as I grappled with this person, and after that I was certainly not awake.
- Q Well, before you were struck weren't you awake?
- A There was no time interval, sir.
- Q Well, at the time that you grappled with this thing, weren't you awake?
- A I would say not completely alert as I sit here today, no, sir.
- Q You had climbed up all those stairs, progressed into the room, grappled with a thing, and you say you were still not fully awake?
- A The grappling and the blow that rendered me unconscious, sir, was practically instantaneous.
- Q Well, after you were struck did you lose consciousness?
- A Evidently I did, sir.
- Q Do you know what you were struck with?
- A No, I don't.
- Q Did you ever say that you were struck with a judo blow?
- A I may have.
- Q Well, were you struck with a judo blow?
- A Not to my knowledge; I can't say what I was struck with.

I'm afraid, sir, that at that time I was assuming. At the time I made statements of that, sir, I was assuming, as anyone would from injuries, and so forth.

Q Well, you also, did you not, Doctor, told Mr. Munn and Mr. Reese later on, on the morning of the 4th, when you were in the hospital that as soon as you reached the top of the steps you were clobbered?

A I don't believe I said as soon as I reached the top of the steps. I don't really know what I said.

Q You heard Mr. Munn testify, didn't you?

A Yes, sir.

Q Was he mistaken about that?

A I think he could have been, sir. It is possible. Or I could have -- this story has been repeated so many times, sir, that every one has their own little variance.

Q Well, Mr. Munn and Mr. Reese were one of the first people that talked to you about it, weren't they?

A Yes, sir.

Q Is that right?

A Yes, sir. The difference between the top of the stairs and the room is about one step, sir, and my relation of the events at that time when I was in a relative stupor could have accounted for it, or Mr. Munn could be slightly mistaken, I couldn't say.

Q I see. Now, did you see more than one thing upstairs there

before you were struck?

A No, sir, I can't say that I did.

Q When you talked to Mr. Munn you talked about "they"?

A That is possible.

Q Do you recall that?

A I don't recall that.

Q Did you ever see more than one thing?

A No, sir, I didn't. Do you mean more than one form?

Q That's right.

A No, sir.

Q Now, when you came to, Doctor, you said that you were on the floor?

A That is true.

Q Alongside the bed?

A That is true.

Q And you saw your wallet on the floor?

A I recognized my wallet, yes.

Q And you picked it up?

A I believe I did in getting up.

Q And did you put it in your pocket?

A I believe I did.

Q And how was the wallet lying on the floor, Doctor?

A I can't say.

Q Well, was it closed or open? Was it closed or open, Doctor?

A I don't have any recollection of it being closed or open,

but I have a faint recollection of seeing a reflection of the badge here, and it must have -- it must have been in some sort of position so that this reflection could be seen and identified by me.

Q Well, then, the wallet must have been open, isn't that right?

A Open in some way, yes, or it could have been like that (indicating), rather than that (indicating).

Q Is that what attracted your attention, Doctor?

A Is what?

Q The fact that you saw something shiny?

A I can't say, Mr. Mahon, just what attracted my attention.

I do recall faintly the reflection, the glimmer.

Q And then what is the first thing that you did when you got up, Doctor?

A There again I'm not absolutely clear, but I looked at Marilyn.

Q Did you put the light on in the room?

A Not that I recall.

Q Well, the room was dark, wasn't it?

A It was partially lit by this light that we have --

Q Well, you only had the reflection coming in from this other light which was in a room down the hallway, and that only gave a reflection in a short distance into the room, isn't that right?

A I didn't evaluate the light at that time.

Q But you did not put a light on in the room, did you?

A Not that I recall. I'm not sure I could have seen if I did turn the light on.

Q Well, did you see Marilyn there?

A Yes, sir.

Q Well, you could see then, couldn't you?

A I could hazily see, yes.

Q You could see Marilyn lying there in the bed, couldn't you?

A Yes, sir, I could.

Q And if you had put the light on, you could have seen her better, couldn't you?

A Yes, sir.

Q And when you saw her lying there, what condition did she appear in then?

A Of my direct memory, at that particular time I can't give a clear picture. I can't give a clear picture of either time I saw her, in fact.

Q Well, did you see blood on her at that time?

THE COURT: Speak a little
louder.

A I must have.

Q Not what you must have. Did you see blood on her at that time?

A Sir, I was dazed --

Q Now, sir, I am only asking you a simple question: Did you

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see blood on her at that time?

A I don't know. I don't know, sir.

Q Did you make any examination of her?

A I think I did.

Q Well, let's not think. Did you?

A I believe I did, yes.

Q You recall that, do you?

A Vaguely.

Q Well, in making that examination did you see any blood on her?

A I don't -- I must have. I don't recall.

Q What did her condition appear to be when you made that examination?

A Ifelt that she was gone.

Q And by "gone," you mean you felt that she was dead?

A Yes, sir.

Q There is a telephone in that room, isn't there?

A Yes, there is.

Q And it was in working order?

A As far as I know.

Q Did you attempt to use that telephone to call for help?

A Not that I know of.

Q After you determined that she was gone, what did you do?

A I was fearful for Chip.

Q No. What did you do, sir?

A I believe that I went into Chip's room.

Q Now, you say again that you believe that you did. Did you go into his room?

A Yes, sir, according to my recollection.

Q All right. And you looked at him, did you?

A I'm not sure what or how I determined that Chip was all right. I really don't remember, but I felt that Chip was all right. I felt that I --

Q You said that you do remember going into Chip's room, is that right?

A Yes, sir.

Q What did you do in there?

A I'm not sure.

Q You don't know what you did in there, is that right?

A I, in some way, evaluated Chip.

Q Well, how did you evaluate?

A I'm not sure, sir. I probably felt him.

Q Well, not what you probably did. Have you any recollection of feeling him?

A No, sir, I don't.

Q You don't know what you did, then, when you went in the room?

A Not for sure, sir.

Q Then what did you do?

A I shortly thereafter heard a noise downstairs.

Q And what do you mean by shortly thereafter?

A Well, I may have been leaving Chip's room --

Q Not what you may have been doing, sir. What were you doing?

A I'm not sure.

Q Where were you at when you heard a noise downstairs?

A I'm not positive. I can't say.

Q What kind of a noise did you hear downstairs?

A I believe now that it was probably the door opening, but I'm not sure. It was louder than just footsteps of people walking around down in the frontroom.

Q What did you do when you heard the noise downstairs?

A I went downstairs.

Q Did you hurry downstairs?

A I proceeded as rapidly as I could in my condition.

Q Well, did you go down there rapidly?

A I can't say how rapidly I went. I felt that I was going rapidly, but sometimes a turtle may think he is going rapidly. The problem was that I'm not sure how fast I could go, sir.

Q Well, now, when you were struck, as you said, and you were knocked out, and you came to and you observed something shiny on the floor, and it was your billfold, you put that in your pocket, did you?

A I picked it up. I can't recall definitely putting it in my pocket. No doubt I did.

Q How were you dressed at that time?

A I don't know.

Q You don't know?

A From my recollection at that moment, sir.

Q Yes.

A I don't know.

Q How were you dressed when you went up those stairs when you heard Marilyn cry out?

A Based on what I had on earlier in the evening is the only thing that I can tell you. I don't know at the time what I had on, or didn't know, didn't evaluate.

Q Did you touch Marilyn's body?

A I believe I did, sir.

Q And what part of the body did you touch?

A I'm not sure. I believe I touched the neck, the face, possibly the wrists.

Q Well, let's not get possibilities now, Doctor. Just give us your recollection of what portions of the body you touched.

A I touched her, sir.

Q You touched where?

A I'm not absolutely sure.

Q You mean you just touched the body someplace, but you don't know where?

A I feel that I touched around the face and neck.

Q Her body -- or her head was some distance from the pillow, was it not?

A I can't tell you.

Q Well, it was not -- her head was not up at the head of the bed, where it usually is, when you are lying there sleeping, was it?

A I can't tell you, sir.

Q Well, when you went downstairs after hearing a noise, what did you see when you got downstairs?

A When I went into the front room and passed into the portion of the room toward the east, I saw a form between the front door of the house and the yard, possibly between the front door and the screen door, or possibly beyond that.

- Q Now, when you went to Chip's room, Doctor, did you light a light in his room?
- A Not that I recall.
- Q After you determined that Marilyn was gone, did you light any lights upstairs?
- A Not that I recall, sir.
- Q After you heard this noise, you went down the stairs, did you light any lights then?
- A Not that I recall, no.
- Q Now, you saw this form, you say, out around the screen door someplace?
- A Or slightly beyond that point.
- Q And if it was beyond that, then it was in the yard, is that right?
- A Well, or the steps or the little walk there, in that vicinity.
- Q Well, as you enter that house, there are how many steps that come up from the ground to the floor level?
- A Just two. I think just two.
- Q Two steps?
- A Maybe one.
- Q So that as you go out of that screen door, you are right at the steps, two steps from the ground, is that right?
- A Or one.
- Q And this form was about in that location?

- A I can't say specifically where he was, sir. The perspective was very difficult.
- Q Well, what did you do when you saw this form?
- A I followed it.
- Q Did it run?
- A I felt that it moved rapidly, yes.
- Q Did you run?
- A I went as fast as I could. I can't say just how fast that was.
- Q And was that the same kind of a form that you had seen up in the bedroom?
- A The form was dark from behind, sir.
- Q It was dark from behind?
- A It was dark.
- Q It was dark outside, wasn't it?
- A Relatively, yes,
- Q And you mean you merely saw a shadow there?
- A Well, I saw a form, a dark form.
- Q It was not a silhouette that you saw, was it?
- A Not at that time.
- Q There wasn't any light ahead of it, was there?
- A Not at that time.
- Q And this form went down the stairs toward the beach?
- A It went in that direction, yes, sir.
- Q And did you follow in that same direction?

A Yes, I did.

Q And did you see the form progressing down the stairs?

A No, sir.

Q What?

A No, I didn't. I can't say that I did.

Q When you got over to the stairs, could you see the form at all down below?

A I don't recall of seeing the form.

Q And then you went down the stairs?

A Yes, I did.

Q And where were you at when you again saw the form?

A I was on the landing of the beach house.

Q And by the landing, do you mean, Doctor, that section which is at the floor level of the bath house there?

A Yes, sir, that's right.

Q What?

A Yes, sir.

Q And that is how far above the beach there?

A I don't really know.

Q Well, can you give us any idea?

A Eight feet, possibly, seven feet.

Q Seven or eight feet from the beach to the top of the landing?

A Yes, sir. It varies. The sand is in at times and it may only be five feet, and then at other times the sand is out

with the waves in a different direction, and it may be eight feet.

Q Now, were you down on that platform when you saw the form again?

A I --

Q Or did you see the form on the platform?

A I feel that I was on the platform when I saw the form.

Q And where was it at then?

A Somewhere between the platform and the beach, or down at the beach at the junction of the steps and the beach.

Q You mean the steps from the platform down to the beach?

A Yes, sir.

Q And what did you do when you saw the form down there?

A I pursued it.

Q Did you go down the steps?

A Yes, sir.

Q Or did you jump after it?

A I went down the steps. I may have jumped from the last step or two, something like that.

Q Well, didn't you tell Officer Schottke that you thought that you jumped off the landing at the form?

A I don't believe I said that. I also told -- I may have told Officer Schottke that I played golf with Otto Graham, but I've never played a game of golf in my life.

MR. PARRINO:

We ask that

that be stricken, your Honor, and that the witness answer the questions.

THE COURT: The jury will disregard that statement entirely at this point.

Q Well, anyhow, you got down on the beach?

A Yes, sir.

Q And you grappled with the form?

A I felt that I grasped it.

Q You grasped it?

A Yes, sir.

Q And what part of it did you grasp?

A I can't be sure. It felt solid.

Q And how far from the steps was this form when you grasped it?

A I'm not absolutely sure, sir. My feeling is that it was a short distance.

Q What do you mean by a short distance?

A Seven to ten feet. That, again, is purely vague, guess.

Q Well, had the form stopped down on the beach until you caught up with it?

A I -- as I look back and as I think back, I feel that that's a possibility, yes. I'm not sure of that. Either I caught up with it or the form stopped and awaited my approach.

Q Well, was the form stopped when you grasped it?

A I can't say for sure.

Q And after you grasped this form, what happened?

A I was rendered unconscious again, sir.

Q Were you struck?

A I'm not sure.

Q And what is the next thing that you do remember?

A I remember very distantly the motion of my lower portion of my body, my legs in particular, and water around me, and coming to some vague sensation that I was partially in water. I have the feeling that I coughed or sputtered at times, and --

Q Well, do you know whether or not you did?

A I think that I did.

Q Do you know, Doctor, that you sputtered?

A I can't say that I remember any specific sputter, but I feel that I did.

Q You just feel that way?

A If my memory --

Q How much beach was there, Doctor?

A I don't recall.

Q The water was pretty choppy that morning, wasn't it?

A I didn't notice the water.

Q And the water came pretty well up on the beach, didn't it?

A I didn't evaluate that, sir.

Q Now, this form, can you give us any more of a description

than you have so far?

A More than I did the other day?

Q More than you have since I have been examining you?

A Today?

Q Yes.

A Yes, sir.

Q Well, will you describe it in more detail, then?

A My recollection is that it was a good sized man. I felt that it was a man.

Q Now, you say again you felt, Doctor.

MR. CORRIGAN: Wait a minute.

You asked for a description and you interrupt him.

Q Do you know, Doctor?

THE COURT: He hadn't quite answered the question. You listen to the question. Give the doctor the question again. Then you can answer it. He interrupted you because he felt that you were not answering his question directly. So we will get the question.

MR. CORRIGAN: I object to it.

(Question read by the reporter, as follows:

"Well, will you describe it in more detail, then?")

Q And I mean by that, Doctor, not what you felt but what you

actually know.

A It was a form that seemed to me to be relatively good sized, evidence of a large head with a bushy appearance on the top.

Q And when did you determine that it had a head, Doctor?

A At that time, I would say, was the first time I could be absolutely sure that --

Q At what time?

A At the time that I saw the form going from the landing down to the beach.

Q You mean the landing down by the bath house?

A At the time that I saw the form down by the beach, yes, sir.

Q Was it a man or a woman?

A You said that you didn't want what I feel or what I think.

Q No, we don't want what you feel. We want what you know, Doctor.

A I think that it was a man.

Q And you think. You are just guessing about that?

A Not exactly guessing.

Q Well, what do you base it on, then, Doctor?

A The size of the individual, the shape of the head, the shape of the top of the head.

Q How tall was it?

A I couldn't say specifically.

Q Well, was it five feet tall?

A I said, sir, I couldn't say. I felt that it was a big man.

Q Well, what do you call a big man?

A Six feet, and broad.

Q Well, then --

A Or possibly even shorter than six feet but wide.

Q And how much would you say that it weighed?

A I have no idea.

Q Pretty dark down there by the lake, wasn't it?

A Yes, sir, it was dark, but there was light from somewhere, though.

Q Well, where would the light be from, Doctor?

A I couldn't say. It could be light from the city.

Q From the city?

A Yes, sir.

Q You mean the lights from Cleveland?

A There are reflected lights from Cleveland at times that show in that area.

Q That would show up on that beach in front of your house there?

A Reflected onto the lake, sir.

Q And was there such a reflection that night?

A I couldnt say, sir.

Q There wasn't any lights lit up that you could see anyplace around there, was there?

A Not that I could see.

Q The lights on the roadway up that hill certainly wouldn't

have been any benefit to you down there, would they?

A No, sir, no, sir. The veryfirst light of dawn could have possibly been in evidence. I don't know.

Q Now, in your best judgment now and your recollection, you say that that was a man?

A That's my opinion.

Q That's your opinion. And were you asked that same question before, Doctor?

A Yes, in reference to the form as I saw it up on the upper portion between the front door of the house and the yard, at which time I couldn't say, at least I believe that that was the reference .

Q You couldn't say? Couldn't say what?

A I couldn't be as specific as I have just been in regard to the form as I saw it up near the house.

Q Did you strike this form at all, Doctor?

A I don't know.

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mg Q Did you have the feeling that this form was the thing that was responsible for your wife's death?

A Yes, sir, I did.

Q And you don't know whether you struck at it or not?

A I don't know for sure. My feeling was to tackle it or get ahold of it and bring it down, and then do what I could.

Q Well, now, after you came through -- or came to, rather, and you found yourself down on the beach with the water washing up on you, what did you do then?

A Well, I very gradually came to some sort of sensation, staggered to my feet and started to eventually ascend the stairway to the yard and to my home.

Q And when you came to on the beach, did you see anything of this form?

A No, sir, I didn't

Q Now, when you got up the hill there up the stairs from the beach, what did you do?

A I at that time was coming gradually to some sort of sense. I entered the house.

Q And what did you do when you entered the house?

A I'm not quite sure just what I did.

Q Did you light any lights in the house?

A Not that I know of.

Q Well, what did you do after you got in the house?

A Well, I went upstairs when I came to enough sensation to

know that I had been -- that I was in my house, and I had a feeling that something was wrong.

Q Well, do you know how long you had been in the house before you went upstairs?

A I can't say, sir, for sure.

Q And you went upstairs. Now, before you went upstairs did you light any lights in the house?

A Not that I know of.

Q What did you go upstairs for?

A I was fearful for my household, sir.

Q In fact, you knew before you went downstairs that Marilyn was gone, didn't you?

A As I look back now, yes, I --

Q No. You knew that at that time, didn't you, Doctor?

A I thought that I did.

Q How?

A I thought that I did.

Q You knew that Marilyn was gone?

A I thought that I did.

Q Didn't you? Why didn't you light some lights downstairs?

A When?

Q When you came up from the beach or when you first went down there from upstairs?

A Well, when I came up from the beach, it was light enough that no lights were necessary.

When I first came down, I was trying to seek out this sound. I had no thought of turning on lights.

Q You say it was daylight when you came up from the beach?

A Not bright day, but it was light.

Q Well, it was just the dawn of day coming on, wasn't it?

A No, sir, it was not the early dawn. It was light enough to see. You could --

Q Well, it certainly wasn't very light in that house, was it, without a light being lit?

A It was light enough to see, sir.

Q And so you then went upstairs again?

A Yes.

Q Now, as you went upstairs on that occasion, did you light the light in the hallway upstairs?

A No, I didn't.

Q And what did you do when you got upstairs then?

A I re-examined Marilyn.

Q And what did that examination consist of?

A Well, I looked at her and I felt her, and I noticed that her body was relatively nude, and I pulled the sheet up over her.

Q Did you see any blood then, Doctor?

A I must have.

Q No. Did you see any blood?

A I can't tell you, sir, specifically just what I saw. I saw a horrible mess.

Q Now, the blinds in that bedroom were drawn down, weren't they?

MR. CORRIGAN: Wait a minute, now.

What was the last answer that you gave?

MR. PARRINO: He saw a horrible mess, he said.

MR. CORRIGAN: What?

MR. DANACEAU: He saw a horrible mess.

MR. CORRIGAN: Horrible mess, all right.

Q The window blinds were down, were they not?

A I don't know, sir.

Q Well, it was dark in that room, wasn't it?

A It was light enough to see Marilyn.

Q And the only light that was in that bedroom was the reflection that came from the light that was lit in the dressing room, isn't that right?

A No, sir.

Q What?

A No, sir.

Q You mean that daylight could come into that room?

A Yes, sir.

Q And you didn't put a light on in that room to examine

Marilyn?

A Not that I recall.

Q And what did you do in examining her at that time?

A I felt her. I took her pulse at the neck.

Q You took her pulse at the neck?

A Yes, sir.

Q And you couldn't find any pulse, could you?

A No, sir.

Q And then what did you do?

A Well, I was shocked. I had to hold myself up --

Q No. What did you do, Doctor? -- is my question.

A I paced out into other rooms. I may have looked at Chip.

Q Not what you may have done, Doctor. What did you do?

A I'm not sure, sir, what I did.

Q Did you go into Chip's room?

A I don't know.

Q I see. How long did you remain upstairs?

A I can't say. I don't really know.

Q Did you attempt to use the telephone that was in the room, on that occasion?

A Not that I know of, no.

Q Well, you did go downstairs again after that, didn't you?

A Yes, I did.

Q What did you do when you got downstairs?

A Well, I paced, walked, tried to clarify my thoughts, tried to awaken from this bizarre, horrible dream, finally came

to the sensation that it was a realization, and what to do, and I called a number that I thought was Spen Houk's.

Q You are thoroughly familiar with the telephones of your brothers, are you?

A Yes, sir.

Q And of the hospital?

A Yes.

Q And of the police department?

A Not as clearly as I would be the others, but, yes.

Q But the number that you called was Mr. Houk's number?

A Yes, sir.

Q Is that right?

A Yes.

Q Any particular reason for that?

A I don't know. None that I can say.

Q And when the Houks arrived there, where were you at?

A I was either in the kitchen with my head on the table or had gone into the den.

Q Do you know where you were when the Houks arrived?

A No.

Q Do you know what the Houks' number is now, telephone number?

A I believe I do.

Q What is it?

A I believe it is Edison 10628, or Trinity 10628, I don't know.

Q 10268?

A 10628, I think. I'm not sure.

Q Does the number Trinity 13686 refresh anything in your mind as to Houk's number?

A 13686?

Q That's right.

A No, sir.

Q Did you look up that number in the telephone book?

A No, I didn't. I have called that number -- I have called Houk's number many times. Whether that is the number I gave you or not, I certainly couldn't tell you. It could be the Aherns' number, it could be --

Q Did you have any memorandum in your desk there as to Houk's number?

A No, sir.

Q You do recall the Houks coming there, though, don't you?

A Yes, I do.

Q You do recall seeing Mr. Houk and Mrs. Houk?

A As I said the other day, my visual memory is not as good as what I heard. I remember someone asking me to drink some liquor and --

Q Do you recall -- did I interrupt you saying something?

A No, sir. Go ahead.

Q Do you recall Mr. Houk asking you what occurred?

A Very hazily, sir. I remember him making some telephone

calls more clearly.

Q You do remember Mrs. Houk or someone offering you a drink of whiskey?

A Yes.

Q That would have been a stimulant, would it not?

A No, sir, not necessarily.

Q How?

A No, sir.

Q It would not?

A No, sir. Whiskey is not a stimulant.

Q Anyhow, you refused to take the drink of whiskey?

A Yes, sir, I did. The initial dose of whiskey might produce slight stimulation, but whiskey is an intoxicant.

Q I understand it is. It stimulates, too, doesn't it?

A It might produce --

Q I don't mean an excess, but a drink of whiskey is a stimulant, is it not?

A That is pretty much of a fallacy, sir.

Q Is it? All right.

A It might produce slight stimulation when you first take it because of the shock of taking straight whiskey. That is possible, but the effect of whiskey is an intoxicant.

Q I understand that, Doctor. Now, do you know who offered you the drink of whiskey?

A No, sir. I can't say for sure. Mr. Houk informed me later

that he didn't, that his wife is the one that did.

Q Well, do you recall telling the person who did offer you the drink of whiskey that you had to keep a clear mind?

A No, sir, I don't believe I said that. I believe I said I was trying to -- I was trying to get a clear mind, I was trying to come to some mental clarity, which I wasn't at that time, and didn't further cloud my mind.

Q Well, after the Houks arrived, did you see anyone else after that?

A Yes, sir.

Q Who did you next see?

A As I believe I stated the other day, I can't give you a definite order in which I saw these people for sure, but I did see Officer Drenkhan.

MR. MAHON: Does your Honor want to adjourn at this time? It is going to take some time more.

THE COURT: You are going into a new phase?

MR. MAHON: Well, not necessarily, but a continuation.

THE COURT: Ladies and gentlemen of the jury, without any formality at all, we will be adjourned until 9:15 tomorrow morning.

In the meantime, please do not discuss
this case.

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(Thereupon at 4:30 o'clock p.m. an
adjournment was taken to 9:15 o'clock p.m.,
on Tuesday, December 14, 1954, at which time
the following proceedings were had):

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Tuesday Morning Session, December 14, 1954, 9:15 o'clock, a.m.

Thereupon the defendant SAM H. SHEPPARD
resumed the stand and testified further as follows:

CROSS-EXAMINATION OF DR. SAM H. SHEPPARD (CONT'D)

By Mr. Mahon:

Q Doctor, when we adjourned yesterday, I was asking you about
Mrs. Houk offering you a glass of whiskey. You recall that,
do you?

A I don't recall that that's where we terminated, but I recall
that near the end.

Q Yes, that's about where we terminated.

A Yes, sir.

Q All right. Now, Doctor, after you determined that your
wife was gone, that is, after your first encounter with
this form up in the room, following that you heard a noise
downstairs and you went downstairs; that's correct,
isn't it?

A I don't believe that's completely correct, sir.

Q Well, what correction is there then?

A Well, as I believe I commented yesterday, I was fearful
for my son. I went into his room.

Q Doctor, yesterday you told us you didn't remember whether
you went into his room or not, didn't you?

A On the second visit upstairs, I believe I said that, sir.

Q I'm talking about the first time you were upstairs after you heard your wife call, "Sam, Sam."

A Yes, sir.

Q Your first encounter.

A Yes, sir.

Q You said that you felt that you went in to see your son, but when I asked you if you were sure, you said you were not; isn't that right, now?

A I'm not sure exactly what I said, but I was struck unconscious twice, sir, and my memory is what I would expect --

Q Now, I'm asking you, sir, not about being struck unconscious twice. I'm asking you if you have any memory of going into your son's room?

A Yes, sir, I do.

Q You do remember that now?

A I remembered it yesterday.

Q You said you didn't remember it yesterday.

A I don't believe I did, sir.

Q All right. Now, you do remember going into your son's room?

A I feel sure that I did.

Q Not feeling, sir. Did you go into his room?

A I can't explain it any clearer with any better clarity than

I did yesterday, sir.

Q Well, you heard a noise downstairs then, didn't you?

A Yes, I did.

Q And you went downstairs?

A Yes, I did.

Q And your thought in mind then, was it not, that you were going after the assailant of your wife?

A I'm not sure that my mind was clear enough to think anything in an objective way, sir.

Q Well, what did you go downstairs for when you heard the noise?

A It was a subconscious drive, a reaction, a feeling. It was no doubt in relation to what had happened in my home. It was a response, sir.

Q Because of the assault on your wife, you felt that that was the person who committed that act, isn't that the fact?

A Probably.

Q Yes.

A I can't remember of any clear differential thinking at that time.

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Q Well, now, Doctor, when you got downstairs you knew that the person that you were after had just assaulted your wife, didn't you?

A I had that reaction, yes, sir.

Q And you knew that the person that assaulted your wife took her life, didn't you?

A I can't say, sir, that I knew anything for sure. As I look back, I feel that that was my thought.

Q Well, Doctor, you testified that when you got up off the floor, that you examined your wife and felt that she was gone, didn't you?

A That's right.

Q So you did feel that she had been killed, didn't you?

A I must have, sir, but I don't recall of any definite differential thinking or feeling as I went down those stairs other than trying to get after this form.

Q Yes. And when you got downstairs, you saw the form out near the screen door in that vicinity, didn't you?

A Between the front door of the house and the yard, sir. The perspective was very difficult.

Q Did you make any effort to get a weapon in your pursuit of that person?

A Not that I recall, sir.

Q And right down at the foot of those stairs was a pile of wood that has been mentioned here, wasn't there?

A I certainly don't recall recognizing the pile of wood at that time. I know that it is there, however.

Q And right alongside of that fireplace are fire irons, are there not?

A Yes, there are.

Q Did you make any effort to get any of those weapons?

A Not that I remember.

Q When you got outside of the house, did you make any outcry at all?

A I may have, I don't know. I have never gone after anyone with a weapon, sir.

Q Well, did you feel that you were competent to cope with a dangerous person who would take a life?

A I'm afraid, sir, that I was in no condition to tell or evaluate or differentiate on a basis that we might do today in this courtroom. I was dazed; very much so.

Q There are many occasions when fishermen fish from that pier in Huntington Park, aren't there?

A Yes, sir.

Q And they fish there all night long on occasions, don't they?

A Yes, sir; some do.

Q And many nights that takes place, isn't that right?

A That is true.

Q When you got down on the beach did you make any outcry down there to attract anyone's attention that might be on

that pier?

A I may have cried out, sir, but I can't recall thinking of the fishermen on the pier.

Q Do you recall any crying-out at any time, sir?

A Yes, I do.

Q And when was that?

A When my ^{wife} cried my name.

Q I mean you crying out for help.

A I can't say that I specifically remember my crying out.

Q Well, now, sir, after the Houks arrived there did you walk around in the house there at all, out to the kitchen?

A After the Houks arrived?

Q That's right, sir.

A That -- I don't remember of walking into the kitchen, no. I may have.

Q You could walk, couldn't you?

A I did walk, sir.

Q There wasn't anything to hinder your walking, was there?

A I was not walking with facility. I certainly was not walking as I can walk now. There was definitely something hindering me.

Q There wasn't anything hindering your limbs, was there?

A My entire mental state, sir, and mental clarity involving balance seemed to affect my walking, yes.

Q Well, you recall leaving the house, do you, with your

brother, do you, Steve?

A Yes, sir, I vaguely recall that.

Q And who else was there at that time?

A I can't say for sure. As I stated a day or two ago, I do remember Betty in the car then.

Q Well, you could walk when you left the house, couldn't you?

A I did walk, partly.

Q You didn't have to be dragged out, did you?

A I evidently needed help.

Q But your feet didn't drag along the ground, did they?

A I couldn't say, sir. They may have at one time or another.

Q You supported yourself on your feet, didn't you?

A At times. There may have been moments when I -- if I had been walking alone, you see, would have staggered or either fallen or tended to lose consciousness, at which time I might have been drug for just a short period to prevent me from slumping or falling or faltering, you see.

Q Well, Doctor, you recall arriving at the hospital?

A Yes, sir.

Q Do you recall your clothes being taken off?

A I can't say that I remember that, sir.

Q You recall X-rays being taken?

A A very distant memory of being -- X-rays being taken, but no clear conception or remembrance of the X-ray experience.

Q Do you recall Dr. Gerber talking to you that morning?

A Yes, sir, I recall Dr. Gerber in the room.

Q Do you recall what he did?

A I recall some of the things, sir.

Q What did he do?

A He looked in my face. He had a smile at one time, sort of a smile. He looked at my hands, like this and like this (indicating), and he questioned me, sir.

Q Did you respond to his questions?

A I believe I did. I don't really recall.

Q Do you know what he asked you?

A Of my own knowledge here, I don't know what he asked me, no, sir, other than about the events of the evening and the morning of July 4th.

Q Do you know what you told him?

A Specifically, sir?

Q Yes.

A No, sir.

Q Do you recall talking to anyone else that morning?

A Yes, sir.

Q And who did you talk to?

A I talked to -- you mean at the hospital, sir?

Q That's right, sir.

A I talked to -- I can't give you the order, sir, but I can give you the names that I remember.

Q All right. Give us the names.

A I remember talking to the detectives that came and talked to me.

Q Was that Schottke and Gareau?

A I know now that it is Schottke and Gareau, but I didn't know at that time. The names may have been mentioned, but I didn't remember.

I spoke with Marilyn's father, Mr. Reese, and Mr. Munn. I spoke with Dr. Steve very -- just, I think, as he was examining me. There were others that I spoke to, sir, just very fleetingly, I would say. There were others later in the day, too.

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- Q All right. In the afternoon, also, you spoke to Schottke and Gareau again?
- A Yes, sir.
- Q That is at the time that Schottke told you that he was sure that you killed your wife, is that right?
- A He said he thought that I did, after he asked me to explain my teeth under her body, and some things like that.
- Q You said -- by the way, there's been some evidence in here that your teeth were chipped. Where were your teeth chipped?
- A Where were my teeth chipped?
- Q Yes.
- A The so-called eye tooth and the one next to it, sir.
- Q Well, where was the chip from?
- A From the --
- Q What portion of the tooth?
- A From the crown of the tooth, sir.
- Q Very much of it?
- A I think Dr. Koch testified to that. I don't know as well as he does. I think he said between an eighth and a quarter of an inch.
- Q Could you see where it was chipped?
- A Could I then?
- Q No. Have you since?
- A Yes, sir.

Q And what would you say the size of it is?

A Well, there are two. I would say they both -- I would agree with Dr. Koch, between an eighth and a quarter of an inch, probably from the crown of the tooth toward the base, in other words, the end of the tooth.

MR. GARMONE: Are we talking
now of his teeth or Marilyn's teeth?

MR. MAHON: We are talking
about his teeth.

Q Now, Doctor, the day after this occurrence -- by the way, when did you first see Mr. Corrigan?

A Of my own memory, sir, I can't be sure. It was after Officer Schottke made this accusation, and it may have been that night or the following evening.

Q Were you advised not to talk about this matter?

MR. CORRIGAN: Object.

THE COURT: Overruled.

A No, sir.

Q By the way, Doctor, when Schottke and Gareau came to the hospital on the afternoon of the 4th of July, they showed you certain articles in a green bag, did they not?

A They showed me a green bag and, as I recall, sir, there was one other article that they showed me. They may have shown me others, but I can't remember.

Q Well, didn't they show you a watch?

A Yes, sir.

Q And that was your watch, wasn't it?

A Yes, sir.

Q And didn't they show you a ring?

A They may have, sir, but I don't remember seeing the ring.

Q Well, the ring that is in the evidence here, you have seen it, haven't you?

A From a distance.

MR. MAHON:

Let's get it,

Tom. Let's see all of that stuff over there.

Q Now, Doctor, showing you what has been marked here State's Exhibit No. 26, you have seen this bag before, haven't you?

A I have seen one like it, sir.

Q There was a bag like that shown to you at the hospital, wasn't there?

A A bag like this was shown to me at the hospital, yes.

Q And you had a bag like that in your desk in your den at your home, did you not?

A Yes, sir. I think anyone who owns a motor boat --

Q Well, never mind who owns a motor boat. You did have, didn't you?

A Yes, sir.

Q And this bag, or a similar bag that you had in your desk --

A I can't say, sir, where I had it.

Q You don't know where you had it in your house?

A Not exactly.

Q Do you know what room you had it in?

A I feel it was in the den. I believe it was in the den, yes, sir.

Q The bag that you had contained some tools for an outboard motor, didn't it?

A Yes, sir, that's right.

Q And the bag and the tools came as part of the motor when you purchased it, didn't it?

A Yes, sir.

Q And what kind of tools were in the bag?

A A monkey wrench -- I don't know whether you would call it a monkey -- it's commonly known as a monkey wrench, a screw driver, some motor boat pins, little pins that fit into the propeller, I believe some cotter pins. There may have been another -- probably a pair of pliers. That's about all I remember.

Q All right. Now, Doctor, showing you what is marked here State's Exhibit No. 26-B, do you recognize this ring?

A Yes, sir.

Q Is that your ring?

A Yes, it is.

Q Were you wearing this ring on the night of July 3rd?

A As far as I know, I was.

Q And what finger do you wear it on?

A I usually wear it on the right hand. I occasionally wear it on the left.

Q Do you know what finger you had it on on the night of July 3rd?

A No, sir, I don't.

Q Did the officers show you this ring in the hospital on the afternoon of July 4th?

A Not that I remember, sir.

Q Now, showing you State's Exhibit No. 26-A, do you recognize this?

A Yes, sir.

Q That's your watch, is it not?

A I believe it is.

Q Is there any doubt about it, Doctor?

A Well, there are other watches like this, sir.

Q Is there any doubt about the fact that that's your watch?

A Well, it could be someone else's watch. There are other watches like this, sir.

Q Is that the watch that you had on on the night of July 3rd?

A I believe it is, sir.

Q And which wrist did you have this watch on on the night of July 3rd?

A I'm not positive that I had the watch on, sir. I would have it on the left wrist.

Q You always wear it on the left wrist?

A Usually, yes.

Q The officers showed you this watch on the afternoon of July 4th?

A I remember seeing the watch, sir, yes.

Q Now, calling your attention to State's Exhibit 26-C, do you recognize this?

A Yes, sir, I do.

Q Where did you have this on the night of July 3rd?

A Well, I ordinarily wear it in the right pocket extending down from one of the rings on the pants, on the trousers.

Q You mean in the side pocket of your trousers?

A Yes, sir.

Q And did you have -- were you wearing these on the night of July 3rd?

A I don't remember, sir, from my own memory, but I must have. I usually wear it.

Q Did the officers show you this on the afternoon of July 4th?

A It's possible, sir, but I don't remember seeing it.

Q All right. Did you talk to any officers on July 5th?

A I believe I talked to -- these dates, sir, are rather confusing, even following this event, but I believe I talked to Officer Rossbach.

Q For how long?

A A short period.

Q And was that conversation interrupted?

A Yes, I believe it was.

Q And what was the cause of the interruption?

A Well, someone told Officer Rossbach that I had been accused of my wife's murder. Officer Rossbach said that, "We don't work that way."

Do you want me to go on, sir?

Q Who interrupted -- my question is, who interrupted?

A I don't remember, sir, to tell you the truth.

Q Was Mr. Corrigan there?

A I really don't remember. He may have been.

Q Well, do you know of anybody else that was there besides Mr. Rossbach?

A I think Dr. Stephen was there, and he may have been the one that made this statement.

Q Well, wasn't Mr. Corrigan there, also?

A He may have been, sir. I really -- so many people were in and out of the room, sir, I certainly couldn't say.

Q Was Mr. Petersilge there?

A I don't know, sir. I don't remember.

confusion, sir.

Q July the 6th would be Tuesday?

A I have no memory of any definite conversations with officers on Tuesday.

Q On Wednesday, July the 7th, did any officers talk to you?

A I think Mr. Rossbach started to come into my room. Dr. Steve asked him to wait.

Q And what time of the day was that?

A I don't know the time, sir.

Q Did Officer Rossbach come into your room and talk to you?

A I don't think that he did. That was the day of the funeral, sir.

Q You went to the funeral, didn't you?

A Yes, I did.

Q You were able to do that, weren't you?

A I went, sir.

Q Well, on the day after the funeral you were discharged from the hospital, weren't you?

A Yes, sir.

Q So you were pretty well recovered on that Wednesday, weren't you?

A I wouldn't say pretty well recovered.

Q Well, you were so well recovered, sir, that you were able to leave the hospital and be discharged the following day, isn't that right?

A Yes, sir. I have sent brain surgery cases home in a week.

Q I didn't ask you that, sir. I am talking about you.

A Well, being discharged doesn't necessarily indicate complete recovery, sir.

Q After you left the hospital did some officers talk to you?

A Before and after, yes, sir.

Q Well, when before?

A The entire afternoon before.

Q Oh, that's when Rossbach questioned you at the hospital?

A That is true.

Q And before he was permitted to question you there was quite a commotion there, wasn't there?

A There was no question about his questioning me, sir.
The question was whether a representative of my family or my legal counsel could be present during that questioning.

Q My question was, sir, there was quite a commotion there, wasn't there?

A I don't believe that was your question, sir, but there was quite a --

Q Let's get it from the reporter.

A All right.

(Question read by the reporter as follows:

"And before he was permitted to question you there was quite a commotion there, wasn't there?")

Q Wasn't there, Doctor?

A Not in relation to questioning me, sir.

Q Well, in relation to what, sir?

A In relation to whether Mr. Petersilge would be allowed to sit in the room quietly and listen to that questioning.

Q And there was threats of issuing subpoenas there, is that right?

A Yes, sir.

Q Dr. Gerber was there, wasn't he?

A Yes, sir.

Q And Officer Rossbach?

A Yes, he was.

Q And Yettra?

A I believe Yettra was there, but I can't remember Officer Yettra.

Q Schottke was there, wasn't he?

A Yes, I think he was, yes.

Q Gareau was there, wasn't he?

A I believe so.

Q Any other officers?

A There may have been, but I don't remember them.

Q Who else was there besides those that I have mentioned?

A Dr. Stephen Sheppard was there.

Q Yes.

A And Mr. Petersilge and Mr. Corrigan came in a few minutes.

Q Yes.

A That is all that I remember, sir.

Q And there was actually subpoenas issued there, isn't that right, or made out?

A I couldn't say.

Q Well, didn't Mr. Rossbach -- wasn't he on the verge of serving a subpoena on you?

A I didn't examine the paper, sir. That was my understanding, yes.

Q He had a paper in his hand which he was about to hand you, didn't he?

A Yes, sir.

Q Yes. And you had heard Dr. Gerber say that he was going to issue subpoenas, didn't you?

A I heard something to that effect.

Q So you well-understood that it was a subpoena that Mr. Rossbach was about to hand you, didn't you?

A I found it difficult to understand any of this hassle that was going on.

Q There was quite a hassle, wasn't there?

A Yes, there was.

Q And Dr. Gerber then withdrew the subpoena, didn't he, before it was served?

A Mr. Corrigan told him to go ahead and serve it, and then if there was any questioning done, that counsel would be

able to be present.

Q Well, wasn't there some agreement before it was served that the officers would be permitted to talk to you?

A Yes, sir.

Q Yes. And then the subpoena was withdrawn, wasn't it?

A Well, it was not served.

Q And then following that there was more hassle, wasn't there?

A There was -- yes, sir.

Q And again Dr. Gerber issued subpoenas, didn't he?

A I don't know, sir. Not that I saw or noted.

Q Well, you heard all of this going on; you were right in the same room, weren't you?

A Yes, sir, I was. Very distraught and disturbed, however, sir.

Q And finally it was agreed that the officers could question you without the presence of your counsel?

A It was left up to me, sir. It was left up to me to decide. Do you want me to go on?

Q And you decided that they could question you?

A I decided that I couldn't understand why, if these officers really wanted the facts, they would refuse to allow Mr. Petersilge to be present, but if that was their insistence, I would be willing to be questioned if I felt there was someone present that I had some faith in as being fair.

Q And did you suggest that there be present Patrolman Drenkhan

from Bay Village?

A Yes, I did.

Q You were acquainted with Patrolman Drenkhan?

A Yes, sir. I am acquainted with all the Bay Village police officers.

Q Had both you and Drenkhan attended social affairs together?

A Only once -- I won't say once -- twice, or possibly more, certainly not often.

Q And had he beento your home?

A Not socially, no, sir. Officer Drenkhan --

Q Pardon me. Go ahead if you had something to say.

A Well, Officer Drenkhan is one of the few Bay Village policemen who was not a patient of mine or whose family is not a patient of mine, and who has not been necessarily close socially. That is one reason I mentioned his name, sir.

Q Is that why you picked him?

A That is one reason.

Q You were thinking that, were you, at the time that you suggested his name?

A I remember thinking that Officer Drenkhan -- neither Officer Drenkhan or his wife were patients of mine.

Q And there was nothing wrong with your process of thinking at that time?

A I wouldn't say that there was nothing wrong with my

process of thinking.

Q Well, you could think that matter out, couldn't you?

A I remember thinking that, sir.

Q And then there was quite a wait until Drenkhan could be found and come to the hospital, wasn't there?

A Quite a wait, sir?

Q Yes.

A I wouldn't say quite a wait.

Q Well, it was about an hour, wasn't it?

A It could have been. Not more than that.

Q And then the officers were permitted to question you?

A Yes, sir.

Q What?

A That's right.

Q And that was the first extensive questioning that there was by officers, isn't that right?

A No, sir.

Q Well, when was there any other extensive questioning?

A July the 4th.

Q And who questioned you then?

A Officer Gareau and Schottke on two occasions, and --

Q Well, how long was the first --

MR. CORRIGAN: Wait a minute.

He hasn't finished. Were you finished, Doctor?

THE WITNESS: No, sir.

Q Pardon me if I interrupted.

A Dr. Gerber, Mayor Houk.

Q How long did Dr. Gerber question you?

A As I say, sir, I don't remember, but he related here something of the content of what I had told him.

Q Would you call his questioning extensive, Doctor?

A It must have been for him to obtain what he testified to on the stand here.

Q Well, what is your recollection of it?

A I don't recall the extent of the questioning, sir.

Q How long did Schottke and Gareau talk to you in the morning of July the 4th?

A As I say, I don't remember the time lengths. I don't know what time it was. I don't know when they got there or when they left.

Q Would you call it extensive, Doctor?

A They questioned me as long as they wished to, as far as I know.

Q Would you call it extensive, Doctor?

A I was in no condition to evaluate whether it was extensive or not extensive. The term is one which you would have to define and base it on time, and so forth.

Q You said you also talked to Mayor Houk.

A Yes, sir.

Q How long did you talk to him?

A I'm not sure of the time length, but I talked to him on two occasions on that day, as I recall.

Q Well, can you tell us how long it was on the first occasion?

A No, I can't.

Q Can you tell us how long it was on the second occasion?

A No, sir.

Q You also talked to Schottke and Gareau in the afternoon?

A Yes, sir.

Q How long did you talk to them at that time?

A I didn't time it, sir.

Q Well, can you give us any idea as to how long?

A From my memory at that time, I can't, no.

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- Q Well, on Thursday, July 8th, when you were questioned after this incident that has already been described about the subpoenas, you talked to Officer Rossbach and Yettra and Drenkhan, is that right?
- A Yes, sir.
- Q There was some insistence that Schottke and Gareau should not participate in that talk, wasn't there?
- A That decision was Officer Rossbach's, to my understanding, sir. Officer Rossbach didn't seem happy with Officer Schottke.
- Q Had anyone protested, either yourself or your lawyers or any member of your family, protested in Schottke and Gareau being present at that questioning?
- MR. CORRIGAN: I object to that.
- I say, I object to that unless the protest was in the presence of the defendant.
- THE COURT: He may answer that, if he knows.
- A They may have. I don't know, sir.
- Q But at least it wound up with Rossbach, Yettra and Drenkhan in your room questioning you, is that right?
- A That's right.
- Q And who did the questioning?
- A Both Officer Drenkhan and Officer Rossbach.
- Q And how long did that take?

A Again, I don't remember the exact length of time, but I remember it was hours.

Q And wasn't that the first extensive questioning that there was?

MR. GARMONE: Objection. It's a question that has already been answered.

THE COURT: Oh, he may answer.

A I would say no, sir.

Q All right. You would say "No, sir" because of the answers that you gave to previous questions here?

A Because of the fact that I feel I was questioned cumulatively on July 4th extensively.

Q Cumulatively. You mean adding them all together?

A Yes, or adding just two question periods taken part in by Schottke and Gareau, I would say, would include extensive questioning.

Q Each of them separate would not be extensive, would it?

A It might be.

Q Well, was it?

A I couldn't say, sir.

Q The fact is, you don't know how long it took at all, do you?

A Not definitely, no.

Q So you don't know whether it was extensive or otherwise, do you?

- A My feeling is that it was rather extensive.
- Q Well, not your -- where do you get the feeling, sir? How do you arrive at a feeling, if you don't know?
- A I arrive at a feeling as a result of being in a dazed stuporous state, sir, in which I really don't -- I'm really not in enough mental clarity to know facts, but certain things do occur. Some of those things are almost as a dream, and I can't say definitely about some of those facts.
- Q Well, Doctor, after that questioning on Thursday, July 8th, you were released from the hospital, weren't you?
- A Yes, sir.
- Q You went to your father's home?
- A That's true.
- Q Is that right?
- A Yes, sir.
- Q And then the following day, Friday, the 9th of July, you went to your home on Lake Road, didn't you?
- A Yes, I did.
- Q And who accompanied you there?
- A Officer Rossbach, I believe Yettra.
- Q Did they pick you up?
- A No, sir. Mr. Petersilge and Mr. Corrigan were on the premises but did not follow me around the house and the grounds.

Q Can you give us any idea?

A I was out there hours.

Q Yes. And you went through all of the rooms out there, didn't you?

A Yes.

Q Did you go down to the beach, also?

A Yes, sir.

Q All over the yard, or most of it, at least?

A Pretty much so, yes.

Q You looked it over pretty thoroughly, didn't you?

A I wouldn't say thoroughly, as far as the house is concerned, sir.

Q Well, what do you think you missed in looking over thoroughly, sir?

A I wish I knew. I have no idea.

Q And then on the following day, that would be July 10th, that was a Saturday, was it not?

A The day after we went to the house was a Saturday, yes, sir.

Q And that's the day that you came down here to this building to the Sheriff's office, is that right?

A That's true.

Q And there you were questioned and a written statement was taken from you?

A That's right.

Q Is that right?

Q Who did you go to the house with?

A Whose car, sir?

Q That's right. How did you get there?

A I believe it was in Mr. Petersilge's car.

Q The officers didn't bring you there, did they?

A No, sir. They asked me if I would go there voluntarily, and I said I certainly would.

Q Yes. And you met the officers there, they didn't accompany you there, isn't that right?

A That's right.

Q Yes. And they asked you to point out certain things as you described these events, didn't they?

A Yes, they did.

Q And they asked you to look around the house to see if there was anything missing, didn't they?

A They didn't allow me to look very closely.

Q Well, you were free to walk around in the house, weren't you?

A Yes, sir, but I was hurried through. I, in other words, was not given the opportunity to peruse and evaluate any one room very carefully, such as the den, which was a terrific mess. It couldn't possibly be evaluated in a short period.

Q Well, how long were you out at the house that day?

A I don't know, sir.

A Yes, sir.

Q Mr. Parrino questioned you there that morning?

A Yes, he did.

Q And did anyone else question you?

A Yes, sir.

Q Who?

A Officer Rossbach.

Q Anyone else?

A In the morning?

Q That's right.

A Officers Schottke and Gareau may have taken part with a few questions, but the chief questioning was by Mr. Parrino.

Q And then following that a written statement was taken?

A That's true, sir.

Q Is that right?

A Yes, sir.

Q And that took a considerable period of time, didn't it, to take that written statement?

A Yes, it certainly did, yes.

Q The lady who was -- by the way, there was a young lady, Miss Bauer, typing that statement, is that right?

A That's correct, yes, sir.

Q And as questions were asked, they would be immediately typed, wouldn't they?

A That's true, sir.

Q And as answers were given to these questions, the answer would be immediately typed?

A Yes. She was somewhat behind the questioning and answering, of course.

Q And that's the process in taking this statement -- that statement, rather, isn't that right?

A Yes.

Q And so it took a considerable period of time?

A That's right.

Q How long would you say that it took to complete that?

A The statement?

Q That's right.

A Oh, I would say around six hours, as far as the written statement is concerned. About nine --

Q After -- pardon me. Did I interrupt you?

A I was just going to say about a nine-hour stay here altogether.

Q And during that period of time, they stopped for refreshments, didn't they?

A For coffee, sir, and milk for Mr. Petersilge, because --

Q Yes. You were asked whether or not you wanted anything, weren't you?

A I was asked if I wanted a cup of coffee, sir, not if I wanted anything.

Q Well, you were asked if you wanted any refreshments of any

kind?

A I can't recall being asked if I wanted anything.

Q Well, you weren't deprived of anything, were you?

A I was deprived of my lunch, sir.

Q Well, did you make any request for it, sir?

A I don't recall. I think Mr. Petersilge requested -- said he would like to eat. I don't remember that I requested anything, sir.

Q Well, didn't the Sheriff ask you if you wanted to eat?

A Not that I recall.

Q By the Sheriff, I mean Mr. Rossbach or Mr. Yettra.

A He may have, sir.

Q Now, Doctor, you were subpoenaed to testify at an inquest that was held by Dr. Gerber out in Bay Village?

A Yes, sir.

Q Is that right?

A That's right.

Q And you did testify there?

A Yes, sir, I did.

Q And then later on you were arrested, on the 30th of July,

I believe it was testified to here?

A I don't recall the date, but I was arrested, yes.

Q And then following that, you were questioned by some officers?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q And they questioned you in relays, you testified here the other day?

A That's true.

Q Is that right?

A Yes, sir.

Q In fact, you have a list of the hours that you were questioned and the officers that questioned you, haven't you?

A I had an accurate list, but that was taken from me, sir.

Q Well, you did have a list here in Court the other day, didn't you?

A A general attempt from memory later.

Q And you had the days that the officers questioned you and who the officers were and the hours they questioned you?

A Yes, but that was deficient, as far as the total question period.

Q And did you have any memorandum as to when your lawyers visited you?

A Just a memorandum as to the first day when Mr. Petersilge was told he would have to leave, sir.

Q And you know that on that occasion Mr. Petersilge was in there merely to prevent the officers from questioning you, don't you?

A No, sir, that's not true. That's the first chance Mr. Petersilge saw me after my arrest, the first time he

had been admitted to the jail.

Q And how long was he there before he was asked to leave?

A I don't recall.

Q As a matter of fact, before he was asked to leave, he was sitting there in a chair and you were seated in a chair and he was reading the daily newspaper, wasn't he?

A He was reading an article from the newspaper to me, sir.

Q He was occupying his time reading a newspaper, isn't that right, now?

A He was reading an article about me to me and discussing it with me, sir.

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How long was he there?

A I don't remember.

Q And how many times and what are the days that your lawyers called on you in jail?

A I can't give you that specific time, but the day that was claimed that the lawyers were with me so long, they were with me a much shorter time than the detectives were, sir.

Q How long were the lawyers with you?

A I can't say specifically, but I feel sure that it was a shorter period than the detectives were with me that same day.

Q And what day was that?

A That was the day following the day after I was arrested, following my first question period.

Q If you were arrested on the 30th, the following day would be the 31st. You mean that was the first day of August, then?

A I believe so.

Q How long were your lawyers with you at that time?

A I believe I have stated, sir, that I don't really remember.

Q It was quite a long time, wasn't it?

A I don't know as I would call it a long time.

Q Well, can you give us any idea how long?

A I said that I don't know. It was more than 15 minutes, if that is what you mean, sir.

- Q Was it more than an hour?
- A Yes, sir, it was. I couldn't say --
- Q Was it more than two hours?
- A I couldn't say, sir. It might have been.
- Q It could have been more than two hours?
- A Possibly.
- Q And wasn't the purpose in that to prevent the officers from talking to you?
- A No, sir. There was no way in which they could prevent the officers from talking with me.
- Q Well, the officers certainly couldn't talk to you while your lawyers were there, could they?
- A Well, the previous day my lawyers couldn't talk to me while the officers were talking to me, naturally not, sir, but the lawyers and I had some things to talk about, naturally.
- Q How many days did the officers question you?
- A I'm not absolutely sure on that, sir. I couldn't say for sure.
- Q It was only a couple of days, wasn't it?
- A More than a couple of days.
- Q Well, how many?
- A I don't remember for sure.
- Q Well, how do you know it was more than a couple of days, then?

A Well, I remember that I was questioned after the second day for one or two days.

Q Now, you were arrested on the 30th of July, right?

A I can't give you the date, sir.

Q Well, anyhow, whatever the date --

MR. CORRIGAN: I will agree that

he was arrested on the night of the 30th of July.

Q Whatever the date was, you were brought down to the County Jail here, is that right?

A That's right.

Q And what time were you brought down here?

A Late.

Q What do you mean by "late"?

A 11 o'clock, in that vicinity, that period, around there.

I can't say exactly, but --

Q Now, the next day someone talked to you, did they?

A Yes, sir.

Q And who was the first one to talk to you?

A Chief Story, I believe.

Q How long did he talk to you?

A A short period.

Q What is a short period?

A Possibly 20 minutes, half an hour.

Q And who was the next one talked to you?

A Detective, sir?

Q No. Anyone who might have talked to you. Did you talk to Mr. Corrigan that morning?

A I may have, sir. It is possible, but I don't have any recollection of it.

Q Well, you have a good recollection of who the officers were and when?

A No, sir, I don't.

Q Well, you compiled a list of it.

A Well, it is a result of that list that I can refresh my memory, sir.

Q Did you compile a list of any kind as to who else besides officers visited you and talked to you?

A No, sir.

Q Did you compile any list as to when your lawyers talked to you?

A No, sir, I didn't.

Q And wasn't Mr. Corrigan there at the jail talking to you on the morning of July the 31st?

A He may have been, but I don't have any recollection of it, sir.

Q Before any officer had talked to you, with the exception of probably Chief Story?

A He may have. I really don't recall.

Q And you can't tell us how many days it was that the officers talked to you?

A

A For sure how many days?

Q Yes.

A No, sir, I can't.

Q And when the officers did talk to you, sir, after the first day, you wouldn't answer any questions that they asked you, would you?

A Yes, I would.

Q Didn't you tell them you didn't want to talk about it?

A Not after the first day, sir.

Q Well, did that occur at some time, then?

A Yes, sir.

Q And after how many days?

A I believe it was after the second day.

Q After the second day?

A I believe so, sir.

Q And you wouldn't talk to them at all then, would you?

A I told them that I felt that I had given them every bit of information that I had available.

Q Doctor, what is the best way to remove blood from clothing?

A I couldn't tell you, sir.

Q Is cold water more effective to remove blood from clothing than hot water?

A I am certainly no authority on that, and I have never tried to remove blood from clothing, sir.

Q Now, Doctor, the injuries that you received, Doctor, didn't you receive those injuries from jumping off of that platform down on the beach?

A No, sir. I think that would be impossible, sir.

Q Why impossible, Doctor?

A Why?

Q Yes.

A Because a spinal cord contusion, sir, is something that is a result of a rather forcible force, and would necessitate very -- almost definitely a force from the back of the neck, unless there were injury to the top of the head in conjunction with the production of the spinal cord contusion.

Q And couldn't such a blow be administered to the back of the neck if you fell on it, Doctor?

A No, sir.

MR. CORRIGAN: I object. Do you have any proof that the injuries were self-inflicted, Judge Mahon, that you ask those questions, or are you just reaching in the air?

MR. DANACEAU: He is asking of the one man who knows.

THE COURT: Overruled. He has already answered it, in any event.

MR. CORRIGAN: This is a court of law, and this is a trial for murder.

MR. DANACEAU:

Yes, sir, and we

are asking of the one man, the only man who knows.

Q Now, Doctor, isn't this the fact:

That you beat your wife that morning?

A No, sir.

Q And that after you had killed her you rushed down to that lake and either fell on those stairs or jumped off of the platform down there out to the beach and there obtained your injuries?

A That is absolutely untrue, sir.

Q That is all, sir.

A And unfair.

Q Just one further question.

Doctor, when you testified at the inquest, there was an oath administered to you, wasn't there?

A Yes, sir.

Q To tell the truth?

A Yes, sir.

Q Did you tell the truth there?

A I did not tell the truth in relation to Miss Hayes.

Q You mean you deliberately lied about it, Doctor?

MR. CORRIGAN:

Object to that.

MR. GARMONE:

Object to the question.

He answered he did not tell the truth about Miss
Hayes. Let the jury --

THE COURT: No. His credibility
is in issue here.

MR. GARMONE: Well, there is an
objection before the Court and you can either
sustain or overrule it.

THE COURT: It will be overruled.

MR. GARMONE: Exception.

MR. MAHON: Read the question.

(Question read by the reporter as follows:

"You mean you deliberately lied about it, Doctor?")

MR. CORRIGAN: Object to that.

THE COURT: It is already overruled.

A I feel that Miss Hayes --

Q You can answer that yes or no, Doctor.

A I don't think that it can be fairly answered yes or no.

Q Do you know whether or not you deliberately lied or not at
that time? Now, you can answer that yes or no.

A I felt that Miss Hayes' reputation justified that answer,
sir.

MR. MAHON: That is all, sir.

REDIRECT EXAMINATION OF SAMUEL H. SHEPPARD

By Mr. Corrigan:

Q Now, Doctor, Mr. Mahon asked you something about the carpet

THE COURT: No. His credibility
is in issue here.

MR. GARMONE: Well, there is an
objection before the Court and you can either
sustain or overrule it.

THE COURT: It will be overruled.

MR. GARMONE: Exception.

MR. MAHON: Read the question.

(Question read by the reporter as follows:

"You mean you deliberately lied about it, Doctor?")

MR. CORRIGAN: Object to that.

THE COURT: It is already overruled.

A I feel that Miss Hayes --

Q You can answer that yes or no, Doctor.

A I don't think that it can be fairly answered yes or no.

Q Do you know whether or not you deliberately lied or not at
that time? Now, you can answer that yes or no.

A I felt that Miss Hayes' reputation justified that answer,
sir.

MR. MAHON: That is all, sir.

REDIRECT EXAMINATION OF SAMUEL H. SHEPPARD

By Mr. Corrigan:

Q Now, Doctor, Mr. Mahon asked you something about the carpet

and the cleaning of the carpet. The incident of the fire took place in what year and what time of the year?

A Well, Mr. Mahon --

Q No. Did you get my question?

A 1953, sir, in -- I believe it was in February.

Q In February. And the incident of your niece, Margaret, bleeding in the house, when was that?

A That was the following spring or early summer, sir.

Q Now, then, there has been introduced here a letter of Dr. Hoversten.

A Yes, sir.

Q You have read it?

A Yes, I did.

Q Do you know how the prosecutor got the letter of Dr. Hoversten that was addressed to you?

A He must have gotten it out of my den, sir.

MR. CORRIGAN: Where is the letter?

THE COURT: It is Exhibit 87-A

and B.

MR. CORRIGAN: Well, it has been introduced, but the jury hasn't heard it, and I desire at this time to read it to the jury.

"May 18, 1954. Dear Sam: Will you be home May 29th and 30th? I would like to talk with you.

"I am so depressed I wish my life were over; I'm too busy for much leisure time, and I do so little surgery I'm bored with the drudgery of it all. I couldn't take this place another year; as it is I'm developing ulcer symptoms. I'm leaving for California in October, and the prognosis is that" --

What is that word?

THE WITNESS: Dilatush. That is Dr. Dilatush, sir. That is the chief surgeon there.

MR. CORRIGAN: (Reading):

-- "and the prognosis is that Dilatush will force me out next month. They are scared stiff I'll encourage a court suit over a bad case but I've decided revenge of that sort will not do me or anyone else any good.

"Received a letter from Margaret Kauzor last week. What are your plans for the future? Shall we go to SA or S. Africa?

"My car was wrecked so badly I got a new '54 Ford V-8 at \$325 discount from retail price. I could have got the convertible at \$500 discount and almost called you for" --

What is that word?

THE WITNESS: "Almost called you for poss." That is "possible" -- "possibility of financial" --

MR. CORRIGAN: (Reading):
-- "assistance if I should need it if I bought it, but wisely decided to live within my means as I find it difficult enough to sleep at nights.

"Are you going to Dallas for the Surgical Convention?

"I may take the train up. Will you happen to be near the depot or shall I call one of my girlfriends?

"Your beloved wife's attitude of the past still fills me with an aversion to staying at your home" --

MR. DANACEAU: "Your house."

MR. CORRIGAN: -- "at your house much as I enjoy your son and wife.

"I don't expect an answer to this knowing how busy you are but hope to see you when I come up.

"My social life is nil and nothing interesting on the horizon.

"Sincerely, Les H."

NS
MAG

Q

You heard Officer Schottke testify, and you made a statement in your direct examination, that you told Schottke that you had played golf with Otto Graham. Do you remember that testimony?

A

I don't remember that I said that I told Officer Schottke that. I remember saying that I heard him testify to that, sir.

Q

Did you ever play golf with Otto Graham?

A

No, sir. I have never played golf with anybody.

Q

Did you ever play golf at all?

A

No, sir.

Q

Is there anything else that you want to say, Doctor, that you haven't testified to?

MR. MAHON:

Well, now, I

object to that question, if your Honor please.

THE COURT:

I think that is

too general, Mr. Corrigan.

Q

Is there anything that I have left out?

MR. MAHON:

I object to that.

THE COURT:

He may suggest a

subject, if there is one, but beyond that,

don't give us any details. Let him ask

questions.

A

Well, I should like to point out, sir, something about reflexes.

Q Well, you stating that to me brings to mind a question that we have discussed. In an injury, when the reflex is lost, what does the return of the reflex indicate?

A Well, the return of the reflex as the individual recovers from the general problem or general injury indicates that that reflex loss was due to the recent injury and not a matter of being absent due to an old injury or possibly even from some other cause.

Q Now, it has been testified that the cremasteric reflexes when examined on July 4th in you were not present.

A Among others, yes, sir.

Q Have the cremasteric reflexes returned in you?

A Yes, sir, they have.

MR. CORRIGAN: That is all.

MR. MAHON: That is all.

MR. DANACEAU: Step down.

(Witness excused.)

THE COURT: Ladies and gentlemen of the jury, we will have a few minutes' recess at this point. In the meantime, please do not discuss this case.

(Recess had at 10:40 o'clock, a.m.)

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