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Thereupon the State of Ohio, further to maintain the issues on its part to be maintained, called as a witness ARTHUR H. BEAIRD, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Mahon:

Q Will you tell us your name, please?

A Arthur H. Beaird.

Q Where do you live?

A Columbus, Ohio.

Q And you just came from Columbus this morning?

A Yes, sir.

Q Mr. Beaird, I want to call your attention to the morning of July 4th of this year. Were you in Cleveland or near Cleveland on that morning?

A I was in Bay Village that morning.

Q You were in Bay Village?

A Yes, sir.

Q And were you here visiting anyone?

A Yes, sir, I was.

Q Who were you visiting?

A My brother-in-law, James G. Crosley.

Q He is a resident --

A Of Bay Village.

Q I understand he is ill at the present time?

A Yes, sir, he is.

Q Speak up.

A Yes, sir.

Q Did you go somewhere with your brother-in-law on that morning?

A We went fishing.

2 Q And what time did you go fishing?

A About 6 o'clock in the morning.

Q And when you say "we," who do you mean?

A Well, there was my brother-in-law, Mr. Crosley, his son, Jimmy, and myself.

Q And how old is his son?

A Eight years old.

Q Where did you go fishing?

A In Hamilton Beach.

Q Hamilton or Huntington?

A Huntington, I'm sorry. Huntington.

Q And were you fishing on the beach or on a pier at the beach there?

A We were fishing on a pier.

Q Had you fished there before?

A No, sir, I hadn't. I had been there, but never fished off of it.

Q You had been to the pier before?

A Yes, sir.

Q And do you know how many piers are there at Huntington Beach?

A Three, that I can recall.

Q Can you tell us which pier you were fishing off?

A The furthest one to the west.

Q And how far out on the pier were you fishing?

A Oh, I'd say about 15, 20 -- about 15 yards.

Q Was there anyone else fishing on the pier that morning?

A There was no one fishing until about 15 minutes after we arrived there, and another fisherman came.

Q Did you see anyone else in the vicinity there?

A Well, when we arrived at the beach the water was -- sounded pretty rough, so we stopped at the top of the stairs leading down to the beach, and we noticed that there was two fellows on the middle pier about the position of the lifeguard chair, which, I would say, is about 20 yards out, 20 to 25 yards. We figured that they were fishing, so we figured if they were game enough we would be, so we went down, and when we were on our way down the stairs, they left the pier, and it was a couple of young boys.

Q You say they were on the middle pier?

A Yes, sir.

Q And that would be a pier east of the one that you

eventually went down to fish on, is that right?

A That's correct.

Q Did you come in contact with those boys?

A No, sir, we didn't.

Q Did you see where they went?

A No, sir. The only thing that I noticed is when they came off the pier they went south -- I mean east on the beach, and then up the stairs.

Q Could you tell us about how old they were?

A I'd say 15 to 16.

Q Did you see anyone else in the vicinity there that morning?

A No, sir, not until we were first questioned.

Q You were questioned?

A Yes, sir.

Q By whom?

A Two firemen.

Q What time did the firemen question you?

A I'd say it was right around 6:15, 6:20, something in there.

Q How long was that after you saw these two young men?

A About 10 to 15 minutes.

Q And then did someone else talk to you after the firemen?

A The Police Chief and the Mayor of Bay Village, and then a patrolman.

Q What was the condition of the lake there when you went down to fish?

A It was very rough.

Q And did you observe the beach that is west of the pier?

A No, sir, I didn't.

Q Could you tell us -- you say the lake was very rough.

Could you tell us how far the waves came -- the water came up on the beach?

A Well, I couldn't say exactly how far they came up, because I didn't pay too much attention to that, but the only thing I can say is it was breaking over the piers, and that was one reason we hesitated in going out any further.

Q You mean the waves were breaking over the piers?

A The waves were breaking over the piers, yes, sir, and the fisherman who came there later lost his fishing bucket and his gear on account of the waves that came over the pier.

Q How long did you remain fishing there?

A I'd say right around 7:30.

MR. MAHON:

You may inquire.

CROSS EXAMINATION OF ARTHUR H. BEAIRD

By Mr. Garmone:

Q Did you have a successful fishing venture there that morning?

A No, sir, we didn't.

Q No catch?

A No, sir.

- Q Now, you first talked with two fishermen, I believe you said?
- A That's correct.
- Q And then you talked with a fellow who identified himself as the Chief of Police?
- A Well, Mr. Crosley said that he believed he was the Chief of Police and the Mayor, because Mr. Crosley had attended some of the town meetings, and they were both present.
- Q And you later learned from the fellow that you were with that you were questioned -- or asked some questions by the Chief and the Mayor?
- A Yes, sir.
- Q Now, the Mayor testified here that during his conversation with you, or the gentleman that you were with, that a statement was made that you had seen either two boys or two men west of the point where you were fishing. Do you remember that statement having been made?
- A No, sir, I don't.
- Q Would you say it was not made when you were under the examination of the Chief of Police of Bay and the Mayor of Bay?
- A Well, I didn't hear the full testimony that they might have questioned my brother-in-law. All I know is that when they asked me, or when I was present, was about the boys.

Q But you didn't hear what your brother-in-law had stated to them?

A Not all of it, sir.

Q You didn't notice the beach west of the pier, did you?

A No, sir, we didn't, because it was private property, and we didn't venture any further.

MR. GARMONE: That is all. Thank you.

MR. MAHON: That is all.

(Witness excused.)

THE COURT: Ladies and gentlemen of the jury, by common understanding we will now be adjourned until 9:15 on Friday morning.

Now, that we have a day and a part of a day in between the periods, will you please be especially careful not to discuss this case in any way, shape or manner with anyone?

Without any formality at all, we will be adjourned until 9:15 Friday morning.

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(Thereupon at 12:20 o'clock p.m. an adjournment was taken to 9:15 o'clock a.m., Friday, November 26, 1954, at which time the following proceedings were had):