

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. 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.

Page 9 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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t 18
- 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.

Q Well, let me see if I can remind you, Doctor. Didn't you 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.

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And where were you struck?

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