

ELEVENTH JUDICIAL DISTRICT
STATE OF MINNESOTA
VS
GILBERT HENRY STEPHENSON

CERTIFIED COPY
TESTMONY, ETC

No. 6598: Gilbert Henry Stephenson [Transcript].

State of Minnesota,
County of St. Louis.

In district court,
Eleventh Judicial District.

6598

STATE OF MINNESOTA, Plaintiff.

Vs.

GILBERT HENRY STEPHENSON, Defendant.

Synopsis of Testimony and Charge of Court.

This cause came on for trial at the May 1920 term of the district court of the Eleventh Judicial District of the State of Minnesota, held at the court-house in the city of Duluth, Minnesota, within and for the country of St. Louis, and state aforesaid, on Monday, August 30th, before

Hon. Bert Fesler, Judge, and a jury.

APPEARANCES:

Mason M. Forbes, Assistant county Attorney,
For the State.

Harry E. Wineberg and A. E. McManus,
for the Defendant.

The case is called for trial and a jury impaneled and sworn to try the cause.

Mr. Forbes opened the case to the jury on behalf
Of the State.

OSCAR OLSON, Called as a witness on behalf of the State.

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MR. McManus; May it please the Court, the defend
Ant objects to the introduction of any evidence under
the indictment on the ground that the same does not
state a public offense. Second, on the ground that
The indictment is so general in its terms and so gen-
eral in its charges that the defense cannot properly be
prepared to meet these charges, -has not due notice
thereof. The statement of the county Attorney does not
in all things comport with the statement made in the in-
dictment, nor agree with it. Furthermore, I ask that
all witnesses on behalf of the State, as well as all
witnesses on behalf of the defense, please be excluded
from the court-room during the trial of this case, ex-
cept those who are testifying at the time.

The court: Mr. Olson, take the stand.

OSCAR OLSON is duly sworn.

THE COURT: The objection of counsel will be insert-
ed at this stage of the record and it will be overruled.
And the request of counsel for the exclusion of witnesses
Made by him will be granted. Counsel will take pains to
Identify th3e witnesses and the witnesses will retire
From the court-room as their names are called by the
Counsel.

(Witnesses retire from the court-room).

THE COURT: is there anyone in the court-room who knows
Himself to be a witness in this case? If so he will re-
Tire.

(No response).

MR. McMANUS: May I have an exception to the ruling
of the court on the matter that the Court overruled?

THE COURT: Yes.

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DIRECT EXAMINATION

By Mr. Forbes:

Q. Your name is Oscar Olson? A. Yes, sir.

Q. You are a police officer and have been connected with the police force of the City of Duluth for some time?

A. Yes, sir.

Q. You were acting in the capacity of police officer on the 15th day of June of this year? A. Yes, sir.

Q. Where were you on duty that day? A. At the police headquarters.

Q. What were the hours of your watch? A. From four o'clock in the afternoon until twelve, midnight.

Q. Prior to that time how long had you been on the force?

A. Since the 1st of May, 1908.

Q. You are sergeant of police? A. Yes, sir.

Q. I will ask you, Mr. Olson, if on the 15th day of June, 1920, there was under your guard and in your custody and control three Negroes by the name of Issac McGhie, Elmer Jackson, and Eli Clayton? A. Yes, sir..

Q. Where were they placed for safe keeping? A. They were placed in the big jail in cells. The big jail is the jail on the ground floor.

Q. How is that big jail – And is that big jail the big jail belonging to the City of Duluth and in this county?

A. Yes, sir..

Q Do you remember when they ere brought in? A. Yes, sir..

Q When was it? A. Seven-thirty in the morning.

Q The morning of the 15th? A. The morning of the 15th, yes, sir.

Q. Were they in cells when you went on watch at that time, that day? A. That I don't know.

Q. You took charge at what time? A I reported for duty

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at 7:35 that afternoon.

Q. You were on duty from four until twelve that night?

A. Yes, sir

Q. These men were in cells in the cell-room in the rear of the main floor of the city jail? A. Yes, sir.

Q. When that evening or during the afternoon or evening was your attention first called to any disturbance, unusual disturbance, in the neighborhood of the jail? A. Around near seven o'clock.

Q. What called your attention to it? A. An unusual number of people passing by.

Q. That was about what time? A. Oh, around, - possibly shortly before seven, or around seven o'clock.

Q. After that did the number of people around the jail increase gradually? A. Why, yes, they did.

Q. Will you explain to the jury where the people were gathering? A. Why, on the - on Superior Street and also Michigan.

Q. Is there an entrance to police headquarters from Michigan Street? A. Yes.

Q. Where is the garage located? A. On Michigan Street.

Q. On Michigan Street? A. Yes, sir.

Q. Is there an entrance to police headquarters from Superior Street? A. Yes, sir.

Q. And on what floor is that? A. It is on the ground floor, that is on Superior Street.

Q. Will you just tell us in your own language what happened there as the people gathered? A. Why, I noticed an unusual number of people on the street, on Superior Street and also Michigan Street, and that went on for a little while and shortly after there was a large number of people there.

Q. What were they doing? A. They were yelling.

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Q. Could you distinguish anything they were yelling? A. No, I cannot.

Q. Making a loud noise? A. Yes.

Q. At both the Superior Street side and also the Michigan side? A. Those I noticed only from Superior Street.

Q. Tell us what happened after that? A. The mob started to throw bricks and stones.

MR. WINEBERG: Can't you fix the time of this, Mr. Forbes, - I mean the hour?

By Mr. Forbes:

Q. Can you fix the time that was more definitely? A. I can fix it – some time between six-thirty and eight o'clock.

Q. go on and tell what happened? A. They started to throw stones and bricks, and the police fought off the mob on the Superior Street side and the mob then went to Michigan Street and also continued to throw bricks and stone, and they were driven away from there and then they come around to Superior Street side again, and resisted the police there for some time until they finally overpowered the police and gained entrance to the police station.

Q. When was the hose, if the hose was used, when was it first used? A. After the mob began to use stones and other things.

Q. What was done with the hose? A. Why, we had the hose attached to a hydrant out at Second Avenue East and Superior Street. The hose was brought into the hallway of the station and we used it on the mob.

Q. You turned the water on – A. Yes, sir.

Q. Squirted the water at them? A. Yes, sir. And when we beat them off the front they went around to the rear. A little narrow stairway there and we beat them off there and then they came around on the Superior Street side again. They had out the

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first hose and we had sent for more hose. The mob seized the hose, or took the hose from the firemen and attached it to the water main on First Street and Second Avenue East and used it on the police.

Q. I will ask you what if any windows were broken in front of the jail? A. Yes, sir.

Q. What windows? A. Nearly all the windows in the police station, with the exception of one or two small ones.

Q. Were they broken that night by the mob? A. Yes, sir.

Q. What door? A. The outside door and the inside bar door.

Q. On the second floor of the cell room was there any attempt made there by the mob – A. Yes, sir.; a hole made in the wall.

Q. How big a hole? A. Oh, possibly close on to three feet long and maybe about a foot and a half wide.

Q. In what wall was that hole made? A. It was in the wall west of the entrance into the jail.

Q. On the second floor? A. Yes, sir.

Q. Was that damage all done by the mob that night? A. Yes, sir.

Q. Did the crowd, the mob that night obtain entrance to the cell room where these three men, McGhie, Jackson and Clayton were kept? A. Yes, sir.

Q. How did they get into that cell room? A. They broke in.

Q. How? A. Force.

Q. Do you remember what kind of an instrument they used?

A. They had a large timber that they used as a ram against the outside of the jail door, of the big jail, and a crow-bar. Hammers. Several other instruments.

Q. I will ask you whether or not the locks of the cells in-

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side of the cell room were broken? A. Yes, sir.

Q. How many, do you remember? A. Four or five.

Q. Do you know how they were smashed? A. I do not.

Q. How far did the mob extend along the street, how far?

A. As far as I could see from standing close outside the front of the building.

Q. As far east and west as you could see? A. Yes, sir.

Q. How far would you say they extended, as far as distance was concerned, how far east on Superior Street? A. some distance east on the easterly line of Second Avenue East.

Q. And how far west? A. On the westerly line of first Avenue West.

Q. And was the street densely packed with people. A. Yes, sir.

Q. During all that time were they yelling and calling?

A. Yes, sir.

Q. During those hours, I will ask you, Sergeant - -

MR. WINDEBERG: What hours, - fix the hours.

By Mr. Forbes:

Q. Between four o'clock in the afternoon and twelve o'clock at night. Were you in charge there? A. Yes, sir.

(Recess for a few minutes)

Q. I will ask you, Mr. Olson, if J.N. Nyquist, Stantz Nesgoda, E. H. Barber, Carl Sundberg and C.C. Walker are all policemen connected with the police force? A. Yes, sir.

Q. Were they on duty that night at police headquarters?

A. They were called there.

Q. Do they all come down at night? A. Yes, sir.

Q. I will ask you if they reported there under your orders - -

A. Yes.

Q. What time, about, do you fix it as the time when the mob

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got into the jail and broke the hole in the wall on the upper cell room and broke the door in the lower big cell, - the big jail?

A. some time after ten-thirty; ten-twenty, something like that.

Q. I will ask you if these three men, who had been present under your custody and under your guar, Isaac McGhie, Elmer Jackson and Eli Clayton, were removed by the mob from the jail?

A. Yes, sir.

Q. And were they hanged subsequently? A. Yes, sir.

Q. I don't know, - were you hit with anything during the riot down there? A. I don't know whether I was hit, or not, but I had several bruises the day following.

Q. Was the water turned on you, at all? A. Yes, sir.

Q. That was the water from the hose? A. Yes, sir; from the mob's hose.

Q. From the mob's hose? A. Yes, sir.

Q. When the crowd got into the jail I will ask you whether or not, - in the police headquarters, if the halls and corridors and all places were filled with the crowd? A. Yes; packed.

Q. Was anything done, Mr. Olson, that night, to try to keep the mob quiet or disperse them? A. Yes, sir.

Q. By whom? A. By myself and other police officers.

Q. By any citizens? A. Yes, by one.

Q. Was there any - A. That I could see.

Q. Were there any speeches made by anyone at that time to quiet them? A. Yes.

Q. by whom? A. Myself, Attorney McClearn, and by a man who I didn't know.

Q. Was that prior to the time the cell room door was broken?

A. it was before the cell was broken, yes.

Q. And before the hole was made in the wall of the upper cell room? A. Yes, sir.

Q. All this happened here in the City of Duluth, County of

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St. Louis and State of Minnesota? A. Yes, sir.

MR. McMANUS: No cross-examination.

- - - - -

WILLIAM F. LASHELLS, Being first duly sworn as a witness on behalf of the State, testifies as follows:

DIRECT EXAMINATION

By Mr. Forbes:

Q. Your name is William F. LaShells? A. Yes, sir.

Q. Where do you live, Mr. LaShells? A. 109 East Fifth.

Q. What do you do, what is your business? A. Engineer.

Q. Where are you employed now? A. Missabe dock.

Q. Did you come right from the dock? A. They took me right off my engine.

Q. You want to go back as soon as you can? A. Just as quick as possible.

Q. Calling your attention to the night of the riot here, the fifteenth of June of this year, I will ask you if you were in the neighborhood of the police headquarters during that disturbance? A. I was.

Q. When was it you first got there? A. About six-fifteen.

Q. Were there very many people there then? A. There was a few.

Q. How long after that before the crowd reached a considerable size? A. Oh, about a quarter from – six-thirty until nine o'clock, pretty good size eight o'clock.

Q. Did you see a truck going up and down Superior Street during that time? A. I did.

Q. About what time was it you saw the truck? A. I saw the truck going along first, - just a few minutes after six.

Q. Were there many people on the truck? A. There was about,

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I should judge eight or nine, something like that; I never counted them.

Q. What were they doing, talking? A. Some of them was holding a rope behind and some was on the truck calling to the people on the street to come and join a necktie party.

Q. Where did the truck go, in a general way, as you saw it?

A. I was on First Avenue East and Superior Street when it first passed me; it turned around and come down, - it went down the street twice that I saw.

Q. Do you remember where the truck ultimately stopped?

A. The last I saw of the truck it went on around the corner of First Avenue East and it was parked there.

Q. South of Superior Street? A. yes, just a little.

Q. Where did the people go that were on the truck? A. Well, they had all left the truck before, come up and stay around the police station.

Q. At that time were there a good many people around the police station? A. Quite a few, yes, sir.

Q. What were they doing? A. Standing around the way a crowd would usually in excitement.

Q. Were you there when the officers were using the hose?

A. Yes, sir.

Q. Were you there when the mob was squirting water against the officers? A. Yes, sir.

Q. What time did that occur? A. Well, the officer had the hose first and the crowd didn't get the hose until the second time that the wagon come up just outside of the police station with the hose, that is when the fireman gave the crowd the nozzle, - that is where he got the nozzle, gave it to him off of the truck - -

Q. At that time were there a great many people around police

headquarters? A. Quite a few, yes.

Q. had they started calling and yelling at that time?

A. Some of them had, yes.

Q. Do you remember what they yelled? A. "Get the Negroes",
different things like that. The same as fellows would holler.

Q. do you remember about what time it was that the mob got
their hose? A. As near as I could judge, not having a time,
I guess it was along about eight or a few minutes after eight
that the mob got control of the hose.

Q. Did you recognize anybody holding the hose in the mob?

A. Yes, sir.

Q. Calling your attention to this defendant I will ask you
if you saw him there that night? A. Yes, sir.

Q. Whereabouts ? A. He was on the hose, on the nozzle, in
the middle of the street, with another man.

Q. How far away from the police headquarters? A. About the
middle of the street, a little past the center.

Q. What were the police doing with their hose at that time?

A. They were holding the hose on the two men that had the
nozzle and they couldn't get the water through it.

A. Did you see this defendant again that evening? A. I did.

Q. Where did you see him? A. In the police station.

Q. About what time was that, if you can remember the time"

A. Well, that was in the neighborhood of, - I should judge
twenty, - twenty-five minutes after they had got the hose. As
soon as they got the hose they drove the police back.

Q. What happened to the police? A. They drove the police
back with the water.

Q. What was the mob doing then? A. Some of them grabbed the
police hose and pulled it out, - out of the way.

Q. Where did they go? A. They used that hose to, - used both

hoses.

Q. Did the mob then get into the police headquarters?

A. Yes, sir.

Q. Were there many people in there ? A. There was, after they got the water and drove them back, clean out of the office there and broke the windows, shot the water through the windows.

Q. When after that was it that you saw the defendant Stevenson? A. After they got - - got in control of the police station, of course, they abandoned the water, that was after - - they didn't use the water any more after that, - after they got control of the situation.

Q. Was there much water around on the floor? A. Yes, Sir.

Q. How deep? A. I couldn't say whether - - how deep it was. But two hoses playing, it was pretty wet. Everything was pretty well soaked.

Q. I will ask you this question, if you saw the defendant on the hose outside, - and at that time where were you? A. I was right at the side of the door, on this side of police station.

Q. East or west? A. On the west side.

Q. I will ask you if they went into the police station?

A. I did.

Q. Where did you go? A. I went right in on the main floor.

Q. About what time was that, if you know? A. Well, I should judge that was in the neighborhood, - as close as I could say, nine o'clock.

Q. When you got inside of police headquarters where did you go? A. I went right on the main floor where the rest of the crowd was.

Q. Had the mob gotten into the cell room then? A. No, sir.

Q. How long after that was it that they got in? A. Well,

that was, took them some time to break through.

Q. How did they get into the main cell room? A. With sledge hammers and bars.

Q. by breaking what? A. By breaking the locks and the doors.

Q. I will ask you if they got into the cell room? A. They did.

Q. Did you go into the cell room? A. No, sir; I stayed on the outside.

Q. When was it after you got into police headquarters that you saw this defendant again? A. The first time I saw this man after I got in here, when he was breaking the lock with a sledge hammer.

Q. Which lock did they break? A. Well, now, I couldn't say just what lock it was, because I don't know, - I am not acquainted with the place enough to know, but it was a cell lock. I could easily show it if I had it, of course I don't know how the cells are, - that is, I don't know the numbers of the cells, but it was towards the back end of the station where the lock was broke, the first one.

Q. Where were you standing then? A. I was just back of them, - there was three or four.

Q. Was the lock you refer to, that the defendant was breaking, was that a cell lock? A. Yes, a lock of the cell.

Q. On the cell door? A. Yes, sir.

Q. That was after they had gone through the big door? A. Yes.

Q. Of the cell room? A. Yes, sir.

Q. Did you go down there with them? A. I went there after they had opened it, yes, sir.

Q. How far away were you from the defendant when he was breaking the lock? A. Oh, probably six or seven feet. As close as I could crown up.

Q. You saw him breaking the lock of the cell? A. I saw him

hitting it and finally gave away.

Q. Did you see him again that evening - - A. No, I never saw him any more after he broke the lock. I left and come back outside to the front door.

Q. Did you notice whether or not there was any Negroes in that cell that he was breaking? A. Yes, sir.

Q. There were? A. Yes, sir.

Q. After you came out did you stay around there for a while?

A. I stayed until one o'clock.

Q. Were you there when the three colored men, McGhie, Jackson and Clayton, were brought out? A. I was there, yes, sir.

Q. They were brought out by the mob, were they? A. Yes, sir.

Q. And were they subsequently hanged? A. They were.

Q. by the mob? A. Yes, sir.

CROSS-EXAMINATION

By Mr. McManus:

Q. When did you say you work for? A. I am working at the Missabe dock, for the Stack Construction company, on an engine.

Q. What kind of an engine is it? A. Well, it is a steam-engine.

Q. Are you the engineer or the fireman? A. I am the engineer.

Q. have you a fireman? A. No, sir..

Q. You fire the engine yourself? A. I do.

Q. Burns soft coal? A. Yes, sir.

Q. A pretty smoky job you have got? A. Well, at times.

Q You were down town that night, did you say, at six-fifteen?

A. I was.

Q. You saw the truck going up and down the street? A. I did.

Q. What are your hours as engineer? A. I work six – twelve hours a day - - ten hours a day.

Q. From when to when? A. Well, I leave my home at six - -

about six-five in the morning.

Q. And work until when? A. Work until six – five-thirty at night.

Q. Out at the Missabe dock? A. Yes, sir.

Q. Where did you live, did you say? A. 109 East Fifth.

Q. You had to go down town to get home? A. Yes, sir.

Q. What time did you usually have your supper? A. Oh, about, - supper is ready when I get home.

Q. What time do you usually get home? A. About six o'clock.

Q. Did you get home this night at six o'clock? A. I happened to lay off for sixty days at that time, wasn't working, stayed right at home, wasn't working there at that time, at all.

Q. Then you ere on sort of a vacation at that time? A. I was, - I had worked nine months straight and I took sixty days layoff.

Q. Are you working now? A. I am.

Q You were at First Avenue East and Superior Street when you saw this truck drive by? A. Yes, sir.

Q. With a rope behind it and that is in the papers - -

A. I am not taking the paper, thank you.

Q. I am not asking you that. I say, you have seen it described in the papers, haven't you? A. Well, I told you I haven't read the newspapers but very little since I have been in this town, and my not believe it, but I haven't - -

Q. Are you a French Canadian? A. No, sir; I am a Yankee.

Q. Do you read? A. I do.

Q. You haven't read the papers about it, at all? A. Oh, my wife has read it quite a bit, yes, read to me a little bit.

Q. The truck passed you first going east on Superior Street, and the it passed you another time? A. Yes, sir..

Q. Finally it went down to Second Avenue East, turned around

the corner and disappeared? A. No, sir.

Q. Where did it go to? A. It went up to Second Avenue and turned around and come back to First Avenue East.

Q. Then where did it go? A. Then they went up and down the street again, then it went off east of First Avenue East, - between Superior Street and Michigan Street and parked there.

Q. Did you go down to look at it where it was parked?

A. I was standing right on the corner.

Q. Where were you standing when it first passed you?

A. Standing just on the corner, right there, - just a door or two from First Avenue East on Superior Street.

Q. You must have followed them down - - A. It didn't park on Second Avenue East.

Q. Parked on First? A. Yes, sir.

Q. You say about eight o'clock the crowd got hold of a hose?

A. Well, no I didn't say it was eight o'clock.

Q. Was it dark then? A. Yes, it was getting good and dark, - towards dark when they got the first hose.

Q. When was it the crown out this hose? A. As near as I could tell, a few minutes after eight.

Q. How long after the crowd got the hose did you see the defendant with the hose? A. The defendant was in the middle of the street with the hose as soon as they got the nozzle - -

Q. And that was about eight o'clock? A. No, it was later than eight, after they got the nozzle.

Q. How long was it after eight, about? A. I would say fifteen or twenty minutes - -

Q. Wasn't it after nine o'clock when he got that hose? A. No, I couldn't say.

Q. You swear it wasn't after nine o'clock before you saw the defendant there? A. No, I couldn't swear to the time. I didn't have no time on me, I am only guessing - -

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- Q. You don't know? A. I don't know the real time, no.
- Q. You are sure you saw the defendant? A. I am positive.
- Q. Did you ever meet him before? A. No, sir.
- Q. Ever see him since? A. No, sir; not until I saw him here.
- Q. Here in the court-room? A. That I know of.
- Q. How was he dressed that night? A. Well he had on some kind of a jumper, - I don't know. He wasn't dressed up, had on some kind of a jumper. it had been laundered.
- Q. What color? A. Kind of, - looked to me like it was overall jumper that had been washed.
- Q. That was midnight on the 15th - - A. you would not call it day time would you? After six o'clock is night, after sundown.
- Q. if the sun is up at six - - A. I don't believe the sun was up at that time.

MR. FORBES: the record may show, I have no reason to doubt that that is correct, counsel asked me if I would state it for the record, and I am willing to state it, and the record may show that I concede that.

MR. McMANUS: It would be sunset that night at eight-thirty-eight?

By Mr. McManus:

- Q. Yes. Did you see what the defendant had on? A. yes.
- Q. It was an overall jumper, you think? A. I believe it was.
- Q. It had been laundered? A. I think so, yes.
- Q. He had on overalls, too? A. I can't say what he was wearing for trousers.
- Q. What kind of a hat did he have on? A. he had a cap.
- Q. What color cap? A. I couldn't say what color cap he had on.
- Q. Was it a cap, or peak, or otherwise? A. Well, it was - - I think it was just the ordinary cap, with a little - -

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- Q. With a little vizer? A. Yes.
- Q. Or peak, do you call it? A. I don't know what you call it.
- Q. how near were you to him? A. Well, at one time I wasn't over - - crossing the street, when they had the hose I wasn't over seven or eight feet from him.
- Q. In front of him or behind him? A. Right across in front of him.
- Q he had hold of the hose? A. he had hold of the nozzle.
- Q. Two of them? A. Two of them at the time, yes.
- Q. Nobody else? A. Nobody was holding the nozzle at the time because the water wasn't yet in there.
- Q. How long before somebody else did take hold of the nozzle?
A. Just as soon as they got the water through the nozzle.
- Q. Who else had hold of the nozzle besides him? A. I don't know who it was.
- Q. Whom else did you see there that night that you recognized?
A. Several others.
- Q. Well, who? A. I couldn't say their names, I didn't know them.
- Q. Who else have you now clearly in mind that you saw that night besides this man ? A. Who else did I see there that was mixed up in it?
Q. Yes. A. Quite a few of them that is here, that I saw there.
- Q. Can you remember their names? A. I don't know about the individual's names, - I don't know about anybody's name.
- Q. Would you know them again? A. I know lots of them, yes.
- Q. Would you know them again if you saw them? A. Yes, sir..
- Q. Are you going to be a witness in other cases against these men who are charged with this same offence? A. I don't know.
- Q. What were you doing there? A. I was looking on.

Q. You were right in the cell? A. Yes, sir - - I wasn't in the cell, though; I was in the jail.

Q. You said you were? A. No, I did not.

Q. How? A. I did not.

Q "I stood on the outside. The first time I saw the man was where he was breaking the lock with a sledge hammer. I went through the opening and saw the niggers in there." Did you testify to that? A. I went through the door.

Q. Did you testify that you went in through to the cell after the cell was broken open and you saw the Negroes in there?

A. I testified I went through the main door that was, - to the cell.

Q. Did you say you saw the Negroes in there? A. I saw the Negroes in there, yes, sir, through the door, but I didn't go through the door.

Q. Did you testify that you stood three or four feet back of him when he was breaking the door? A. I did.

Q. What part did you take in this riot? A. I took the part of a citizen to uphold law and order.

Q. Did you do anything to sop them from breaking this door?

A. I tried to.

Q. What did you do? A. I --- I came up and asked as law-abiding citizens to uphold law and order, and not damage property.

Q. You say you saw this man holding this hose? A. Yes.

Q. And you saw another man holding the hose with him?

A. Yes, sir.

Q. How was the other man dressed? A. The other man was dressed with some kind of a dark, - dark cloth, I don't know what, I couldn't say what it was; it was dark cloth of some kind.

Q. Was he a larger man than this one, or smaller? A. I believe he was smaller.

Q. How long did you see this defendant hold that hose?

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A. Oh, I guess he must have had the hose, anyhow it was, -
twenty minutes before they got loose from it.

Q. Was the stream coming from it during all that time?

A. Not all the time, no, sir.

Q. Any of the time? A. Quite a bit of the time, yes.

Q. That was right - - A. They didn't get the water through
it for a while.

Q. How long was it before they got water? A. I guess it
must have been at least ten minutes before they got water through
it.

Q. Well, was it longer than that? A. No, I don't believe
it was.

Q. Did he hold it twenty minutes after that? A. No, twenty
minutes altogether.

Q. He held it ten minutes before they got water? A. I think
about ten minutes before they got water through it.

Q. You have testified that it was about eight o'clock, or
maybe a little after, before they got the hose? A. Well, I
don't know just exactly what time because I never had a time-
piece.

Q. About ten minutes after the water came through the hose?

A. Ten minutes, about.

Q. Will you say to this jury whether or not that occurred, -
that all occurred between eight and eight-forty-five? A. Well,
I know it was right along there; it wasn't later, - it may be
nine o'clock and may have been a little after nine. I didn't
take it down.

Q. Could it have been half-past nine? A. No, I don't think
it could have been as late as half-past nine.

Q. Would it have been nine when you last saw him with the
hose? A. I couldn't say right the time exactly, at all.

Q. Would it have been nine o'clock when he first got the hose?

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A. Nine o'clock, well, it may have been, may have been nine o'clock, I can't say that it was - -

Q. As a matter of fact, you haven't any very definite idea about the - - A. Not the correct time, no, sir.

Q. Were you in the court-room when the witnesses were ordered excluded from the room? A. I was.

Q. You went out? A. I did.

Q. You say that when you saw the defendant after that it was up in the jail breaking the lock with a sledge hammer?

A. Yes, sir.

Q. You remember that? A. Yes, sir.

Q. Could you see that distinctly? A. Yes, sir.

Q. Did he have on the same clothes that he had on out in the street? A. Yes, sir.

Q. What were they? A. Some kind of a light jumper, - I think that was an overall jumper, had been laundered, some kind of a jumper that he had worn.

Q. Of that you are sure? A. Yes, sir..

Q. Can't be mistaken on that, at all? A. I don't think I am.

Q. And that is this defendant sitting here. A. Yes, sir.

Q. You had never seen him before? A. Never saw him before.

Q. And never saw him since until you saw him here? A. I never saw him until I saw him walk out here.

Q. You can't remember the face of any other man that had hold of the hose? A. I have never seen him since, no, sir.

Q. You ever had seen this man until yho7u came into court?

A. No, sir.

Q. You came into court ready to identify him? A. Yes sir.

Q. You could identify the other man just as readily? A. No, I could not.

Q. Did you help take the Negroes out? A I did not.

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Q. How close were you to them when they were taken out?

A. I should judge I was, - very close to them. The one that was in ahead, that was very close - -

Q. Do you know who he was? A. I don't know him, no, sir.

Q. Could you identify him? A. I would know him if I would see him, yes, sir.

Q. Have you been asked to identify him? A. No, sir..

Q. You told this all to the country attorney and to the grand jury? A. I did not.

Q. Haven't you been a witness before the grand jury? A. I was at the grand jury, but I never told where, - in regard to this man here.

Q. do you mean to say Mr. Forbes or Mr. Greene or Mr. McDevitt, of the country attorney's office, never questioned you about what you were going to testify to in this case? A. I didn't know that I was going on as a witness until this afternoon.

Q. And they didn't know what you were going to testify to?

A. I didn't know that question was coming up until this afternoon.

Q. Had you told them what you have testified to? A. No, sir.

Q. Have you told anybody? A. I told the grand jury what I done and what I seen down there, but I didn't tell no names, nor didn't know any names.

Q. How did the country attorney know you were going to identify this man when he put you on as a witness?

MR. FORBES: That is objected to as incompetent, irrelevant and immaterial.

Objection sustained.

By Mr. McManus:

Q. Do you know how the country attorney knew you were going to identify this man?

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MR. FORBES: That is objected to as being immaterial.

Objection overruled.

A. I would like the question again. (Last question read)

Well, - -

Q. answer Yes or No. A. Do I know how the county attorney knew I was going to identify this man, you say, - was that the question?

THE COURT: Yes.

A. I will have to answer it in this way, when I was up to the grand jury FI spoke - -

Q. Answer the question Yes or No. A. Do I know how he knew, - Yes, I know, if that is what you want.

Q. How did he know? A. In my speaking in regard to the man that held the nozzle on the hose before the grand jury, I suppose that is how he got it, knows it.

Q. That is all that he knew about it? A. As far as I know.

Q. You never told him it was Henry Stevenson? A. No, sir.

Q. You didn't know what his name was? A. No, sir.

Q. He was indicted under the name of - - A. What?

Q. You knew he was indicted under the name of Richard - -

A. No, sir; I didn't know.

Q. Didn't know anything about it? A. No, sir.

Q. You just come here to testify, to identify this man - -

A. No, I saw the man. I saw the man on the hose, and I am positive that is the gentleman sitting right there. The face don't deceive me.

Q. How do you identify this man as the man you saw down there?

A. I know by his face, his appearance.

Q. Did he have a mustache that night? A. No, I don't think he did.

Q. And no beard? A. No. Might have had a few days' growth.

Q. have you talked with Mr. Brown, a deputy sheriff connected

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with the country attorney's office, about this case? A. About this man?

Q. This gentleman sitting right here.

MR. FORBES: Where?

MR. McMANUS: Isn't this Mr. Brown?

MR. FORBES: Mr. Brown is one of the men you put out.

MR. MCMANUS: I didn't put him out.

MR. FORBES: he was one of the witnesses.

By Mr. McManus:

Q. The deputy sheriff that is connected with this case? A. No.

Q. You have no way of identifying this man at all except you saw him that night with a laundered shirt, colored overall jumpers on, and holding a hose, and - - A. Yes, sir.

Q. And haven't seen him since? A. No, sir.

Q. And never knew what his name was? A. No, sir.

Q. And you identify this man as the man you saw - -A. I would know that man in ten dozen.

Q. You are doing better than that - - A. I would know him if I saw him ten years from today. you couldn't deceive me.

Q. You identified him positively just the other day?

A. Yes, sir.

By Mr. Forbes:

Q. You never have talked to me until you took the witness stand?

A. I didn't know who you were, I never saw you, didn't know you until - -

Q. I will ask you if you went with me to the grand jury - - if you said you could identify the heavy-set man who was holding the hose out in front of the police station if you were given a chance to see him? A. I did.

Q. Then were you shown this man and id you identify this as the? A. Yes, sir.

By Mr. McManus:

Q. Didn't you tell me you never had seen this man since that night until today? A. I never seen that man since identifying him at the court-house, at the jail.

Q. Why didn't you tell me that? A. I didn't know you wanted to know that.

Q. I asked you plainly, Mr. LaShells, if you had ever seen that man from the night he held that hose until you saw him here, and said that you had not? A. Well yes, I saw him when I identified him at the jail.

Q. When was that? A. That was - - Now, that was three or four - - that was after the lynching, they took me up to the jail - - No, lets see; I don't know just what day it was, but anyhow - -

Q. How long was that after the lynching? A. I couldn't say.

Q. Well, now, you certainly have got to try to do better than that. A. I am doing the best I can. I am not an educated attorney like you are to know all those things.

Q. You are a man that knows time. How long after this occurred was it before you saw him in the jail? A. I never took no notice of the time because I didn't really know I was going to be brought in as a witness on this.

Q. Was it a week? A. Well, it might have been; it might have been a week.

Q. Was it two weeks? A. I tell you I don't know.

Q. Was it a month? A. I don't know - - No, it wasn't a month, I agree to that.

Q. You surely don't mean that you don't know within a month of when it was. Was it as early as a month after the fifteenth of June? A. No, it was - - I should judge - - as near as I can judge I would say it was about, - - probably fours, - five - between four and five days after the lynching, that is as near

as I can judge. I won't say; I don't know the dates.

Q. You saw the man at the jail four or five days. I realize you are trying to tell us as nearly as you can. You understand we are all trying to tell us as nearly as you can. you understand we are all trying to get this date and trying to find out what the facts are. Are you sure it was not as much as two weeks after the hanging? jut stop and think a minute? A. no, it wasn't two weeks.

Q. You would be very positive of that? A. Yes.

Q. You went up to the county jail and identified there at the county jail the man whom you believe to be the man you have in mind now? A. yes.

Q. The man who you then believed - - A. Yes, sir.

Q. And he was in the county jail then? A. Yes, sir.

Q. You are sure it was not more than two weeks after the hanging? A. (No answer).

Q. You thought four days, but you are sure it was not more than two weeks? A. I don't know the time, not paying any attention to the time I couldn't say how long it was just exactly, or near, but I want to tell the truth as near as I can.

Q. It is important to he court and jury, - we all want to know.

MR. FORBES: I do not see the materiality of the time when he was at the jail when he identified him.

MR. McMANUS; It is very material, Your Honor.

MR. FORBES: it is a catch question.

MR. McMANUS: it is not, - I beg your pardon.

THE COURT: The question is all right.

A. Well, I told you I thought it was between five and six days, I believe that is what I told you.

By Mr. McManus:

Q. let me see if I can help you out. How long had you been on

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this vacation of yours when this thing happened? A. Well, let's see: I was engineer at the Yale Laundry for seven months. I left there on May 8th and I never done any more work until, - let's see - may the 8th is when I left the laundry, and I never done any more work until along about, - some time in July - - I could tell if I had the time-book here.

Q. Can you get your time-book? A. I can get it at home.

Q. Are you sure it was as late as July when you went to work? A. yes.

Q. About July what? A. Well, let's see, I should say it was July.

Q. Maybe the 4th? A. No, I went to work after the fourth. I think somewhere along the 18th of July I went to work again.

Q. Were you at work when you identified him? A. No, sir.

Q. it was before you went to work? A. Yes, sir..

Q. You are sure of that? A. I am positive.

Q. You saw him again at the county jail at some time, you think it was about four days after? A. No.

Q. Now, wait, I will tell you what I have got here. You say you left the Yale Laundry May 8th and you didn't work again until about July 18th? A. I think it was along - -

Q. You identified him between the time you left the Yale Laundry and the time you went to work again? A. No, I didn't say I identified him between the time that I left the laundry and went to work because this had not happened when I left the Yale Laundry.

Q. You left the Yale Laundry the 8th of May? A. Yes, sir.

Q. And you began work on the 18th of July ? A. Somewhere along there.

Q. it was between those two times that the lurching happened?

A. Yes.

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Q. And it was between those two days you went up to the jail and saw him - - A. Yes.

Q. Is that right? A. Yes, sir..

By Mr. Forbes:

Q. When you referred to going through a door and seeing this defendant breaking the cell door, what door did you refer to?

A. I referred to going through the door of the police station there.

Q. Over the police headquarters into the cell room? A. Yes, sir.

Q. These cells are arranged along in there? A. Yes, sir.

Q. do you remember when you testified before the grand jury, what time it was? A. Sir?

Q. Do you remember what date it was you testified before the grand jury? A. no, I couldn't say to the date that I was at the grand jury, offhand; I have a book that - - for the last ten years back, I can tell what I done every day. I put those down, - I could tell by looking at that book.

Q. Will you get that book tonight? A. Yes, sir..

Q. And bring it in the morning when you come? A. Yes, sir..

Q. You get that date and find out when you testified before the grand jury, when it was you went up to the jail and identified that man? A. Yes, sir.

Q. And bring that book in the morning when you come? A. Yes. At what time in the morning?

Q. At nine-thirty. A. Well, now, then, I suppose this is a proper question to ask, - I left my engine down there without a licensed man with it and that is strictly against the rules and the laws of the State of Minnesota.

(At this time an adjournment is taken until tomorrow,
Tuesday, August 31st, at 9:30 o'clock a.m.)

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Tuesday, August 31st, 1920

9:30 a.m. Case Called.

WILLIAM F. LaSHELLS on the witness stand.

THE COURT: Anyone who knows himself to be a witness in this case, under the order of the court made yesterday, must leave the court-room.

By Mr. Forbes:

Q. Mr. LaShells, last night we were asking you about the date when you were up to the jail. You stated you had a book in which you kept a record of your time and what you did, on various days. have you consulted that book? A. I have.

Q having refreshed your recollection from that book, can you now testify the days you were up at the jail? A. Yes, sir.

MR. McMANUS; Of course, he testified positively that the book had the times he was up there.

THE COURT: There is no question pending.

By Mr. Forbes:

Q. You testified yesterday you were up there at the jail about four days after the lynching? A. Yes, sir.

Q. Is that correct? A. it was correct, but my memoranda, it was on another case.

Q. Did you see this defendant Stevenson when you were up there four days after the lynching? A. No, sir.

Q. Were you up to the jail after that date? A. Yes, sir..

Q. What day? A. I was up there on the 18th - - on the 8th day of August.

Q,. Of August? A. Yes, sir..

Q. I will ask you if at that time you saw this defendant in jail? A. I did.

Q. Was that the first time you had seen him after you saw him down at the police station on the night of June 15th?

A. Yes.

Q. And the next time you saw him was when? A. August 8th.

Q. This is the same man you saw in the jail on August 8th?

A. Yes, sir.

Q. And that you saw at the police station as you have testified? A. Yes, sir.

By Mr. McManus:

Q. This information you have taken from this book?

A. (No answer).

Q. Have you? A. From my diary, yes, sir.

Q. Where is that diary? A. It is - - Mr. Forbe's office.

Q. In his office? A. Down in the office; I left it there as I brought it up.

Q. You have no recollection of the date except what you get from that book? A. Well, I couldn't just set the dates off-hand, no, sir, without referring to my record.

MR. McMANUS: I move to strike out all of this witness's testimony in relation to this date unless this book is produced.

THE COURT: I presume there should be a request for the book.

MR. McMANUS: I request the book.

MR. FORBES: I would be glad to furnish the book, but it is not material.

By Mr. Forbes:

Q. Do you remember the day of the week independently of the book? A. Yes; it was Sunday.

Q. Did you, at the time you testified yesterday, remember of having been up there - - A. Yes, sir..

Q. The second time was on a Sunday? A. Sunday I was there, -

the second time was on Sunday.

Q. Do you remember what month that was in? A. August.

MR. FORBES: We will be glad to furnish the book, although it is not material.

THE COURT: I think the book should be furnished.

MR. FORBES: Mr. LaVaque, will you go down and bring up that book? May an objection be noted, on the part of the State, to the order directing the State to produce the book, on the ground that is immaterial? it is incompetent for any purpose and not proper cross-examination, and cumbering up the record with immaterial matter. (A book is produced and the witness shows the same to the court).

A. At the bottom.

MR. McMANUS: I am not going back beyond a certain date.

A. I have no objection.

by Mr. McManus:

Q. Now, Mr. LaShells, directing your attention to this book which you have produced here as a book in which you enter important matters, - do you enter into the book those things which you consider of importance, or do you enter in there everything that occurs? A. Just enter sufficient to show what I was doing, that is all.

Q. Drawing your attention to page 182 of this book and to the date, June 15th, I will ask you if you entered in this book all that is indicated in relation to this riot or this hanging?

A. No, I did not - -

Q. You did not. You have answered the question. A. No, sir; I didn't think it was necessary.

Q. And the next day, the 16th, or the 17th, there are no entries in relation to it, at all? A. Well, you see - -

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Q. I say the 16th and 17th ? A. The 16th - -

Q. Yes or No. A. Whenever there is nothing, that is when I loafed, I didn't do nothing.

Q. On the 18th you have an entry there, went to jail to see a man? A. Yes, sir.

Q. That is the 18th of June? A. Yes, sir.

Q. You went to jail to see a man again, you say, on the 8th of August? A. Yes, sir.

Q. Between the time that you testified here yesterday - - at the time you testified here yesterday you didn't know the date when Mr. Stevenson was put in jail, did you? A. I didn't - I didn't know the date that I went there, - -

Q. Answer my question, please. A. No, I don't know exactly the day.

Q. You didn't know it until after you left the witness stand last night and the county attorney told you, did you? A. No, the country attorney didn't tell me.

Q. Has never told you? A. No, sir.

Q. Has anybody told you ? A. No, sir.

Q. You don't know now when the went o jail? A. No, sir.

MR. FORBES: May the record show that I don't know, either, - the country attorney didn't know.

MR. McMANUS: I take an exception to that remark, may it please the Court, as wholly without the record and an attempt on the part of the state to interject into this testimony something for the purpose of prejudicing the right of my client. I ask the Court to instruct the jury to disregard it.

MR. FORBES: I simply said I would be glad to testify that I didn't know when the man was arrested.

MR. McMANUS: I except the remarks of counsel as pre-

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judicial and as intended to be prejudicial to the
right of this defendant.

THE COURT: It may be stricken from the record.

MR. McMANUS: Will the court instruct the jury that
it be disregarded?

THE COURT: The jury understands it is only to take
the testimony coming from the witness stand.

by Mr. McManus:

Q. Now, you have an entry made her in your book on Sunday,
went to jail to see a man Sunday, and it is under August 8th.
When was it made? A. That is entered up there every Saturday
night after I complete my week's work.

Q. Then you made that entry on Saturday, the 14th day of
August? A. Every week as I come down.

Q. A week afterwards? A. (Referring to book) Every Satur-
day night I put down what has gone on in the week, every night - -

Q. Just a minute. A. I would like to ask Mr. Forbes if it
is all right - -

THE COURT: No, answer the question.

A. I make an entry every week, - every night I put - -put it
down in a small book, just a day-book, a little book, then I copy
from that book to this book.

Q. Then this is not an original entry of that matter ? A. This
is the original book that I keep all the time.

Q. This entry in this book, it is not made at the time, - it
was not made at the time you went to the jail? A. It is put
down every Saturday night in a book.

Q. Where is that book? A. in my pocket.

Q. You may produce that.

MR. FORBES: Now, counsel is going - - I object to it
on the ground it is not proper cross-examination.

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MR. McMANUS: I withdraw the request and I now move to strike out all the evidence as incompetent, irrelevant and immaterial and having no proper foundation in evidence.

THE COURT: The motion is denied.

MR. McMANUS: I again renew the request for this original. I take exception to the ruling . I now ask the defendant to produce the original book from which this entry is made.

MR. FORBES: The State objects to it as being improper, not called for, and immaterial.

THE COURT: The witness may produce the book.

MR. FORBES: It seems to me we are consuming a lot of time in reference to a matter that is immaterial.

By Mr. McManus:

Q. Will you turn to the entry in this book which shows that you went to he country jail on Sunday, the 8th day of August, 1920? A. I will show it if you give me a little time to find it.

MR., FORBES: May this all go in over my objection, as being immaterial and not proper cross-examination, and not referring to a book which the witness testified he used in refreshing his recollection?

THE COURT: Yes.

By Mr. McManus:

Q. Have you got any mark - -A. I will just mark it so - -

THE CORUT: Do not make any marks.

A. Went to house, - jail, country jail, I put that there for, - jail, county jail, I put "C" for county. I started to put court-house and then I corrected myself - -that is after I went to haul wood, - that is where I went in loading wood.

Q. this you say means that you went to the county jail - -

A. Yes, sir.

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Q. - - on the eight of August? A. Yes, sir.

Q. When was that entry made? A. That was made - -these entries are made every night.

Q. And then on Saturday night you transcribed it to your book?

A. Yes, sir.

Q. When you got to the county jail you went in to see - whom did you meet there? A. I didn't know just exactly who he is, - a tall young man.

Q. He was the jailor? A. I believe so.

Q. Where did you go after you got into the jail building?

A. I went - - I went into the jail building, it has an office across there, and the steps takes me, - take me on this side, steps that bring me up on the floor.

Q. Went up on the next floor? A. Yes, sir.

Q. Upstairs? A. Well, I would call it upstairs, - I suppose they do, I suppose you would call it upstairs, up the steps.

Q. When you come in off the street you go up two or three steps, - you don't mean that? A. No, sir..

Q. Then you go through barred door? A. Yes, sir.

Q. Then you were in the jail office? A. Yes.

Q. The jail office is a place about twenty by fifteen, is it not? A. I don't know what size it is.

Q. There is a desk there that faces to the north? A. It faces the door.

Q. And the jail faces north? A. Yes, sir.

Q. The entry is on the north side off of Third Street?

A. Yes, sir.

Q. You walk into the jail office, - you walked into the jail office and there you were let in by this jailor, who unlocked the door and let you in? A. Yes, sir.

Q. Who was with you? A. I was alone.

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Q. Who asked you to go up there? A. No one.

Q. Went up yourself? A. Yes, sir.

Q. Nobody asked you to go up and identify anybody?

A. They did not.

Q. When you went into the jail you say you turned to your left, after getting inside of the door?

MR. FORBES: May this testimony be admitted over my objection on the ground it is not proper cross-examination? It was not gone into on the part of the State.

THE COURT: Didn't you ask him if he identified him at the jail?

MR. FORBES: It was developed on cross-examination. Mr. McManus developed that on his cross-examination.

THE COURT: the objection is overruled.

By Mr. McManus:

Q. As you came into the jail you faced to the south and the desk was right in front to you? A. Yes, sir.

Q. You walked in there then and turned your face to the east and went up the stairs there were there that went up on the next floor? A. Yes, like this was the desk there. (Last question read). Yes, sir.

Q. When you got up on the next floor there were some cells to the west side of the jail and there was a door going into the main part of the jail that went over towards Second Street, was there not? A. may I be allowed to state this, so as I can understand how I am saying this?

THE COURT: I think so.

A. As I walk in there, the door is right straight in front of me.

Q. Then upstairs? A. Yes. The door right straight in front of me. There is a hall goes this way, - cells along this side.

Q. That is right? A. And the cells, I believe, through here.

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Q. Now, where did you go? A. I went right around down this way.

Q. indicating the west side of the jail. You know that does not indicate anything on the record? A. I went all through, - first I went around this side, - the west side.

Q. The right side. Facing south? A. Yes.

Q. It would be the west side of the jail? A. Yes.

Q. Go on? A. Went down that side, to the end of the corridors.

Q. You first went through the main door into the main jail?

A. Yes, the west side of the cells.

Q. Did you ask the jailor for any particular person?

A. No, sir.

Q. You walked around the west side of the jail. What did you do then? A. Then I turned around and come back.

Q. Then where did you go? A. I looked through there and I came back out. I looked through the center aisle and walked back out.

Q. You looked down the center aisle. That is, the jail has two cells, on the west side and cells on the east side, and then an aisle running down between those two rows of cells. You did not go down that on the east side - - A. I went - - I came up here. There are three aisle way. One has a door across it.

Q. Did they let you in there? A. Unlocked, - pulled that lever and unlocked it.

Q. You went in? A. Yes, sir..

Q. Did you go down the east corridor, at all? A. On this side.

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Q. The east corridor, I mean, that is the one towards the east side of the jail. Did you go down that corridor, at all?

A. On the further corridor?

Q. On the east side? A. I went down as far as I could go on that side.

Q. Did you look at the prisoners? A. I looked at all.

Q. How long were you altogether in the jail at that time?

A. Oh, it wasn't but just a very few minutes; I didn't linger very long.

Q. See if I have this right. "I went into the main corridor, I went down the west corridor, and I went on, - I went down the west side, then the jailor opened the center and I went down there, I then went down the east corridor as far as I could." Is that right? A. Yes, sir.

Q. Now, where did you find the defendant? A. I found him on the west corridor there at that time.

Q. About how far back? A. Well, I should judge it was - - oh, probably three or four cells. It was somewhere along near the center, as near as I can recollect.

Q. How was he dressed? A. Well, I couldn't say just how he was dressed; he was laying on the cot there, looking out towards the west side.

A. Did you speak to him? A. No, sir; just walked - -

Q. Did you recognize him then? A. I did.

Q. Why did you then ask the jailor to open up the center place so you could look in there? A. I was looking - -

Q. You were not up there to identify anybody? A. I wasn't sent there to identify him. I went up to see if he as the man that was really on the hose, to see if I could see him that is what I went for.

Q. And you recognized him? A. Yes, sir.

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Q. You don't remember how he was dressed at that time, at all?

A. He was laying down; if my recollection is right, I believe he had on, - was in his undershirt.

Q. What time of the day was it? A. Well, it was about - - as near as I could say it, I guess it was between two and three.

Q. In the afternoon? A. Yes, sir.

Q. When you speak of the west side of the jail you mean the side facing this way, towards Sixth Avenue? A. That would be facing the side - this side of the house.

Q. Well, the Sixth Avenue side? A. Yes, sir.

Q. I am going to encroach a little on the rules of cross-examination to go back. Yesterday in testifying you said that you could not give the exact time when you first saw Mr. Stephenson and you seemed to be quite indefinite and uncertain as to the exact hour, but you were very certain that you saw him plainly. That is true? A. Yes, sir.

Q. Was it dark or was it light when you saw him? A. It was light.

Q. Daylight? A. Yes. That is, you are speaking at the jail?

Q. At the jail? A. Yes, sir.

Q. No, no, down when the riot occurred, when he had the hose?

A. Well, you might call it dark; it was - - Now, as I said, I don't know just the exact time.

Q. Never mind the time. Was it dark or was it late, is the question? A. Well, it was by the light, with the lights that was around, the lights was lit, and it was barely light.

Q. Well, was it daylight? A. Well, I don't know as you would call it daylight at that time - -

MR. McMANUS: Now, Mr. Forbes, yesterday in fixing the time of the sunset at that time I inadvertently read the New York column, - I read the wrong column. Instead of being 8:38 it is 7:38, the time of sunset. And the record

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should be corrected in that regard, so that the jury may know the time that the sun set on that day. May that correction stand?

THE COURT: It stands the same as the other statement, Mr. McManus.

By Mr. McManus:

Q. Now, you say it was partially daylight? A. I couldn't say it was exactly dark nor I couldn't say it was exactly light, because that would be, - that would be some time, - quite a bit after sundown, and it would not, - with the lights burning, I believe they turn those lights on at eight o'clock. Don't they?

Q. Was it twilight? A. It was light enough to see.

Q. Without the aid of lights? A. Well, I don't know as it was quite light enough to see without the light.

Q. Was it dark enough so you could not see without the electric lights? A. No, I don't believe it was. I don't believe it was so dark you could not recognize a man if the light had not been lit.

Q. You think it was probably twilight, so you could recognize a man before the electric light had been lighted? A. Yes, Sir.

Q. And you recognized him by what light there was there?

A. Yes, sir.

Q. Now, are you sure of that? A. I am positive; if I wasn't, I wouldn't say so.

Q. Yu haven't got a book that will change that on us? A. no.

MR. FORBES: May that be stricken as argumentative?

MR. McMANUS: If he has nay other book, I have a right to know it, on cross-examination.

THE COURT: It was probably a comment rather than a question. It should be stricken.

MR. McMANUS: Very well. I meant it as a question.

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By Mr. McManus:

Q. Now, Mr. LaShells, how long have you lived in Duluth?

A. It will be a year the night day of next month since I came here.

Q. Where did you live before that? A. San Francisco.

Q. What did you do in San Francisco? A. The same as I do here, work with an engine.

Q. How long did you live in San Francisco? A. About forty-one years.

Q. You were born there, then? A. I was.

Q. Are you a married man? A. I am.

Q. Your family here, then. A. They are.

Q. Are those the only two places you have ever lived?

A. Oh, well I - - a little time at Portland, Oregon, off and on.

Q. That was on the way here? A. I used - - I usually went up there, - relatives there.

Q. But your home was in San Francisco? A. My home was in San Francisco.

NATE NATELSON, Being first duly sworn as a witness on behalf of the State, testified as follows:

DIRECT EXAMINATION

By Mr. Forbes:

Q. Your name is Nate Natelson? A. Yes, sir.

Q. Is that first name right? A. Yes, sir.

Q. Where do you live? A. 1905 West Second.

Q. What is our business? A. Jeweler.

Q. How long have you been working at that? A. Since the first of March.

Q. How long have you lived in Duluth? A. Off and on about

ten years.

Q. Mr. Natelson, at the present time you are under indictment in connection with this affair - -A. That is right.

Q. you were down at police headquarters that night? A. I was.

Q. What time did you first go down? A. About nine-fifteen.

Q. I will ask you if that night you saw this defendant Stephenson there? A. I did, sir.

Q. Where was he when u first saw him? A. On the outside.

Q. How far from police headquarters, from the door? a. As I first saw him he was - -

Q. How far away? A. Across the street.

Q. What was he doing? A. He had the hose in his hand.

Q. What kind of a hose was that? A. Fire hose.

Q. Which way was he facing? A. Facing the police station.

Q. Was the water turned on at that time? A. it was.

Q. Which way was he directing the water from the hose?

A. To the door.

Q. Towards the door of the police headquarters? A. Yes, sir.

Q. Where did you see him after that? A. In the cell room.

Q. In the cell room of the city jail of this city? a. Yes, sir.

Q. That is on the main floor? A. On the main floor.

Q. What was he doing at the time you saw him then? A. He was breaking in the locks.

Q. What locks? A. The locks of the cell room door.

Q. What did he use? A. A sledge hammer.

Q. A big sledge hammer? A. (No answer).

Q A regular sledge? A. A regular sledge.

Q. With the manner part eight inches or so long? A Yes, just about.

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Q. And a long handle to it? A. Yes, sir.

Q. It was the usual sledge hammer? A. The usual sledge hammer.

Q. What locks did you see him break? A. I saw him break the lock on the door to the left.

Q. Were there any colored men in that cell? A. There was one.

Q. Afterwards did you see this defendant have some trouble with one of the police officers? A. I did not, sir.

Q. The last you saw of ;him he was breaking the cell lock?
A. Yes, sir.

Q. You are sure this defendant is the same man? A. Yes, sir.

MR. FORBES: You may cross-examine.

CROSS-EXAMINATION

By Mr. McManus:

Q. You are under indictment as one of the parties who killed these, - hung these Negroes? A. Yes, sir.: I am under indictment.

Q. have you been promised immunity by the state in case you testify here in this case? A. No, sir.

Q. No promise of any kind made? A. No, sir.

Q. Indirectly nor directly? A. No, sir.

Q. Do you know whether such promise has been made to your attorney? A. I don't know, sir.

Q. How long have you known Mr. Stevenson? A. Don't know him at all, sir.

Q. How as he dressed that night? A. he was dressed in overalls, sir.

Q. What colored overalls? A. They were dark blue, sir.

Q. Did they look as though they had been washed? A. No, sir.

Q. New overalls? A. No, - old. I couldn't say jut sure

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they were overalls.

Q. But they looked like them? A. They did to me.

Q. What time of the night was this you saw him? A. At about ten o'clock.

Q. Holding the hose? A. Yes, sir.

Q. How do you know it was ten o'clock? A. I should judge it was about then o'clock, because - -

Q. Was it dark? A. Was it dark?

Q. Yes. A. Yes, it was dark.

Q. You say you had never seen him before? A. Never before.

Q. Have you ever seen him since? A. At what time?

Q. When. A. At the county attorney's office here.

Q. When was that you saw him in the county attorney's office?

A. About four weeks ago.

Q. Sir ? A. About four weeks ago.

Q. That would be about the third of fourth of August?

A. A little later than that.

Q. Can you fix that date? A. I cannot, sir.

Q. You fixed the date, and it was about four weeks ago?

A. I would imagine about four weeks ago.

Q. Were you taken there for the purpose of identifying him?

A. Yes, sir.

Q. You knew Mr. Stevenson was there at that time, - that is, the man here? A. Yes, sir.

Q. Confronted with him in the country attorney's office and asked if that was the man that you saw with the hose?

A. That is right.

Q. And you told him it was? A. Yes, sir.

Q. Never had seen him ;before except that once? A. That evening, that was the only time.

Q. How was he dressed when he came into the county attorney's

office? A. he had his working clothes on, sir.

Q. The same clothes he had on that night? A. I can't say as to that.

Q. They looked generally the same? A. Generally the same.

Q. How long were you with him in the county attorney's office? A. About the minutes, sir.

Q. Did you talk to him there? A. I did not.

Q. How close did you go to him? A. About the same distance I am away from you, sir.

Q. In making that identification was he facing you?

A. He was, sir.

Q. Did he know that you were there for that purpose?

A. I don't think he did.

Q. Was that in the county attorney's office or in the general office? A. I think it was the general office.

Q. What is that gentleman's name that is in that office?

MR. FORBES: Mr. Brown.

Q. In Mr. Brown's office? A. Yes, I think so.

Q. Mr. Brown it was that took him down there for you to identify? A. Took me down there to identify him.

Q. Were you in jail at he time? A. No, sir; I was down in the store.

Q. You were out on bond? A. Yes, sir.

Q. You were bonded out immediately after you were arrested?

A. About five days, sir.

Q. What were you doing down at this police headquarters at this time? A. What was I doing?

Q. Yes. A. I refuse to answer.

Q. Oh, no, you don't ? A. Yes, sir.

MR. McMANUS: May it please the Court, this man has gone too far, to refuse to answer.

MR. GOLDBERG: May it please the Court, I represent Mr. Natelson on two indictments that are returned against him, arising out of the transaction that took place the night of the 15th day of June, 1920. I have advised Mr. Natelson to stand upon his constitutional rights and refuse to answer any questions that might be put to him which would incriminate him. is that what you wish to do?

THE WITNESS: Yes, sir.

MR. GOLDBERG: Is that why you refuse to answer?

THE WITNESS: Yes, sir. I refuse to answer because it may incriminate myself and I stand upon my constitutional rights.

MR. McMANUS: He has already come in here and volunteered enough, and his counsel is late in interposing this objection. If he takes the stand here voluntarily he opens up the case for examination for everything.

THE COURT: My impression is you are too broad in your statement of the rule. I would be glad to hear you if you have any authorities.

MR. McMANUS: I haven't the authorities at this time. this is a complete surprise to me.

THE COURT: I will give you an opportunity. I will hold the witness under subpoena until you can look up the authorities, if you have any , so you can do that later on. For the present I will sustain the refusal of the witness, on the grounds as stated by him, but will hold him under subpoena.

By Mr. McManus:

Q. You were down at the city jail that night? a. I was, sir.

Q. You were in the cell? A. I was, sir.

Q. You ere in the cell where the Negroes were that night?

A. (No answer).

Q. Where they were taken from? A. The cell room?

Q. Yes. A. I was in the cell room.

Q. You were there until how late? A. Until about 11:30.

Q. Sir A. Until about 11:30.

Q. You went out there where the Negroes were? A. (No answer).

Q. You went out with them? A. (No answer).

MR. GOLDBERG: I request witness to refuse to answer if he so desires.

THE COURT: The same ruling as on the previous objection.

By Mr. McManus:

Q. You were present, - you were helping one of those who helped take the Negroes up to the place where they were hung? A. I refuse to answer, sir.

MR. FORBES; Just a moment. I don't want to get nay error in the record. I will cite some authorities to the Court.

(Recess for a few minutes).

At this time a recess is taken until two o'clock p.m.

2 P.M. Case Called.

NATE NATELSON on the witness stand.

MR. FORBES; Before the Court rules, may I ask the witness one or two questions?

THE COURT; There is no matter pending before the Court. We took a recess on the Court's statement that there would be an investigation of the question.

MR. McMANUS: then may I proceed, and I will bring something before the Court - -

THE COURT: Very well.

MR. FORBES: Before that may I ask the witness a question

or two?

THE COURT: Very well.

By Mr. Forbes:

Q. Mr. Natelson, this morning you were asked some questions by counsel for the defendant Stevenson in this case and you refused to testify, on the ground your answers would tend to incriminate you. I will ask you if you are willing to answer those questions at the present time. A. Yes, I am, sir.

Q. I will ask you if you are willing to waive our constitutional rights? A. Yes, sir.

MR. FORBES: You may proceed.

By Mr. McManus:

Q. What were you doing down in this cell at the time you claim to have seen the defendant there? A. Standing alongside looking into the cell.

Q. Standing alongside? A. Yes, sir.

Q. Did you go in there voluntarily? A. No, sir.

Q. How did you happen to go in there? A. Well, under the orders of Lieutenant Barber.

Q. What orders did he give you? A. he said those Negroes ought to have a fair chance, and he wanted some men to listen to what they had to say. And some volunteered to go in there to hear what they had to say.

Q. Did Lieutenant Barber speak to you? A. Yes, sir.

Q. Particularly to you? A. Yes, sir.

Q. Asked you to go in there? A. Yes, sir.

Q. Just tell the jury what he said to you? A. (No answer).

Q. To you now, particularly? A. I don't know if it was exactly to me, sir, but I took it in that way.

Q. What were you doing there before Lieutenant Barber spoke to you? A. Nothing at all, sir.

THE COURT: if there are any witnesses in the court-room in this case, - anyone that knows themselves to be a witness, they should retire from the court-room.

By Mr. McManus:

Q. How did you come to go thee? A. just as one of the curiosity seekers.

Q. Where do you live? A. 1905 West Second.

Q. Did you go down with the truck? A. No, sir.

Q. Where were you about five o'clock that evening?

MR. FORBES: That is objected so as not being proper cross-examination.

Objection sustained.

Q. When did you first get there to police headquarters?

A. About 9:30, sir.

MR. McMANUS: May I have an exception to the ruling of the Court in that other matter?

THE COURT: Yes.

By Mr. McManus:

Q. About 9:30? A. Yes, sir.

Q. Where were you before that, during the evening? A. At the store.

Q. Where ? A. At the store where I am employed.

Q. Where is that? A. Spalding Jewelry, 428 West Superior Street.

Q. Is that the Albert Company? No, sir. Spalding Jewelers.

Q. The lower side of the street? A. Yes, right in the hotel.

Q. About nine o'clock were you uptown? A. About 9:15.

Q. You went down to police headquarters? A. Yes, sir..

Q. When you got down there was it dark? A. Getting dark, sir.

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Q. How do you know it was 9:15? A. I left the store about nine o'clock, sir.

Q. I ask you how you knew that? A. That is my usual hour to close.

Q. And did you close at the usual hour? A. yes.

Q. Just nine o'clock. A. Yes, sir..

Q. Then you didn't leave the store before nine o'clock?

A. No, sir.

Q. How did you go down to the police headquarters? A. I walked down.

Q. It is six blocks? A. Yes, sir.

Q. Did you go directly to the police headquarters? A. Yews.

Q. Walked an ordinary gait? A. Slow.

Q. Took you about fifteen minutes, you say, to get down there?

A. Just about fifteen minutes.

Q. So it was fifteen minutes after nine before you got down there? A. Yes, sir..

Q Then it was after, - it was after that that you saw this man holding the hose? A. After that, yes,

Q. You are sure it was that late, at least? A. Yes, sir.

Q. When you were down there the 15th of June? A. Yes, sir.

Q. It is in evidence here, agreed by all parties, that the sun set at 7:38 that night. So, fifteen minutes after nine would be an hour and three-quarters, almost, after the sun was down. Then it would be as dark as it ever would be that night at that time ? A. Yes, sir..

Q. That is right? A. That is right.

Q. That is the first time that you saw anybody in connection with this riot? A. it is, sir.

Q. How soon after you got down there did they commence to use the hose? A. (No answer).

Q. The crowd? A. I would imagine abut half an hour or so.

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Q. Then it would be at least a quarter of ten o'clock before they were using the hose? A. Yes, sir.

Q. You are sure they didn't use it before that? A. I didn't see it, no, sir.

Q. You saw the crowd using the hose on the police? A. Yes, sir.

Q. And that was about a quarter of ten o'clock? A. Yes, sir; around that time.

Q. By that time it was dark - - A. Yes.

Q. - - if it ever was dark that night? A. Yes, sir.

Q. Where were the lights on the corner there at Second Avenue West to illuminate that scene? A. I think there was an arc light up there.

Q. Sir? A. I think there was an arc light at Second Avenue, and the usual lights that they had on the street.

Q. Do you remember whether there was a moon? A. I can't recall it.

Q. It is agreed that there was a new moon the next day, as far as the calendar goes. No moon at all that night.

A. (No answer).

Q. A new moon the 16th. That being the fact, there was no moon that night, all the light that was there was the artificial light, whatever it was that happened to be on the street at that time? A. That is right, sir.

Q. How long was it after they used the hose before you saw Mr. Stevenson in the cell? A. I would judge about half an hour, sir.

Q. When was it that Lieutenant Barber requested, - made a request that you speak of, that somebody go in and hear these negroes' story? A. How long after?

Q. What time was it? A. Well, I would judge about a quarter to eleven or ten-thirty.

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Q. That was at least three-quarters of an hour to an hour later than the hose was used? A. Yes, sir.

Q. Had they then broken into the jail? A. When Lieutenant Barber spoke to me?

Q. Yes. A. Yes.

Q. I thought you said he did not speak to you, - he just spoke generally? A. Generally.

Q. They had broken into the jail? A. Yes, sir..

Q. Were they in where the Negroes were? A. Yes, in the corridor, sir.

Q. Did you form one of that so-called court that the newspaper talked about? A. What?

Q. The Court to hear them? A. Did I form it?

Q. Were you one of the judges? A. yes.

Q. You are one of those? A. I was one of them.

Q. Gave your decision as to who should be taken out and which one did not? A. I did not.

Q. What did you do? A. I listened to what they had to say, sir.

Q. Then what did you do? A. Didn't do anything, sir.

Q. You just stood there and listened and said nothing. Did you protest against the others taking them out? A. I did.

Q. Who? A. To the mob.

Q. Who in particular? A. I don't know of any one in particular; the mob.

Q. How long have you lived in Duluth? A. About ten years.

Q. You know a lot of young men here? A. I do.

Q. Did you see Elmer McDevitt there? A. I did not.

Q. In the jail or near the cell? A. I don't know him.

Q. Did you see Lawyer Mclearn near the jail cell when you were in there? A. No, sir.

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Q. Do you know whether or not he was there? A. I don't know the gentleman if I would see him.

Q. You have lived here ten years? A. yes, on and off.

Q. Didn't you recognize anybody in that crowd, at all?

A. Not that I can recall.

Q. Except this defendant? A. That is all that I recognized so far.

Q. Never had seen him before? A. Never.

Q. Never saw him since except this one time you say you saw him down in the county attorney's office? A. That is right.

Q. You say that the only time that you saw the defendant you saw him about ten minutes in the excitement that was going on?

A. Yes, sir.

Q. Quite a lot of excitement there? A. Yes, sir.

Q. You were acting as one of the guardians of the peace to protect these Negroes from violence? A. Yes, sir.

Q. This indictment against you is too bad, isn't it?

MR. FORBES: That is objected to - - all right.

By Mr. McManus:

Q. Didn't you, after this thing was over, tell the police that you were one of the judges who agreed, - decided which one of the Negroes should be hung and which one should not?

A. No, sir.

Q. You did not. Are you sure of that? A. Yes, sir.

Q. Told that to nobody? A. No, sir.

Q. You don't remember any other single man that was there except this one man? A. That is all that I recognized.

Q. Use your mind. Can you think of anyone else that was there at that time? A. No, I can't say.

Q. You cannot, - is that your answer? A. That is my answer.

Q. Only this one man. And you never saw him before?

A. Never saw him before.

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Q. What time was it you were at the jail, in the county jail office A. About 4:30.

Q. In the afternoon? A. Yes, sir.

Q. In August? A. July or August.

Q. About four weeks ago? A. About four weeks.

Q. Did you tell the county attorney all this without Lieutenant Barber asking you to act as a judge in there? A. Quite sure I did.

Q. Did you also tell him that Lieutenant Barber was present when you went in there? A. yes, because there was a gentleman that stepped in between Lieutenant Barber and I, - he didn't step in between us, I stepped in between when this fellow was going to hit Lieutenant Barber.

Q. Who was that tallow: A. Well, that was the fellow I haven't seen as yet.

Q. What kind of a looking man was he? A. A big, heavy fellow, about six foot three.

Q. Young or old? A. Old looking.

Q. How old? A. Oh, I should judge around forty.

Q. How was he dressed? A. Kind of working clothes and had a slouch hat on - -No he had a hat on - -

Q. Any beard? A. No; clean-shaved.

Q. What was the color of this eyes? A. I don't know.

Q. Haven't seen him since? A. No, sir.

Q. Have you ever been asked to identify - - A. No, sir..

Q. Did you tell the county attorney that? A. yes.

Q. Have you talked with Lieutenant Barber about this testimony you were going to give here today? A. No, sir..

Q. Did you talk with the county attorney about it?

A. No, sir.

Q. Not as all? A. No, sir.

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Q. Not a word? A. No, sir.

Q. He didn't know what you were going to testify to?

A. No, sir.

Q. Mr. Forbes never asked you a question? A (No answer).

MR. FORBES: just a minute - -

A. Beg your pardon?

MR. FORBES: I think you used the words "county attorney" in testifying, as referring to Mr. Greene, and I think the witness is confused in reference to that . I am not the county attorney.

MR. McMANUS: may it please the Court, we except to the statement of counsel as an unwarranted interpolation and only for the purpose of waning the witness against his testimony. it cannot be used for any other purpose than for the purpose of prejudicing this jury. I ask the Court to instruct the jury to that effect.

THE COURT: I have heretofore stated that some of the remarks of Mr. Forbes were not proper, and I will state at this time that that remark was perfectly proper. It will not be stricken.

By Mr. McManus:

Q. Have you talked with anybody, - told anybody what you were going to testify to here? A. have I told anybody?

Q. Yes. A. My attorney, sir.

Q. Mr. Goldberg: A. Yes, sir.

Q. Nobody else? A. Mr. Forbes.

Q. You went over this thoroughly with Mr. Forbes? A. No, sir.

Q. Did you tell the all you were going to testify to?

A. He told me that - - he would ask me these questions and I would answer them according to the knowledge I had of them.

Q. When was this agreement between you and Mr. Forbes -

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MR. FORBES; That is objected to as assuming a state of facts not in evidence. There is no agreement.

THE COURT: Sustained.

By Mr. McManus:

Q. When was this conversation with Mr. Forbes? A. Conversation, - yesterday.

Q. And that is the first time? A. Yes, sir..

Q. What time yesterday? A. It was yesterday afternoon.

Q. Then when Mr. Forbes called you as a witness yesterday morning he did not know you were going to testify to this case?

MR. FORBES: That assumes a state of facts not in evidence, as we didn't have any witness to call yesterday morning.

MR. McMANUS: My recollection is Mr. Forbes yesterday morning announced who his witnesses were going to be.

By Mr. McManus:

Q. You never communicated with Mr. Forbes anything about what you were going to testify to on your afternoon yesterday, - is that true? A. That is true, sir.

Q. Did you ever communicate to anybody else, except Mr. Goldberg, your attorney, what you were going to testify, before yesterday afternoon? A. No, sir.

Q. Never told Mr. Brown or anybody from the sheriff's office or anybody so they could communicate it, except you told Mr. Goldberg? A. that is all, sir.

Q. After this holding of the hose you say you went up, at Lieutenant Barber's request, and went into the cell, and the Negroes were brought before you and questioned as to their guilt or innocence. is that right. A. That is right.

Q. Who else acted with you as those judges? A. A fellow by the name of Burr.

Q. What is his first name? A. I guess it is John, or jack; I am not sure.

Q. John Burr? A. Burr.

Who else? A. Carson.

Q. Whom else? A. Two other gentlemen I didn't know.

Q. Had you known Carlson and Burr before that? A. Never.

Q. You have met them since? A. Yes, sir..

Q. Are they indicted? A. Burr is.

Q. Is Carson? A. No, sir.

Q. Did you tell this to the country attorney, about Carlson?

A. He was - - that I was examining in the city Hall?

Q. You were examining them in the city hall? A. Yes, sir..

Q. About this riot? A. Yes, sir.

Q. Who by? A. By the county attorney.

Q. Did you tell him anything about this? A. About what?

Q. About what you seeing there that night? A. Yes, sir..

Q. All about it? A. Yes, sir..

Q. Did you tell him how you were going to testify if you testified at all? A. No, sir.

Q. He didn't know that? A. No, sir.

Q. Was there, Mr. Natelson, any reason why you should testify there against this man? A. No reason, at all.

Q. No reason, at all, except your desire to tell the truth?

A. I was subpoenaed as a witness.

Q. Yes, but can you imagine how you happened to be subpoenaed when the county attorney's office knew nothing about what you were going to testify to?

MR. FORBES: That is objected to as being highly speculative, incompetent, irrelevant, immaterial, and calling for

the conclusion of the witness.

Objection overruled.

(Last question read to witness).

Q. do you know? A. I don't quite understand.

(Last question again read to witness).

MR. FORBES: Also the further objection, assuming a state of facts not in evidence.

THE COURT: Objection sustained.

MR. McMANUS; An exception.

By Mr. McManus:

Q. When you examined these Negroes, - how many were in the cell?

MR. FORBES; That is objected to as not being proper cross-examination, incompetent, irrelevant and immaterial.

THE COURT: how many were in the cell?

A. Five.

Q. And the crowd stood outside? A. Yes, sir.

Q. The cell door was closed? A. Yes, sir.

Q. When you got through what happened? A. I stayed in the cell with the three Negroes that were hung and turned them over to Lieutenant Barber and two or three other officers.

Q. How did you turn them over, -put them out of the cell?

A. No, sir; left them in the cell.

Q. Lieutenant Barber came in? A. No, sir.; I told Mr. Barber when we left the cell that I didn't think these three Negroes were guilty, and they should be protected.

Q. What did he say? A. He didn't answer me. I went out.

Q. Where was the defendant when you told Barber that?

A. Which man is that, the defendant there? Where was he?

Q. Which one of these men is the defendant, do you know?

A. Yes, that one fight there alongside of you.

Q. The one sitting beside me? A. Yes, sir.

Q. Where was he when that happened? A. I don't know.

Q. Didn't see him then? A. No, sir.

Q. When you came into this cell it had been broken open?

A. The cell I went in was open.

MR. FORBES; may the record show that the witness does designate the defendant on trial when he says " that one right here."

By Mr. McManus:

Q. let me see if I have got your testimony about right. You left the store at nine o'clock, or a few minutes after not before, and arrived at police station at 9:15. Now, of course, a minutes or so there will not cut any ice. Hose squirted at 9:45, - or was it 10:45? A. 9:45.

Q. 9:45. Cell broken into at 10:45? A. About.

Q. When was this, - what time was the moot court held, or the court, whatever you call it? A. About 11:15, around that time.

Q. After they had broken into the cell, then they went out, did they?

MR. FORBES: That is objected to as indefinite.

THE COURT: Who?

MR. McMANUS: The mob.

THE COURT: You may answer.

A. I went under the cell there, - where the examination was held, and it was about 11:30 when I got out of there.

Q. The cell was broken into at 10:45? A. Yes, sir.

Q. And you went in at 11:15? A. A different cell.

Q. What? A. A different cell. A. Yes, sir.

Q. What cell was it that was broken into at 10:45? A. The first one on the left.

Q. The first cell on the left. On the left as you go in?

A. Yes, sir.

Q. Was anybody taken out of there? A. I don't know, sir.

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Q. Did the mob just break into that cell and then go away and leave it, or did they take anybody out of thee? A. They couldn't get the locks open, and by that time they had a couple of Negroes out, and we went around on the other side, - and that is where the trial was.

Q. Did they take those Negroes in the other cell and try them?

A. Yes, sir.

Q. Took two Negroes out of the first cell into the second cell and tried them, - is that right? A. Well, they brought them in one at a time.

Q. One at a time. When was it you saw the defendant, exactly?

A. Around about ten o'clock with the hose, and on the inside about - -

Q. Saw the defendant - - that is the first time? A That is the first time.

Q. At ten o'clock. Where was he? A. In front of the police station.

Q. How far from the police station? A. Across the street.

Q. Where were you? A. About ten feet away.

Q. Well, wait a minute. You say across the street. Do you mean clear across the street? A. Almost to the curb.

Q. Where did you stand? A. On the sidewalk.

Q. You were on the south side of the street? A. No, I was right in front of the police station across the street - - that - -

Q. You were also across the street then? A. Yes, sir.

Q. Ten feet away from him then feet back of him? A. At the left.

Q. What is that? A. to the left of him ten or fifteen feet; I don't know the exact distance.

Q. Ten or fifteen feet. Now, was water coming from the hose?

A. Yes, sir.

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Q. Immediately? A. Immediately.

Q. When he first took hold of that hose did the water immediately start - -A. No, sir.

Q. How long was it before it started to gush out? A. About five minutes.

Q. And he still held onto it? A. Yes, sir.

Q. Where did they get the nozzle for that hose? A. I don't know.

Q. You didn't see that? A. No.

Q. how many men were holding on that hose? A. I would judge about twenty-five.

Q. At that time the defendant had hold of it? A. Yes, sir.

Q. What part of it did he have hold of? A. The nozzle.

Q. Who else were on the nozzle with him;? A. About twenty-five other men, sir - - not on the nozzle, the hose.

Q. The nozzle? A. I think there was several of them there.

Q. There were several? A. Yes.

Q. Had their backs to you? A. Yes, sir.

Q. And it was dark? A. Yes, sir.

Q. Yet you swear that you positively identify this defendant as the man that had hold of the hose? A. I thought that was the one, sir.

Q. You thought it was, - is that right? A. Yes, sir.

(The defendant stands up).

Q. I want you to look at this man now and tell the jury, having in view the fact the time had elapsed, the condition of his appearance, the excitement, and everything, whether or not you can now positively and absolutely identify him as the man that had hold of that hose without any possibility of mistake?

A. (After waiting): Well, it was kind of dark; I really couldn't say for certain that he was the man at the hose, but -

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MR. McMANUS: That is all.

By Mr. Forbes:

Q. How about inside when he was breaking the lock? A. yes, I can identify him.

Q. Can you identify him without any equivocation whatever - -

MR. McMANUS: That is objected to as leading and suggestive.

THE COURT: The objection is overruled.

MR. McMANUS: An exception.

A. Yes, I can identify him as the one in the cell.

By Mr. Forbes:

Q. Positively? A. Positively.

Q. In reference t the man that held the hose, I will ask you if the man that held the hose that night, that you thought was this man, if you still think it is the same man? A. I thought he was, sir.

Q. I will ask you whether or not if, when these things were happening outside of the police headquarters all the lights were on in police headquarters? A. Yes, they were on.

Q. Do you remember whether or not, in front of police headquarters there is a white light hangs there? A. I can't recall it.

Q. How far were you away from the defendant Stevenson when he was breaking the cell locks? A. Just a few feet.

By Mr. McManus:

Q. How far? A. A few feet.

By Mr. Forbes:

Q. The other man you referred to, whom you described as being a tall man, six feet and over, was he light-complexioned or dark?

A. I think he was light.

Q. And have you since been called on to identify him? A. No.

Q. I will ask if you were called on to identify tow or three

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other men as being men that broke the cell lock, - if you were shown various men aside from this defendant? A. Yes.

Q. Did you say they were not the men who were breaking the locks? A. Yes, sir.

Q. Your talk with reference to this defendant was entirely with Mr. Greene, the county attorney of this county, as to who he was, your identification of him in the county attorney's office? A. Yes, sir.

Q. Did you ever at any time talk to me about him prior to yesterday? A. No, sir.

Q. Did you ever at any time talk to me about this case, what you were going to testify to prior - -A. No, I didn't meet you until yesterday.

Q. Did I ever talk to you about him except at the Orpheum ticket window when I was buying some tickets? A. That is the only place.

Q. When talking to you about what you were going to testify to I will ask you whether or not I asked you about it any more than to testify in reference to the identify of this defendant?

A. That is all.

Q. Did I ask you about anything else that occurred down there or ask you to testify to anything else? A. Only that he was the gentleman that broke in the cell-room doors and on the locks.

Q. When you talked to Mr. Goldberg about what you were going to testify to in this case did you have any talk with him except as to the testimony as to the identity of this defendant?

A. That was all. it was his advice that I should testify, -f so I cold hold my rights.

Q. When this defendant Stevenson got through breaking the locks on the cell what did he do with the sledge? A. he handed it to this big Finlander.

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Q. And the Finlander is the fellow you referred to as the large man who was near the defendant? A. That is right.

MR. FORBES; That is all.

By Mr. McManus:

Q. Now, you say in the cell the light was good and you were only a few feet away from Stevenson so you could see him plainly, - is that right? A. Yes, sir.

Q. What kind of a coat did he have on? A. I don't think he had a coat on.

Q. What did he have on? A. overalls.

Q. Overalls and smock? A. A shirt.

Q. And over the smock? you know, I mean one of these jackets - -

A. No, I think just shirt and breeches.

Q. Overalls, pants? A. Pants.

Q. What kind of a shirt? A. I think it was a black sateen shirt, - of sateen.

Q. And a black sateen shirt. you saw that plainly, did you?

A. Yes, sir..

Q. You are just as positive of that as you can be? A. I am positive.

Q. What kind of a hat did he have on? A. I don't think he had a hat.

Q. He had no hat on. Did you notice what kind of a hat this fellow had on that you say was the same man that had hold of the hose? A. What kind of a hat?

Q. Yes. A. I don't think he had any hat.

Q. When he had hold of the hose there. You mean his head was bare? A. Yes, sir.

Q. You never saw him with a hat on that night, at all?

A. I did not.

Q. And he had none on? A. I don't think he did.

Q. You mean he was bare-headed? A. That is right.

Q. How was he dressed when he came down to the county attorney's office, at the time you identified him - -A. he had his working clothes on. I don't know if he had a hat or cap. he was on the inside when I got up there.

Q. Whatever he had, he would have it off? A. Yes, sir.

Q. Did have anything on his head then, either? A. No, sir.

By Mr. Forbes:

Q. Was he dressed generally about the same as you saw him in the county attorney's office, as he was the night of the riot?

A. I would imagine so.

Q. About the same working clothes? A. I would imagine so.

Q. After the defendant turned the sledge hammer over to the fellow you called the Big Finn, what did he do with it?

A. He was starting - -

MR. McMANUS: That is immaterial.

THE COURT: Overruled.

By Mr. Forbes:

Q. What did he do with it? A. Started breaking in, - finishing the job of breaking in the lock.

MR. McMANUS: I move to strike that out as incompetent, irrelevant and immaterial.

THE COURT: Denied.

MR. McMANUS: An exception.

J. N. NYSTROM, being first duly sworn as a witness on behalf of the State, testifies as follows:

DIRECT EXAMINATION

By Mr. Forbes:

Q. Your name is J.N. Nystrom? A. Yes, sir.

Q. Where do you live, Mr. Nystrom? A. 130 East Fifth Street

Q. You are a police officer and have been connected with the police force of this city for some time? A. Yes, sir.

Q. For how long? A. Going on my sixth year.

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Q. On the 15th of June of this year where were you on duty?

A. Why, during the day I was on duty on Lake Avenue south, from Superior Street to the Canal.

Q. What was your watch that day? A. From eight o'clock in the morning until four o'clock in the afternoon.

Q. Did you go off duty at four o'clock in the afternoon?

A. Yes, sir.

Q. You would be off until eight o'clock the next morning?

A. Yes, sir.

Q. That night, Mr. Nystrom, were you at the police headquarters? A. Yes, sir..

Q. How did you happen to be at police headquarters? A. I had a call to come down there in full uniform.

Q. And did you go down in full uniform? A. Yes, sir..

Q. Where ere you called from ? A. From home.

Q. From your home? A. Yes, sir.

Q. But where did the cal come - - A. From police headquarters.

Q. What time was it you got down there? A. Oh, I got down there about seven-thirty.

Q. Was there any gathering of people outside of police headquarters then? A. No, sir.

Q. Were there officers there called in for duty - -

A. Yes, sir.

Q. Do you remember what other officers? A. I remember a few of them.

Q. Was Officer Nesgoda there? A. Yes. sir.

Q. Officer Barber? A. Yes, sir.

Q. Officer Sundberg? A. Yes, sir.

Q. And Officer Walker? A. Yes, sir..

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Q. How long after you got there before the crowd began to gather in front? A. oh, about forty minutes, I should judge.

Q. About forty minutes A. just about.

Q. A big crowd gathered out in front? A. At first the crowd wasn't very large, but it kept on gathering and gathering gradually little by little.

Q. What were they doing out there, were they yelling?

A. Yes, a little.

Q. At the start? A. Yes, sir.

Q. Did you understand anything that they were yelling or what they were saying? A. Well, they were hollering, " Let's get the niggers. We got a rope."

Q. When you got down thee where were you stationed?

A. I was stationed right in the main entrance.

Q. The main entrance on Superior Street? A. On the outside.

Q. On the Superior Street entrance? A. Yes, sir.

Q. Were the lights on at police headquarters? A. Well, not at the beginning, no. It was rather light.

Q. After the crowd had gathered and reached considerable size were the lights turned on in police headquarters? A. Yes.

Q. Do you remember whether or not there is a gig light just outside the bay window at police headquarters? A. yes.

Q. Was that lighted, also. A. Yes, it was.

Q. MR. McMANUS: I assume this was after it got dark?

MR. FORBES: Yes.

Q. I will ask you, Mr. Nystrom, if that night, June 15th of this year, you saw this defendant, Henry Gilbert Stevenson?

A. Yes, sir.

Q. Where was he when you first saw him? A. He was on the hose.

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Q. How far was he from police headquarters? A. Why, I should judge about fifteen or twenty feet.

Q. What were they doing with the hose? A. They were directing the hose on Sergeant Olson and Officer Sorrenson, and also around the window, that is with this steam of water.

Q. Where on the hose, what part of the hose did this defendant have? A. he held hold of the nozzle.

Q. About what time was that, - in a general way? A. That was around eight o'clock, perhaps a little better.

Q. Was it dark at that time so the lights had been turned on?

A. It was getting dark about that time.

Q. Do you remember whether the light had been turned on at that time, or not? A. I couldn't say for sure whether they had been.

Q. After they squirted this water against the police headquarters and broke the window and squirted it on Oscar Olson and Officer Sorrenson what did they do, - the mob? A. They kept the hose right on Sergeant Olson, and directed a stream through the door and through the window there.

Q. The force of the water broke the windows in front to the police station? A. Yes.

Q. What was the situation inside of the police headquarters as to being filled with water? A. All the windows were broke and they kept on keeping the hose right through the window and the door and had a lit of water on the floor there all over, and those inside had to fall back to a certain extent, they couldn't stand the stream.

Q. Did they fall back? A. Yes, sir.

Q. What did the mob do? A. They rushed right through, through the windows - -

Q. And through the front door? A. Yes,

Q. Where were you then? A. I was right in front out on the

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sidewalk.

Q. Do you remember who the first man was to go through the door? A. Yes.

Q. Who was it? A. It was Mr. Stevenson.

Q. The first man to go through the door - - A. Yes.

Q. - - into police headquarters? A. Yes, sir.

Q. How far were you away from him when he went in? A. Perhaps about ten feet.

Q. Did you see him afterwards inside? A. No, I did not.

Q. You did not see him after that? A. No, sir.

Q. Do you remember whether or not the mob broke the front door of police headquarters? A. They kept taking the hose away, - and a section of the hose got caught on the side, on the edge of the door, and the crowd kept pulling the hose out, so that way they tore the door off the hinges.

Q. One big panel of the front door? A. Yes.

Q. And when they went through was only one door open?

A. Yes, sir.

CROSS-EXAMINATION

By Mr. McManus:

Q. How long have you known Stevenson? A. I never saw him before I can think of.

Q. Do you remember - - have you ever seen him since that time until today? A. Yes.

Q. When? A. I don't remember the date, but I seen him in the county jail.

Q. When was he arrested? A. A few days before I seen him up there.

Q. Now, Mr. Nystrom, can you tell us about how long ago it was

you saw him in the county jail? A. Why, it isn't very long ago.

Q. About how long? A. it would be almost impossible to tell the number of days.

Q. Was it as much as two weeks? A. In the neighborhood of two weeks.

Q. Where did you see him? A. I seen him in the county jail, back of the bars.

Q. And back of what bar? A. There is a kind of a hallway between the cells up there, and he was loose amongst several other prisoners in there.

Q. In the hallway, - in the center? A. Yes, sir.

Q. Where the prisoners exercise? A. Yes, sir.

Q. You saw him among the rest? A Yes, sir.

Q. How long did you look at him there? A. I didn't look at him very long.

Q. Just to identify him? A. Just to make sure it was the same one.

Q. Were you told which man they wanted you to look at?

A. I told the jailor whom I cam up to see.

Q. And he old you who that man was? A. There was four or five men standing there.

Q. And the jailor took you up and told you which was Stevenson?

A. He didn't point him out.

Q. Did he call out? A. he says, "Mr. Stevenson," and I was at the door.

Q. Did the jailor cal him? A. It wasn't necessary to call him, because he as right at the door.

Q. Did he cal him? A. Not that I can think of.

Q. You saw him that night, you say, holding the hose?

A. Yes, sir.

Q. He was the first man to go through the door of the police station? A. Yes, sir.

Q. How was he dressed? A. I don't remember just how he was dressed; I looked more at his face than anything else.

Q. Can't remember how he was dressed, at all? A. Not very well, no.

Q. Can you tell? A. I say No.

Q. Can't remember how he was dressed. Did he have on a hat?

A. I don't remember.

Q. Was he dressed in working clothes?

MR. FORBES: That is objected to as not being proper cross-examination. The witness testified he doesn't know how he was dressed.

THE COURT: Overruled.

A. I can't answer that question.

By Mr. McManus:

Q. You don't know? A. I don't remember.

Q. You never saw him before? A. No, sir; not that I can think of.

Q. When he had hold of this hose about where did he stand?

A. he was standing right in front of the police headquarters there.

Q. how far away from you? A. About ten or fifteen feet away from the police headquarters.

Q. Right up close to the curb of the sidewalk? A Almost, yes.

Q. Wasn't he across the street? A. No, sir.

Q. Sure of that? A. Yes, sir.

Q. Wasn't he more than halfway across the street? A. Well, at times, yes, sir.

Q. At first, when he picked up the hose, wasn't he across the street? A. No, sir.

Q. At one time he was driven back? A. Several times he was driven back.

Q. You mean the south curb, the lake side of Superior Street?

A. The south - -

Q. The side closest to police headquarters? A. Yes, sir

Q. That is the one you mean? A Yes, sir.

Q. You saw him take the hose? A. Yes, sir.

Q. When he first got it? A. I didn't see him take it up.

Q. You saw him when he first got hold of it? A. I saw him on the hose.

Q. You don't know where he got it, then? A. No, sir.

Q. Do you know where the hose nozzle came from that was put on the hose? A. No, sir.

Q. You don't know where the crowd got that? A. No, sir.

Q. Did you ever hear?

MR. FORBES: Objected to as hearsay.
objection sustained.

By Mr. McManus:

Q. He was standing almost up to the curb - -A. They were back there, - within ten or fifteen feet.

Q. But they never got beyond the middle of the street, always kept on this side of the street-car track? A. During the time I saw him he was not.

Q. They were always on the south side of the car track when you saw them? A. Yes, sir.

Q. Now, if you cannot remember what his clothing was nor can't, - nor cannot remember the hat he had on, what was there about this man (I want you to look at him now), what was there about him that night that enabled you to remember him distinctly? A. It is his face more than anything else.

Q You are speaking about this man here, aren't you? A. Yes, sir.

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Q. Which one? A. The defendant there.

Q. Which is the defendant? A. Over in the chair there.

Q. The further one? A. Yes, sir.

Q. Standing up? A. The man standing up.

Q. This is the man you saw with that hose that night.

A. Yes, sir.

By Mr. Forbes:

Q. Are you sure that is the right man?

MR. McMANUS: That is leading.

THE COURT: Yes.

by Mr. Forbes:

Q. You are not quite sure this is the one sitting alongside
of Mr. McManus?

MR. McMANUS: Objected to as leading and suggestive.

THE COURT: Well, you may answer the question.

A. That looks like the one.

- - - - -

E. H. BARBER: Being first duly sworn as a witness on behalf of
State, testifies as follows:

DIRECT EXAMINATION

By Mr. Forbes:

Q. Your name is E.H. Barber? A. Yes, sir.

Q. You are lieutenant of police? A. Yes, sir.

Q. Connected with the police force of this city? A. Yes,
sir.

Q. And have been for some time? A. Yes, sir.

Q. How long? A. Eighteen years and a half.

Q. Were you on duty the 15th of June this year? A. Yes, sir.

Q. Where were you on duty that day? A. Police headquarters.

Q. What was your watch down there? A. I didn't go to work
until twelve o'clock at night on my regular watch; until eight o'clock

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in the morning.

Q. What would be hour hours? A. From twelve o'clock at night until eight in the morning.

Q. From twelve at night until eight in the morning? A. Yes, sir.

Q. You served from midnight of the 14th till eight o'clock the morning of the 15th, did you. A. Yes, sir.

Q. When did you next return to police headquarters? A. Shortly after nine o'clock on the night of the 15th.

Q. What called you down there? A. I was called on the telephone to go down to headquarters.

Q. Did you go down? A. Yes, sir..

Q. What time did you go down there? A. I got down there probably about ten minutes after nine.

Q. When you got down there was there much of a crowd out in front? A. Yes, there was quite a crowd.

Q. What were they doing, the crowd out in front? A. Why, they were standing on Second Avenue East, of the avenue, and across the street.

Q. Had they brought out any hose at that time? A. There were hose stretched into the police station.

Q. Was it being used? A. Not at that time.

Q. How soon was it that they began to see the hose?

A. Probably about fifteen or twenty minutes, something like that.

Q. What is our best judgment as to about the time when the crowd got into the police headquarters? A. I don't know just exactly; it was very near dark.

Q. Did they get through into the cell room? A. Yes, sir.

Q. How did they get through the cell room, - into that room?

A. They went through the front door, some come through the

toilet window and some went up the fire escape and came in through the battery room.

Q. How did they get through that door in the cell room?

A. Broke down the door.

Q. how much of a crowd got into the cell room? A. Why, the cell room was, I should judge, half filled up. The big jail.

By Mr. Forbes:

Q. Did you see this man Natelson in there? A. Yes, sir.

Q. I will ask you what other officers were in there?

A. Why, Officer Walker, Officer Sundberg, and Officer Nesgoda; and there were several others, I don't know whether they got in, or not.

Q. Did you get in there with these officers or after the door to the cell room was broken? A. I got in there after the cell room door was broken.

Q. Do you remember what officers went in with you? A. Those officers that I described. I called several officers to go with me. I did notice Walker and Sundberg and Nesgoda in there.

Q. Calling our attention to the defendant Stevenson, - the last man over there, - I will ask you if you saw him there that night? A. I did.

Q. Where was he when you first saw him? A. he was on the left-hand side as you go into the big cell room, in near the corner of the cell.

Q. What was he doing ? A. He was pounding the lock of the cell door with a sledge hammer.

Q. What cell was that? A. That was the first cell on the left-hand side of the big tier of cells. Two rows of cells; the first cell on the left-hand side.

Q. Did he break that lock? A. I don't know whether he broke it off, or somebody else broke it off, but he was pounding the lock.

Q. Was it broken? A. It was broken off.

Q. Did those officers continue to stay in the cell room?

A. No, sir. This fellow up here, well, I remember distinctly it was in front of Sundberg, and he shoved him and squeezed me with him, and they shoved the policemen outside. Later I let in the cell room with Officer Walker.

Q. Then you and Walker were the only officers inside then?

A. Yes, sir?

Q. Do you remember the defendant - - A. I do.

Q. What called your attention to him that night? A. Why, I was talking to him outside of the cell, - outside of the cell room before they broke in, had a talk with him and had an argument with him.

Q. What was the argument about? A. The argument was about breaking down the door and taking the Negroes out.

Q. What did he say? A. Well, they were going to get the Negroes and that I would do the same thing if it was my sister.

Q. What did you say? A. I told him that hey; should wait until after they brought the rest of them down from Virginia, that it wasn't right, - some of those in there were innocent.

Q. It was after that you saw him inside? A. I did, yes, sir.

Q. Do you know his brother, who sits here with him?

A. No, sir.

Q. Did you ever see him before? A. No, not that I know of.

Q. you are sure this defendant Stevenson is the man you talked to there? A. Yes, sir..

Q. And you are sure you saw the man who was breaking the cell door? A. Yes, sir - -

Q. Afterwards did you talk with Patrolman Walker in the presence of the defendant Stevenson, - calling your attention to Stevenson? A. Yes, sir.

Q. What was that talk? A. He says, "do you know this fellow there?" - pointing to Stevenson.

Q. Who said that? A. Walker. I said, "No, sir; I don't know him."

CROSS-EXAMINATION

By Mr. McManus:

Q. Now, you say you have been eighteen years on the police force, Lieutenant? A. Yes, sir.

Q. That night who was in charge of the police headquarters?

A. Sergeant Olson.

Q. Where was the chief? A. I was told he was in Virginia.

Q. Where was the Captain? A. I was told he was in Virginia.

Q. Where was the next in charge, - that was yourself?

A. No; chief of detectives.

Q. Schulte? A. Yes, sir.

Q. Where was he? A. He was supposed to be in Virginia.

Q. You were on duty you say how long that day? A. I got off duty in the morning at eight o'clock; then I was called down to the station shortly before nine o'clock. I took the car that brought me down to the station about, - in the neighborhood of about ten minutes after nine.

Q. When did you first hear there was threat of a riot at police headquarters? A. When they telephoned to me.

Q. You hadn't hear a word about it before? A. No, sir, except I - -

Q. When did you first hear of this outrage on this little girl?

A. Why, I learned of that in the morning, about two o'clock in the morning.

Q. You heard no report or rumor of any riot - -you heard no report or rumor of anybody raiding police headquarters until you got down there - -A. No, I did not, except what I see - - I read the account of it in the evening paper.

Q. You know now that the police department knew of this intended raid along in the middle of the day, do you. A. I learned that they did, yes. I didn't know of my own knowledge, though.

Q. Was any shooting done thee that night? A. No, sir.

Q. Was there any firearms among the police? A. I don't know; I had my gun that night.

Q. Were there any orders not to shoot? A. Some policeman told me there that night, I don't know what policeman it was, we wasn't to do any shooting.

Q. Did you have your clubs? A. Why, I suppose some of them did, I don't know.

Q. Did any of the police use clubs to beat the mob back?

A. Not that I know of.

Q. Either inside of the jail or outside? A. I didn't see any.

Q. Did nay of the policemen use any force, at all, to stop that mob, except by squirting water on them? A. They did make an attempt to keep the mob back.

Q. But only half-heartedly? A. Yes, sir.

Q. As a matter of fact, didn't you hear conversation among the policemen consenting to the taking of the Negroes out of here?

MR. FORBES: That is objected to as incompetent, irrelevant and immaterial, and not proper cross-examination.

Objection sustained.

By Mr. McManus:

Q. had you ever seen the defendant before? A. This man here?

Q. Yes. A. No, I don't think I did.

Q. Never had seen him before? A. Not that I know of. Might have seen him, though.

Q. Didn't know him? A. Didn't know him, no.

Q. You noticed him particularly that night, you say? A. Yes.

Q. Probably you will be able to tell us how he was dressed then? A. I don't know as I paid particular attention to his dress.

Q. Step and think. A. I believe he had some kind of a cap, felt cap that was known on his head, and he had some kind of a working jacket on, working clothes, looked as though he had working clothes on.

Q. A working jacket? A. Yes, sir.

Q. What color? A. I think it was kind of a dirty brown, or dirty black, or something, - I am not certain on that.

Q. Anyhow, it as dirty? A. Looked that way.

Q. What kind of trousers did he have on? A. I don't know.

Q. That is, as nearly as you can remember? A. I didn't pay any particular attention to it.

Q. Lieutenant, do you have any idea what the material was?

A. It looked as though it might be cotton: I don't know.

Q. Ducking, or denim? A. It might be blue jeans, or something like that.

Q. That is the material that overalls are made of?

A. Yes, sir.

Q. Is that all he had on that you saw? A. Well, might be, I don't know - -

Q. Just a minute? A. I tell you I am absolutely - -I don't know. As I remember, he had on some kind of a jacket, and it looked to me, from what I can remember now, as though it was kind of dark, - I don't know just what, but it looked as though he had working clothes on. he was not dressed up.

Q. Working clothes? A. Yes.

Q. Now, Lieutenant Barber, isn't it a fact, - I will not ask for any names, - but isn't it a fact there were only two police officers in the city that make any attempt, at all, to protect those Negroes?

MR. FORBES: That is objected to as incompetent, irrelevant, immaterial, and not proper cross-examination.

Objection sustained.

Q. Have you seen this man since that night? A. I saw him up in the county jail.

Q. Do you remember when? A. It was the day I believe he was arrested.

Q. You know the day he was arrested? A. They called me up - -

Q. About how long ago? A. It must have been a month ago. I don't remember the date.

Q. Where did you see him? A. County jail.

Q. Where was he when you saw him? A. he was in; the gig cell room up at the county jail.

Q. Was it upstairs or down? A. I believe it was downstairs. I am not certain whether it was upstairs or down stairs. I believe it was downstairs.

Q. Was it the day he was arrested? A. Yes, sir.

Q. What I want to get at, was he in the cell or was he walking around the corridor? A. He was there in kind of a corridor with the cells.

Q. Between the two cells? A. Yes, sir.

Q. Where the prisoners exercise? A. Yes, sir.

Q. That is the door that he pulls the lever and ceils them out of the cell - - A. I believe so, I think so.

Q. How close did you come to him then? A. I shook hands with him.

Q. And spoke to him? A. Yes, sir.

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Q. What did you say to him, if anything? A. I asked him if he remembered me down there that night.

Q. What did he say? A. He said he did not.

Q. He said he did not? A. No, sir.

Q. What did you say? A. Then I called his attention to different things that - - down there, but he denied that he knew me, at all.

Q. Is that the only time you have seen him, those two times and then today? A. That is all.

Q. That is all? A. Yes, sir.

Q. What time of the day was it you were at the jail? A. In the afternoon, - after supper, in the evening.

Q. After supper? A. Yes, sir.

Q. That is - - A. After six o'clock.

Q. And before when? A. Before eight.

Q. Between six and eight o'clock? A. Yes, sir..

(Recess for a few minutes)

Q. Lieutenant Barber, I want to have you if you please, try to remember where you went that night you went to the country jail, and just where you found the man who shook hands with you that you speak about. You went into the county jail I the main office. You had been in there a good many times, I suppose?

A. Yes, sir.

Q. And you met there the jailor who opened the door?

A. Yes, sir.

Q. Now, did you go in the jail downstairs or did you go upstairs? A. I believe it was downstairs.

Q. It is important to know as nearly as possible and as certainly as possible, Lieutenant Barber. I wish you would think and see if you cannot fix it positively? A. Well, for that mater, I went to the county jail and saw this man there. I don't think it is very important whether it was downstairs.

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I saw him there and shook hands with him and talked to him.

Q. Can you not remember where it was in the county jail that you saw him? A. Well, it was - -it wasn't in the police; it was in the jail part and he was behind the bars. Whether it was downstairs or upstairs I don't just remember which, but I believe it was downstairs.

Q. That is your best recollection? A. As far as - - I didn't pay any attention to it, but it might have been downstairs and might have been upstairs, but I saw him there and talked to him.

Q. Was he led out into the corridor or did you go into the hallway? A. I went into the hallway.

Q. The jailor opened the door and you walked into the hallway between two rows of cells? A. Oh, no; I went in the hallway that goes down this tier of cells.

Q. Did he come out? A. I shook hands with him through the bars.

Q. In his cell? A. I don't think there was any cell there. I think it was in the corridor. It looked like it. Might have been a cell, I am not certain.

Q. Now, Lieutenant Barber, you have been on the police force for eighteen years and at first you were not lieutenant, were you? A. No, sir.

Q. Just an ordinary officer, - did police duty? A. Yes, sir.

Q. Many times you have been in the county jail? A. Yes, sir.

Q. You know how it is fixed, how it is built in there, don't you? A. Yes, sir.

Q. You know that there are cells and corridors between the cells? A. Yes, sir.

Q. On the lower floor, and the same on the upper floor?

A. Yes, sir.

Q. Been in that many times? A. Well, I have been in it a few

times, not many times.

Q. How many? A. Probably a dozen times in my life.

Q. You are familiar with the way they are built? A. Yes, sir.

Q. Isn't it a fact that when you go into the main office you go through a barred door? A. Yes, sir.

Q. And enter into a corridor that runs clear around - -

A. Yes, sir.

Q. Then there is a row of cells on the east side and a row of cells on the west side and the corridor between the two rows of cells? A. Yes, sir.

Q. Where was he? A. he might have been in the corridor - -

Q. I didn't ask you where he might have been. Where was he?

A. He was in the jail.

Q. Where was he, what part of the jail was he in? A. Upstairs or downstairs?

Q. Leave that out. Was he in the corridor or was he in the cell or was he in between the two rows of cells? A. He was there in the corridor - - he was either in the corridor or in the cell, I am not sure which, but he was behind the bars, and I shook hands with him through the bars.

Q. It was after night? A. Yes, sir.

Q. There was very little light? A. Electric lights.

Q. There were only three or four in the whole corridor?

A. I don't know how many.

Q. When he come out in the jail office you admitted that you had nothing whatever on the man? A. I don't recall saying that.

Q. Didn't you tell that to the jailor? A. I don't remember if I did, or not.

Q. Did you go up there in uniform? a. I believe I did.

Q. Can't you remember? A. I am not certain.

Q. You were off duty, weren't you? A. Yes, sir.

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Q. When off duty don't you generally take off your uniform?

A. Sometimes.

Q. Did you that night? A. I don't think I did.

Q. You went there in uniform? A. yes - - I might have went there in civilian clothes and I might have went in uniform.

Q. Can't you see that his evidence of hours is very indefinite except one thing, you identify this man? A. I identify him, - I identified him, and I was talking to him thee.

Q. When you came out did you tell the jailor that you had nothing on him, at all? A. I don't remember saying that.

Q. Didn't you think that when you came out of that?

A. I might have thought that, possibly.

CARL SUNDBERG, Being first duly sworn as a witness on behalf of the State, testified as follows:

DIRECT EXAMINATION

By Mr. Forbes:

Q. Your name is Carl Sundberg? A. Yes, sir.

Q. You are a police officer connected with the police force of this city? A. Yes, sir.

Q. And have been, Mr. Sundberg, for how long? A. I started in the 13th of September, 1910, and it will be 10 years the 13th of next month.

Q. Where was you beat on the 15th of June of this year?

A. My beat was on First Avenue East and lake Avenue, from superior Street down to the canal.

Q. What hours did you work each day? A. From four o'clock in the afternoon to twelve o'clock at night.

Q. Were you at police headquarters that night? A. Yes, sir.

Q. What time did you go down there? A. Between eight o'clock and nine o'clock.

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- Q. How did you happen to go there? A. I had a call.
- Q. When you got there had the mob gathered there very much out in front? A. Yes.
- Q. Were there a good many people there at that time? A. Yes.
- Q. Were they using the hose at that time? A. No, sir.
- Q. They had not started that? A. No, sir.
- Q. Had they stretched the hose in the police headquarters at that time? A. Yes, sir.
- Q. Had Officer Olson started to use the hose on the crowd?
- A. No, sir.
- Q. Do you remember about when it was they started to use the hose? A. Yes, pretty near, just between nine and ten o'clock.
- Q. Were you inside of police headquarters the most of the time?
- A. Yes.
- Q. Were you there when the mob broke down the door leading into the cell room? A. I was down in the basement.
- Q. You were in the basement then? A. Yes, sir.
- Q. The door, was that broken down when you went into the cell room? A. (No answer).
- Q. Had they already broken the door down? A. Down in the basement?
- Q. In the cell room door. A. Yes, sir.
- Q. What other officers were in the cell room with you?
- A. Officer Nesgoda.
- Q. Did you see Barber in there? A. Yes.
- Q. Was Officer Walker in there? A. I didn't see Walker.
- Q. You didn't see Walker? A. No, sir.
- Q. When you got in the cell room did you see this defendant?
- A. (No answer).
- Q. Did you see this defendant? A. Yes, sir..
- Q. Where was it you saw him? A. I saw him close at the door where he was going into the cells.

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Q. What was he doing then? A. well, he stood right in front of me.

Q. And what happened? A. He had a sledge hammer in his hand.

Q. What did he do with it? A. Well, then I stood in front of him, he raised the hammer up, and I looked at him and he dropped it down, then he hoisted it again and he says, "Get out of here."

Q. Did you get out? A. Yes, sir.

Q. Did he strike you with it? A. No sir.

Q. Just threatened to strike you? A. Yes, sir.

Q. What else did he say? A. Not any more that I know of.

Q. Was there quite a crowd in there? A. Yes, sir.

Q. Will you come down here and identify which man it was that raised the sledge hammer and threatened you with it?

A. (Witness does so).

MR. FORGBES: May the record show that he pointed to the defendant in this case?

Q. You are sure that is the man? A. That is the face.

Q. do you know is brother sitting alongside of him, - did you ever see him before? A. No, sir; I don't know him.

Q. You are sure this defendant is the man that raised the sledge hammer and threatened you with it that night? A. Yes, sir.

MR. McMANUS: At this time may I have the record show that Officer Nystrom identified as the defendant the brother of the defendant, - not the defendant?

MR. FORBES: That is, Officer Nystrom did?

MR. McMANUS: Yes.

MR. FORBES: Yes, sir.

By Mr. Forbes:

Q. Was that the only time you saw the defendant? A. Yes, sir.

Q. Which cell was he working at when u first saw him?

MR McMANUS: Just a minute - -

MR. FORBES: I recall that.

CROSS-EXAMINATION

By Mr. McManus:

Q. Had you ever seen this man before? A. Not that I know of, sir.

Q. had you ever seen him since? A. Yes, sir.

Q. Before today? A. Yes, sir.

Q. Where? A. I was called up there to the county jail waiting room to look at him.

Q. When? A. I can't exactly say the date, but it was a few days ago.

Q. this week? A. This month, but I should judge about two weeks ago, or three; I can't say exactly the date.

Q. Was he pointed out to you by anybody in the county jail waiting room? A. No, sir.

Q. Was anybody else there with you except him? A. He was all alone.

Q. All alone. Were you asked to identify him? A. yes.

Q. And you went in and looked at him and identified him?

A. Yes.

Q. He was the only man there? A. Yes, sir.

Q. Then to identify anybody you had to identify him?

A. (No answer).

Q. Is that right? A. He did not - -

Q. They didn't ask you to pick him out from the crowd?

A. No.

Q. Just brought this man down from the jail, in the room, and told you that was Stevenson, and to go in and identify him?

A. I didn't know where they brought him from.

Q. What did they tell you? A. told me to go up and take a look at him.

Q. Say the man was Stevenson? A. Yes, sir.

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Q. And you went and took a look at him? A. Yes, sir..

Q. You were prepared to see him when you went up? A. Yes.

Q. Expected to see him? A. Yes.

By Mr. Forbes:

Q. Now, Mr. Sundberg, are you positive that the man that you saw in the waiting room of the county jail about a month ago, as you testified, is the same man that you have identified here today and the same man that you saw raise this sledge over your head in police headquarters on the night of June 15th?

MR. McMANUS: I object to that as repetition, as leading, and as self-serving, and as highly improper.

Objection overruled, to which ruling counsel duly excepts.

A. Yes, sir. Answer Mr. Forbes' question?

THE COURT; Yes.

A. Yes, sir.

Q. How was this man dressed when you saw him in the cell room? A. I didn't pay so much attention to the clothes, just because he was quick in his movements, so I didn't pay much attention to his clothes; I just looked him right in the face. Then he hoisted the hammer.

Q. Did he have a hat on? A. I couldn't exactly say about that; I don't know about his clothes.

Q. Couldn't be sure of that? A. No.

Q. You were pretty excited there that night, weren't you, Officer? A. yes, I will not deny that.

Q. Everybody was excited? A. I guess so.

Q. There were men there who were excited and men who were not? A. That is more than I know.

Q. But you were excited: A. More or less.

Q. Quite a little bit more than less, weren't you? A. Well, I couldn't exactly answer on that question.

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Q. You saw other men there? A. Yes, sir.

Q. Do you remember who they were? A. Some of them.

Q. Identify any of the other men that were there that night, -
did you? A. Yes, there was a man there that - - citizens,
policemen, and so on.

Q. Do you remember any of the rest of them? A. Sir?

Q. Do you know who any of the rest of them were? A. Well,
I seen - - I seen Judge Cant there; I seen Lieutenant Barber;
I seen Sergeant Oscar Olson; I seen Officer Neagoda; I seen
Sergeant Hunter; I seen Nels – another officer, and another
officer.

Q. Those are men that you know very well? A. Yes, sir.

Q. Tell me about some of the strangers you saw that you re-
member? A. (No answer).

Q. Judge Cant you knew very well, and you know these police
officers. Tell us about - - A. I seen Mr. Murnian, there.

Q. He is another man, he is chief, above your chief?

A. Yes, sir.

Q. Who else of strangers, - somebody you never saw before, who
else can you remember that you saw there that night? A. I
haven't seen - -

Q. You can't do it? A No.

Q. You were on of these men protecting that jail and yet you
cannot remember - - A. There was lots of faces I could see,
but I don't remember, - I don't know their names.

Q. Didn't any of the rest of them do any pounding there or
squirting of the hose? A. There was a bunch of them doing it,
all right. I heard the noise, but I didn't see them doing it.

Q. You don't remember who they were? A. I didn't see them,
either.

Q. You only saw one man outside of these officers that you
speak of? A. I seen lots of people there, yes.

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Q. I mean, that you remember. A. I gave you the names now of lots of them.

Q. But they are all your friends? A. how do you know they are my friends?

Q. Whom do you remember that were strangers, that you didn't know before? A I can't remember.

Q. Describe somebody else to me, how they were dressed, other than these men, - some other men that were pounding on the door or squirting water? A. I seen a man up in the corner there that was trying to make a speech, talking in favor of the lynching.

Q. In favor of the lynching? A. Yes.

Q. You remember him? A. Yes.

Q. What kind of a looking man was he? A. He was a man, kind of a healthy, stout man, with blue clothes, - blue serge suit, I guess, and a hat, a soft hat, a light shirt and necktie.

Q. He was against the lynching did you say? A. He was in favor of the lynching; he was speaking for the lynching.

Q. You can describe his clothes? A. Yes.

Q. But you cannot tell us a thing that the defendant had on?

A. Oh, this man, I gave you a description of just now - -

Q. He didn't try to strike you with anything? A. I don't know whether the - -he was too far away from me then.

Q. Who drew your attention to him, striking you or trying to hit you with the hammer or - - A. Who?

Q. This other man? A. No. The hall was full of people there then, and I stood about 75 feet away from him.

Q. When you and the defendant were standing pretty close together wasn't there a lot of people there then, too? A. Yes.

Q. Everybody excited and yelling? A. Yes, they was.

Q. And you went up to identify him and id identify him?

A. Yes, on account he stood in front of me with a sledge hammer.

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Q. That is all you know about this, Officer Sundberg? A. Yes.

Q. You can't remember anything he had on? A. (No answer).

Q. Did he have on a white collar? A. No, - I don't know.

Q. Did he have on dark clothes, or light? A. Well, I can't exactly say anything about that.

Q. You want to be as near right as you can? A. I want to tell the truth.

Q. I don't doubt it, at all, but your memory isn't very good, is it? A. Well, sometimes it is and sometimes not.

Q. When you were told this man who had threatened you with the sledge hammer was in the jury room, you went up there expecting to see him there, didn't you? A. I was called to go and take a look at him.

Q. You were told who it was? A. No.

Q. You were told it was Stevenson, weren't you? A. No, sir.

Q. What were you told? A. I was told to go up and take a look at that man, if I knew him - see him.

Q. Was that all you were told? A. Yes.

Q. You were not told what he was accused of? A. No.

Q. You didn't know? A. No.

Q. You went up expecting to find him there? A. Yes, sir.

Q. You looked at him and immediately recognized him? A. Yes.

Q. What kind of clothes did he have on when he was in the grand jury room? A. I don't remember, - - He had on, what I remember, a dark, short coat and light shirt like I have, but more - -

Q. - - -khaki? A. No vest on.

Q. Khaki clothes? A. (no answer).

Q. You know what I mean? A. What?

Q. You know what I mean? A. Fireman's shirt.

Q. Like what the soldiers wore, was it? A. I didn't pay so much attention to the clothes. It was more the face, - the face

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I was more interested in. I didn't pay so much attention to
the clothes.

Q. Was it the same man that you saw make the speech?

A. Who?

Q. The defendant? A. No.

- - - - -

C. C. WALKER sworn and testifies as a witness on behalf of the State.

- - - - -

STANS NESGODA, Being first duly sworn as a witness on behalf of
the State, testifies as follows:

DIRECT EXAMINATION

By Mr. Forbes:

Q. Your name is Stans Nesgoda? A. Yes, sir.

Q. You are an officer connected with the police force of this
city? A. Yes, sir.

Q. You have been for some time? A. Yes, sir.

Q. Where were you on duty the fifteenth of June of this year?

A. From First to Third Avenue West.

Q. What watch were you on? A. On the twelve o'clock.

Q. From twelve - - A. to eight in the morning.

Q. Were you down at police headquarters that night? A. Yes,
sir.

Q. What time did you go down there? A. About 9:30.

Q. How did you happen to go down? A. I was called on duty.

Q. Did you report in uniform? A. Yes, sir.

Q. When you got down there had the crowd gathered in front of
the police station? A. Yes.

Q. Was there any crowd inside of the police station?

A. No, sir.

Q. had they started to use the hose, - had the police started
to use the hose against the mob at that time? A. Yes, sir.

Q. Had the mob started to use their hose against the police
headquarters? A. Yes, sir.

Q. What happened when they turned the hose on the police head-
quarters, - what did they do with the water? A. Both fought
against one another until they couldn't, - the police couldn't
get any more water. Somebody cut the hose.

Q. Did the mob afterwards get into police headquarters?

A. Yes, sir.

Q. Were you there when they got in? A. Yes.

Q. Did you go back in the cell room? A. yes.

Q. Did you go back there before the door was broken open or after? A. After.

Q. You didn't see the door broken open? A. No, sir.

Q. When you got in the cell room I will ask you if you saw this defendant in there? A. Yes, sir.

Q. Where was he at the time that you saw him? A. Why, he was around that cell number five.

Q. Which one is that as you go in? A. That is on the left-hand side.

Q. What was he doing? A. he was using a sledge hammer.

Q. What did he use that sledge hammer on? A. I saw him pounding at the door there.

Q. Did you see some trouble between him and Officer Sundberg?

A. Yes.

Q. What was that? A. he raised the sledge hammer at Sundberg, he was going to hit him with the sledge hammer.

Q. Where were you when that happened? A. Up in the middle of the building.

Q. Did the police officer afterwards, - were they afterwards put out of the cell room? A. Yes, sir.

Q. Do you remember what officers remained in there? A. Barber is one of them.

Q. He was still in? A. Yes.

Q. Will you come down there to the desk and pick out the man, the one with the sledge hammer? A. That is the man right there.

Q. Which one? A. Right there.

Q. You are sure about that? A. Yes, sir.

MR. FORBES: May the record show he indicates the defendant on trial in this case?

Q. Did you ever see his brother, who sits on the other side of

him? A. I don't remember.

CROSS-EXAMINATION

By Mr. McManus:

Q. Mr. Nesgoda, before you came into the court-room did anybody tell you who these men were sitting in here - -

A. No, sir.

Q. - -today? A. No, sir.

Q. Nobody told you anything about it, at all? A. No, sir.

Q. Didn't talk to you about it? A. No, sir.

Q. Didn't Mr. Brown? A. No, sir.

Q. You say that when you got into the police headquarters, you did not go in until after the cell was broken open? A. Yes, sir.

MR. FORBES: The cell door.

MR. McMANUS: If you will be kind enough not to help this witness I think we will get along better.

MR. FORBES: Oh, very well. My remarks may be stricken.

Just a minute. I object to that question as assuming a state of facts not in evidence. There is no evidence this man ever went into the cell, at all.

THE COURT: The answer is in.

Q. You said you didn't see the cell broken open? A. No, sir.

Q. That is what you testified? A. Not the first door.

Q. Did you see any cell broken open? A. I saw him working on the second door in the inside of the jail.

Q. Had you ever met this man before, the defendant?

A. No, sir.

Q. How far were you from him that night at any time? A. Within a foot.

Q. Within a foot. he was fight in there where you were?

A. Yes, sir

- Q. Quiet in there? A. No, sir.
- Q. No excitement going on? A. yes.
- Q. You were pretty excited, weren't you? A. No, sir.
- Q. Not a bit? A. Not a bit.
- Q. Had you ever seen him before? A. No, sir.
- Q. Didn't see him? A. No, sir.
- Q. Have you ever seen him since? A. never seen him, at all.
- Q. Never saw him since, at all? A. No, sir.
- Q. And that is two months and a half ago? A. Yes, sir..
- Q. Only saw him once? A. Yes, sir.
- Q. And you have never seen him since, at all? A. No, sir.
- Q. You are sure of that? A. Sure of it.
- Q. Since that night you have never seen this defendant until today? A. I seen him yesterday.
- Q. And yesterday.
- Q. Did you notice how he was dressed that night? A. No, sir.
- Q. Didn't notice, at all? A. No, sir.
- Q. What kind of a hat did he have on? A. I don't know.
- Q. What kind of a coat did he have on? A. I don't know.
- Q. How long were you looking at him altogether that night?
- A. Why, a couple minutes.
- Q. Do you know how long a couple minutes are, Officer Nesgoda?
- A. That is about as long as I remember - -
- Q. You mean just a little while, - you don't mean couple minutes. One hundred twenty seconds? A. Well, maybe a little longer than two minutes.
- Q. You were looking at him all the time? A. yes.
- Q. Weren't you looking at anybody else? A. No, sir.
- Q. Why were you looking at him all the time for two minutes?
- A. Why, because he was going to use that sledge hammer, - he raised the sledge hammer to Officer Sundberg.

- Q. You had your gun on you? A. I pulled my gun, yes.
- Q. You had your billie on? A. Yes.
- Q. Your club. Did you use either one of them? A. No, sir.
- Q. Did you make any attempt to stop him from striking Officer Nesgoda, at all? A. When he raised the sledge hammer I pulled my gun.
- Q. Point it at him? A. No, sir.
- Q. Did you pull your club?: A. I had my club in my hand all the time.
- Q. You were a police officer of the City of Duluth? A. Yes, sir.
- Q. Sworn to preserve the peace? A. Yes, sir.
- Q. These Negroes were in the custody of the City of Duluth?
A. Yes, sir.
- Q. Did you know these men who came to take them out of there?
A. No, sir.
- Q. Did you know they wanted to take them out of there?
A. Yes.
- Q. They said they did, didn't they? A. That is what they said.
- Q. Weren't they yelling they were going to get the Negroes?
A. Yes.
- Q. What is any steps did you take to stop them? A. Why, I tried everything; they didn't give up no chance after we got in there, - just shoved us right out.
- Q. You had your gun and you had your club. Did you use either one of them? A. Why, no.
- Q. Were you ordered not to use your gun? A. No, sir.
- Q. Were you ordered not to use your club? A. No, sir.
- Q. You were sworn in as a policeman, weren't you? A. Yes, sir.
- Q. Sworn to preserve the peace?

MR. FORBES: that is objected to as having been gone over.

Q. You knew these Negroes were in that jail?

MR. FORBES: The same objection
Objection overruled.

A. What is that?

Q. (Last question read). A. yes.

Q. You knew what they were accused of? A. Yes, sir..

Q. Then when you got down there at headquarters that night you were told there was danger of there being a lynching?

Objection.

Q. I believe you so testified, all right.

MR. FORBES: objected to as not proper cross-examination, incompetent, irrelevant and immaterial.

Objection sustained.

Q. You didn't notice anything this man had on, at all?

A. No, sir.

Q. Whether his clothes were light or dark? A. Why, he had just working clothes on.

Q. You did notice that, then. Did you notice the color they were? A. No, sir.

Q. You looked at him for two minutes? A. Yes, sir.

Q. Did he have on a collar? A. No, sir.

Q. Did he have on a hat? A. I don't know.

Q. He had no collar. Did you notice whether he had on a shirt or jacket? A. I don't know.

Q. You said you didn't know before, but yet you have told me a lot since then.

MR. FORBES; that is objected to as a statement of counsel, - not a question.

THE COURT: There is no question pending.

Q. You cannot remember anything else he had on, at all?

A. No, sir.

Q. How tall a man is he? A. I should judge he is about five foot eight.

Q. Stand up, Mr. Stevenson (referring to the defendant). (The defendant stands up). I want you to look at this man now. In view of the fact that you have not seen him, until yesterday, for two and one-half months and that you never saw him before then, I want you to tell this jury if this is the man you saw there that night? A. That is the man I saw there that night.

Q. You have no doubt of that, whatever? A. That is the one.

Q. By what do you identify this man? A. By his face.

Q. And that is all? A. Yes, sir.

Q. Do you remember whether he was shaved, or not? A. Why, he was not clean-shaved, no; a little growth of whiskers.

Q. He was not clean-shaven. Do you remember anything else about him? A. No, sir.

Q. Did he have a cut on the side of his face from which he was bleeding? A. I never noticed.

Q. You didn't notice? A. No, sir.

Q. Did you notice if one of his arms was disabled?

A. No, sir.

Q. You didn't notice that, either. Might it have been?

A. Not the way he handled that sledge hammer.

Q. And you don't remember anything else about him except what you have told me? A. That is all.

- - - - -
At this time an adjournment is taken until tomorrow,
Wednesday, September 1, 1920, at 9:30 o'clock a.m.
- - - - -

Wednesday, September 1, 1920.
9:30 a.m.
Case called.

E.H. BARBER, Recalled as a witness on behalf of the State,

testifies as follows:

Picture marked Exhibit A.

Picture marked Exhibit B.

Picture marked Exhibit C.

By Mr. Forbes:

Q. Lieutenant Barber, I think you testified that you had been connected with the police department for a great many years?

A. Yes, sir.

Q. During the last few years that you have been attached, - during the last few years have you been attached at the headquarters? A. Yes, sir.

Q. In what capacity there, - as office man? A. Yes, sir.

Q. You are familiar with the jail and the plans of the jail?

A. Yes, sir.

Q. And of the headquarter department? A. Yes, sir.

Q. I show you State's Exhibit A. and ask you if that is a picture of the, - same room in which the cells are located on the main floor at headquarters? A. Yes, sir.

Q. I show you State's Exhibit C and ask you if that is a picture of the front of police headquarters? A. Yes, sir.

Q. Now, Lieutenant Barber, calling your attention particularly to State's Exhibit C I will ask you if you remember, when the mob got through with putting water against the front of headquarters and throwing bricks and rocks, what windows were broken?

Q. Well, very near all the windows in the front of the chief's office and the front office of the police station was broken. The windows down below here in particular were all broken because we had the curtain on to keep the wind out that night. And some

of the top windows were also broken, but I don't know if they were all broken, but some of them were.

Q. Which are the windows in the picture which you refer to as the windows in the Chief' office? A. The down windows, the windows on the lower sash.

By Mr. McManus:

Q. Further over to the left? A. Yes, sir.

Q. Can you indicate which one of the doors of police headquarters were broken? A. Yes. it was off for quite a few days after. It shows off there now.

Q. When the testimony refers to this defendant breaking the cell locks, - I will ask you if this particular photograph, State's Exhibit A, shows cell five? A. no, it does not.

Q. Are the cells on the other side the same? A. Yes, sir..
Number five would be over on the farther corner.

Q. And the cell door would be about, - is what door?

A. The door is the door leads into the cell.

Q. This picture is taken - - A. From the rear of the police station, looking towards the front on the west side of the jail. There is another tier of cells just like these, on the other side.

Q. That is on the east side? A. yes.

Q. Where is cell five? A. Cell five would be beginning over on the north side, - on the east side of this corridor here.

Q. That would be the cell directly opposite to this cell?

A. The cell directly opposite number one.

Q. I show you State's Exhibit B and ask you what that is a picture of? A. That is a picture of the boys' department of the jail.

Q. It is taken from which way? A. The picture is taken from the south side of the jail, looking north on the west side.

Q. I call you attention to this aperture. A. That is a hole that was broke through by the mob; leads into the room just north of the boys' department.

Q. Is that the hole by which the mob got into the second floor cells? A. Yes, sir.

MR. FORBES: I offer in evidence State's Exhibits A, B, and C.

MR. McMANUS: As I understand, the State is introducing these more to assist the jury than to actually represent, - an actual representation of the cells?

MR. FORBES: Yes, I think that is true. I simply wanted the jury to get an idea of the layout of the front of police headquarters.

MR. McMANUS; Well, with that understanding, there is no reason for them to be kept out, as all.

THE COURT: They will be received.

- - - - -
THE STATE RESTS
- - - - -

CLARENCE T. LeMASURIER, Being first duly sworn as a witness on
behalf of the defendant, testifies as follows:

DIRECT EXAMINATION

By Mr. McManus:

Q. Your full name is Clarence T. LeMasurier? A. Yes, sir.

Q. Where do you live? A. 326 East Second.

Q. You are a married man and live with our family there?

A. Yes, sir.

Q. How long have you lived there? A. Lived there a little
over two years.

Q. And in Duluth? A. And in Duluth about 15 years.

Q. What is your business? A. I am driving a truck for St.
Germain Brothers.

Q. How long have you been employed by them? A. About four
months.

Q. They are glass men down here who make - - A. Number 12
West First Street.

Q. One of the old firms here? A. Yes, sir.

Q. Do you know the defendant in this action, Mr. Henry Steven-
son? A. Yes, sir.

Q. How long have you known him? A. Well, about - - about
two years.

Q. Is he any relation of yours? A. No, sir.

Q. He rooms at your house, does he not? A. Yes, sir.

Q. How long had he roomed there? A. Well, pretty close to
two years.

Q. Have you known him pretty intimately during that time?

A. Well, as a roomer, yes, sir.

Q. Where were you about half-past eight o'clock on the night
of the 15th day of June, 1920? A. About that time I was down
at the Liberty Theater.

Q. Where is that located? A. That is between first and Second Avenues, I believe, on the - - in the center of the block.

Q. Which side of Superior Street? A. On the lower side.

Q. How far from police headquarters? A. I think the Liberty, - I may be mistaken, - the Liberty I think is between Lake and First Avenue East, sir.

Q. Yes, that is right, between Lake - - A. And first Avenue East.

Q. How far is that from police headquarters? A. Well, that would make it about two blocks and a half.

Q. About a block? A. About a block and a half, about a block and a half.

Q. A little over a block? A. Yes.

Q. West? A. Yes, sir.

Q. Were you at the performance there? A. No, sir.

Q. Did you notice the crowd on the street? A. Well, when I - - I was down there on business and I was down in the basement talking to Mr. Carter; I had come up and stood on the curb for a few minutes and then I noticed the crown of people coming from the west.

Q. Was it dark? A. Yes, sir; it was; pretty close to dark at that time.

Q. Well, then how long did you stand looking at that crowd gathering? A. Well, I would judge about five minutes.

Q. Did you see any truck go by with men on it, or more than one truck? A. Not at that time.

Q. When did you first see Henry Stevenson that night after you came out of the Liberty Theater? A. Well, the first time was between Second and Third Avenue East.

Q. About how long after you came out of the theater?

A. Well, I would judge about half an hour, or three-quarters of an hour.

Q. While you were standing there and before you saw him will you tell us how he happened to come down town that night, if you know? A. Well, when I - - saw the crowd on the street and they had passed me from the Liberty Theater, I, - for my own curiosity I walked down behind the crowd to see what was going on, and I stood down there for a little while and I supposed there was going to be some fun, - that is all I knew at that time, and I stepped into one of the little cigar stores and called up my wife and asked her if Henry was there, and she said Yes, and I said, "Come down town and bring Henry Stevenson with you."

Q. And did she come down? A. Yes, sir.

Q. Where did you meet them? A. Between Second and Third Avenues East.

Q. Just tell the jury, in your own way, the different events that happened, keeping in mind all the time when Henry Stevenson was there, as you remember? A. Well, I met my wife and Henry Stevenson between Second and Third Avenue East and we stood there talking a few minutes - -

By Mr. Forbes:

Q. When was that? A. Beg your pardon?

Q. What time was that? A. Well, it was about nine o'clock.

By Mr. McManus:

Q. Go on. A. And then we walked down to the corner opposite the police station.

Q. Which corner, the west or the east corner, of Second Avenue East? A. The east corner.

Q. That would be at the Orpheum building? A. yes, at the Orpheum.

Q. How long did you stay there? A. Well, we stayed around there for probably about twenty minutes.

Q. After you got there? A. Yes, sir.

Q. Was Henry Stevenson with you during the time you stood there with your wife? A. Yes, sir.

Q. Then where did you go? A. Well, then we crossed the street, crossed in front of the city hall.

Q. that would be about in front of Toben's Meat Market, or one of those stores there? A. No , we were east, - we could be east further than Toben's.

Q. do you know where Fiebiger's Hardware Store is?

A. (no answer).

Q. You don't - - A. No, sir.

Q. You were about opposite police headquarters? A. Yes, we were about opposite police headquarters.

Q. This would be about how long after Henry came down that you got opposite police headquarters? A. When Henry came down from home?

Q. About how long after - -A. About half an hour, I would judge.

Q. How long did you stand there in front of police headquarters? Were you across the street or on police headquarters side of the street? A. On police headquarters side, on the lower side.

Q. And that was in front of police headquarters? A. That was in front of the city jail, - or the city hall, rather.

Q. You know the difference between the city hall and police headquarters? A. Yes.

Q. You stopped in front of the city hall? A. Yes, sir.

Q. How long was that after you met Henry? A. (No answer).

Q. When you got over there? A. You mean from the time we left here - -

Q. From the time you met him. A. From the time I met, - Well, I would judge about an hour.

Q. When you crossed the street on the upper side, or at any time during that time, did you see the crowd turn the hose on the police? A. Yes, sir.

Q. Do you know where Henry Stevenson was when that was done?

A. Henry Stevenson was with my wife and I.

Q. During all the time that the hose was being turned on the police? A. During all the time, except sometimes there would be a few people running in, crowding in front of us, but he was right back to us again.

Q. Never was gone more than just an instant? A. Just an instant, yes.

Q. In sight all or nearly all of the time, was he? A. Yes, sir.

MR. FORBES: That is leading.

By Mr. McManus;

Q. You may state what the fact is as to whether during the time the hose was being played Henry Stevenson was where you could see him practically all the time? A. Yes, sir.

Q. Did you or Henry Stevenson take any part in the playing or that hose on police headquarters? A. No, sir.

Q. Now, when you were standing out there in front of police headquarters, or over at the city hall, as you have spoken of, you may state whether or not there was a large or small crowd had gathered? A. Well, there was quite a large crowd.

Q. What was its condition as to being excited or calm?

A. Well, they were pretty well excited.

Q. Did you see the police turn the hose on the crowd?

A. I saw the police with the hose, yes, sir.

Q. Did any water get, - did any water get on you - - A. Well, a drop or two, something like that.

Q. Did you see the hose turned on the police by the crowd?

A. I couldn't say whether it was turned on by the crowd, or

not; by that time the people - -

Q. When the crowd was going after the police, - did you see that? A. Yes, sir.

Q. You say during that time Stevenson was practically with you all the time? A. Yes, sir.

Q. but was not participating in that? A. No, sir.

Q. When you went over to the corner of the city hall was your wife still with you? A. Yes.

Q. Did she remain with you all the time? A. Yes, sir.

Q. Were you present there by the city hall at the time - -
Strike that. Did you see the crowd surge out of the jail and surge up Second Avenue East? A. Yes, sir.

Q. At that time where were you standing? A. I was standing right at the corner of the, - of the - -

Q. City hall? A. Yes, sir.

Q. Prior to that time and after they had turned the hose on the jail, state whether you heard any sounds coming from the jail? A. I heard pounding.

Q. How long did that pounding continue? A. Well, I judge somewhere about thirty-five minutes, - around there.

Q. Where was Henry Stevenson while that pounding was going on? A. Henry Stevenson was with us?

Q. Could you see him? A. Yes, sir.

Q. And you know that? A. Yes, sir.

Q. Did Henry Stevenson leave you at any time before the pounding stopped? A. No, sir. Only just as I say, just a moment or two that the crowd of people would pass by, and he was right back again to us.

Q. Prior to the time that the crowd surged up Second Avenue East with the first Negro did Henry Stevenson leave you at any time for any length of time? A. I didn't understand you.

Q. (Last question read). A. No, sir.

Q. I don't think you understood my question, Mr. LeMasurier.

Before you saw the crowd go up the hill - -

MR. FORBES: That is objected to as cross-examination of his own-witness.

THE COURT: overruled. The question is not completed.

By Mr. McNanus:

Q. When did you first lose sight of Henry Stevenson that night?

A. That was - -

Q. After he joined you? A. At the time that the crowd started, pushing out of the jail, and going across the street.

Q. It was about that time? A. Yes, sir.

Q. Did you see him afterwards that evening down town, at all?

A. No, sir; not after that.

Q. How was Henry Stevenson dressed that night? A. He was dressed as he always was dressed in the evening. He had a blue suit on.

Q. Stand up, Mr. Stevenson. (The defendant stands up). How was he dressed that evening as compared to how he is dressed now?

A. Exactly the same.

Q. What hat did he have on? A. he had a green hat on.

Q. Looking at the hat he has on now state whether or not this resembles that one? A. Yes, sir; yes sir.

MR. McMANUS: take the witness.

CROSS-EXAMINATION

By Mr. Forbes:

Q. You were in the Liberty Theater about 8:30? A. Yes.

Q. .It was about that time you came out? A. Yes, sir.

Q. Then at that time you went up, - you called up your wife?

Q. Well, that was after I had went down the street.

Q. Who answered on the 'phone? A. My little girl.

Q. What did you say to her? A. I asked if Mama was home;

she says Yes; I said, "Call her to the 'phone."

Q. and then when she called her to the 'phone you talked to her and told her to come down town? A. Yes, sir.

Q. And to bring Stevenson with her? A. Yes, sir.

Q. She came down, you said you thought about half or three-quarters of an hour after that? A. Yes, sir.

Q. That would be about nine or nine-fifteen? A. Somewhere like that, yes.

Q. Somewhere in that neighborhood? A. Yes.

Q. Where was it you met them? A. Between Second and Third Avenues East.

Q. You all walked east? A. Well, we all walked west.

Q. After you met? A. I came west, yes.

Q. Then you were standing across the street from police headquarters? A. Yes.

Q. How long did you stay over there? A. Well, I would judge somewhere about 35 minutes, half an hour, around there.

Q. Stevenson was with you all that time? A. Yes, sir.

Q. That would bring it to about 9:30 or 9:45? A. Yes, I would judge so.

Q. then you went over, - the crowd ere yelling then, were they, calling out, "Bring out the niggers"? A. Yes.

Q. "Lynch the niggers", and things of that kind? A. Yes.

Q. And it was quite a big crowd? A. Yes, sir.

Q. In fact, the crowd surged in t that time from Second Avenue East to First Avenue East? A. Well, mostly seemed to be coming from the west; of course I was - - there was some from the east, too.

Q. Weren't they packed in pretty thick? A. Yes, sir.

Q. So thick automobiles couldn't go through, through the

streets? A. Yes.

Q. So thick the cars couldn't run through, at all, is that right? A. They got them running, but they stopped them eventually.

Q. The people were literally packed in from Second Avenue East to First Avenue East? A. Yes, sir.

Q. Mostly towards the west rather than towards the east?

A. Yes, sir.

Q. You went over across the street and stayed close in front of police headquarters? A. Yes, - the city hall.

Q. And Stephenson was still with you? A. Yes, sir.

Q. Up to this time he had not left you? A. No, sir.

Q. It was then 9:45, is that right? A. About - - about 9:45. That was when we were on the first corner.

Q. What do you mean by the first corner? A. When we left in front of the dry cleaner's, on the upper side of Second Avenue East.

Q. That was when the fire department came down with the hose?

A. Yes, sir.

Q. You were all together then, were you? A. Yes, sir.

Q. Up to that time Stephenson had not left you? A. No, sir.

Q. And the water was turned on, was it? A. Yes, sir.

Q. Which way was the water going then, towards the department or away from the department? A. (No answer).

Q. Did the police use the hose or were the mobs using it?

A. Well, the police were using the hose in the first place, and the hose was turned towards the crowd.

Q. At that time it was turned over in the direction of the crowd, - where were you standing? A. Yes, sir; it was in that direction.

Q. What did you do at that time? A. Well, we just stood

and watched it. The water wasn't come to us, why, that is, it wasn't then.

Q. Stevenson was still with you, was he? A. Yes, sir.

Q. Where did you go then? A. Well, we stayed there then.

MR. McMANUS: "There" means the corner?

MR. FORBES: The dry cleaner corner.

By Mr. Forbes:

Q. The dry cleaner's - - A. There on the upper side.

Q. The building on the northwest corner of Second avenue East and Superior Street? A. Yes.

Q. Then, after the water was turned on what occurred, - how long was it you stood there? A. Well, I would judge about half an hour.

Q. Stevenson with you all the time? A. Yes, sir.

Q. Then where did you go? A. Then we crossed over in front of the - - of the city hall.

Q. All three went together again? A. Yes, sir.

Q. How long did you stand there? A. Well, we were - - we were there quite a little while.

Q. That is, in front of the city hall? A. Yes, in front of the city hall.

Q. And where did you go then? A. Well, we - - we stood there until the performance started going up the avenue.

Q. You stayed there all together until after they took the first Negro up the hill? A. Well, I couldn't say whether it was the first, second or third, or what it was.

Q. Until they took one of them up Second Avenue? A. The crowd went up the hill.

Q. The crowd surged up the hill? A. Yes, sir.

- Q. And you went up there, didn't you? A. Yes, sir.
- Q. You saw them hang some Negroes up there, didn't you?
- A. Why, yes, I was close enough to see.
- Q. That is what they were doing? A. Yes, sir.
- Q. You went up behind them? A. Yes.
- Q. Stevenson didn't leave you, at all? A. Stevenson left us after the crowd began to go up the hill. We just merely got crowded in with the crowd and that is where he was left.
- Q. Then after that was done how long did you stay around there before you went home? A. Well, I would judge about an hour.
- Q. All walked home together, did you? A. Sir?
- Q. You all three walked home together, did you? A. No, sir.
- Q. Who went home? A. My wife and myself.
- Q. Was Stevenson there when you got there? A. Stevenson was there when we got home.
- Q. He was home when you got home? A. Yes.
- Q. You have given us a correct statement of what occurred and all that happened? A. Yes, sir, as near as I remember.
- Q. You came down to the county attorney's office and made a statement to Mr. Brown in reference to what happened - -
- A. yes.
- Q. - - did you not? A. Yes, sir.
- Q. Do you remember when that statement was made? A. I don't just remember.
- Q. It was a day or so after Mr. Stevenson had been arrested?
- A. Well, I couldn't say how long it was because - -
- Q. We will see if we can refresh our recollection. You were down town? A. Yes.
- Q. Your wife was down town the day he was arrested? A. Yes.
- Q. He was arrested on Saturday, wasn't he? A. I believe Friday night.

- Q. Friday night. You were down town at that time? A. yes.
- Q. who else was down town, in the family? A. We were all out, my girl and my wife.
- Q. Where were you? A. I was, - why, we went to Marinette, Wisconsin.
- Q. When did you get back? A. We got back the following Sunday.
- Q. When you got back Sunday you found Mr. Stevenson in jail?
- A. Yes.
- Q. And you went up there to the jail and visited - - A. Yes.
- Q. - - with him, did you? A. Yes, sir.
- Q. Within a day or so, and then you came down to the county attorney's office? A. Yes.
- Q. You and your wife and your daughter? A. Yes, sir.
- Q. You were all there talking to Mr. Greene, - didn't see Mr. Greene, but you saw Mr. Brown and - - A. Yes, sir.
- Q. You know Mr. Brown when you see him? A. Yes, sir.
- MR. McMANUS: We object to this as incompetent, irrelevant and immaterial and not proper cross-examination.
- THE COURT: There is no question pending, is there?
- MR. FORBES: No.
- By Mr. Forbes:
- Q. To whom did you make your statement when you were in the county attorney's office?
- MR. McMANUS: We object to that as incompetent, irrelevant, immaterial and not proper cross-examination.
- Objection overruled, to which ruling counsel duly excepts.
- A. Why, I think it was a man by the name of Brown.
- Q. You know him when you see him? A. Yes, sir.
- MR. FORBES: have Mr. Brown step in.
- (A man steps in the court-room).

Q. Is that the man you mean to tell us about? A. Yes.

MR. FORBES: May the record show the person designated is J. C. Brown?

By Mr. Forbes:

Q. After you made your statement - - after your statement was made to Mr. Brown I will ask you - -After you made your statement to Mr. Brown I will ask you if he wrote it up on a typewriter and then showed you what he had written?

MR. McMANUS: I object to that as not proper. There is no statement before this Court, - there is no statement shown to this witness. The question is directed to a statement. The witness has not had an opportunity to examine the statement. It is also improper cross-examination.

THE COURT: I think it is the usual preliminary question.

MR. McMANUS; But this witness has a right to see it before he is asked - -

THE COURT; I do not think we have reached that point yet.

MR. McMANUS: An exception, please.

Q. (Last question read). A. Yes, sir.

By Mr. Forbes.

Q. Did he show you a statement, typewritten statement, and ask you to read it over? A. Yes, sir.

Q. Did that statement, - was that typewritten statement substantially what you had told him at that time?

MR. McMANUS: To this we object as improper. The witness is called upon to make a statement of a matter which took place a long time ago, of a written statement, which he is entitled to examine before he answers. It is improper cross-examination.

Objection overruled, to which ruling counsel duly excepts.

A. Yes, sir; as near as I could remember.

By Mr. Forbes:

Q. And did you sign that statement? A. Yes.

Q. I show you now - -

Statement marked Exhibit D.

Q. I show you now State's Exhibit D and I call your attention to the signature on the fourth page of that statement and ask you if that is our signature? A. Yes, sir.

Q. Now I will ask you to read that statement over and ask you if that is the statement you read over and signed in Mr. Brown's presence, in the office, that day?

MR. McMANUS; It seems to me before that question is answered, not only has the witness a right to examine that statement but is counsel should have the right to examine it.

THE COURT: If you have reached that point, yes. Counsel has asked the witness to read it. That is as far as we have gone.

MR. McMANUS: And he said, - asked if that is the statement that he made that day. That was in the question, too, was it not?

THE COURT: You will be given an opportunity, of course, to examine it.

MR. McMANUS I understand, Your Honor.

(The witness reads State's Exhibit D.)

MR. McMANUS: Will the court instruct the witness he has the right to read the whole of the statement before he answers, taking into consideration there is more than one page of it?

THE COURT: He is reading it.

(Last question read by reporter, as follows: "Now, I will ask

to read that statement over and I ask you if that is the statement you read over and signed in Mr. Brown's presence, in the office, that day?"

MR. McMANUS: Before that question is answered I ask leave to examine the statement.

THE COURT: The request is denied at this time.

MR. McMANUS: an exception.

THE COURT: You may answer.

A. Yes, sir.

By Mr. Forbes:

Q. I will ask you, Mr. LeMasurier, if in that statement you did not say - -

MR. McMANUS: Now, may it please the Court - -

MR. FORBES: let me finish my question.

THE COURT: I think, inasmuch as the very nature of the question is as it now appears would be a portion of the statement, that it should not be asked.

MR. McMANUS: I did not intend to be impertinent.

THE COURT: It would disclose something that is in the paper and it has not yet been offered in evidence. I think that would be objectionable.

MR. FORBES: Yes, perhaps it would. I will offer in evidence State's Exhibit D.

(Witness reading statement.)

MR. McMANUS: It seems to me that the method in which this statement was obtained should first be ascertained before it is admitted in evidence for any purpose. it seems to me that the statement, having been made by this witness some time ago, that the Court and the jury are entitled to know the process by which it was obtained and the manner in which it was obtained, the manner in which signed and the surrounding circumstances when it was signed. I object

to this unless I am permitted to make that showing.

THE COURT: You may examine with reference to the circumstances under which it was taken, at this time.

By Mr. McManus:

Q. Mr. LeMasurier, how did you come to go to the sheriff's office, - or to the county attorney's office at the time this statement was signed? A. Well, I was down at work and my wife called me up and told me that there was a party there at the house that wanted us to go and state what we knew about this, - this lynching affair. I said, "Well, " I says, " I can't very well get away now," I says, "because I have got some very important business to attend to. Won't it do later?" She said, "No, the man is here now and wants me to go right away." so I said, "Well, " I says, "you can tell this party that I can't go until about two o'clock." So my wife, she went, and at two o'clock I went down there.

Q. When you made this statement were you told what it was to be used for? A. No, sir. I didn't - - didn't even - - even know Mr. Brown was a sheriff or what he was.

Q. In making this statement were you asked to be careful as to the facts and get them exact, and id you try to do so, or were you just asked these questions casually - -

MR. FORBES: That is objected to as leading and suggestive.

THE COURT: The question is objectionable. It is double, I presume.

By Mr. McManus:

Q. When you made this statement were you informed that you must be exact - - A. No, sir.

Q. - - in your statement? A. No, sir.

Q. Were you asked to be careful that each statement was exactly true?

MR. FORBES: That is objected to as leading and suggestive.

THE COURT: The objection will be sustained.

By Mr. McManus:

Q. State whether or not any request was made of you that you exercise care in the exactitude of the statement you made in this written statement?

MR. FORBES: The same objection to that.

THE COURT: Sustained.

By Mr. McManus:

Q. What was said to you, Mr. LeMasurier, in relation to what care you were to exercise in making this statement, by Mr. Brown or anybody else? A. Well, the was - - there wasn't anything in particular, at all, no more than that hey said they wanted to know what had taken place that night.

Q. Did you tell this man at the time, - or was anything said - - state whether or not at the time you had this conference and signed this statement anything was said to you - - what, if anything, was said by Mr. Brown to you about what care you were to exercise in telling everything?

MR. FORES; That is the same objection to that, ;if the Court please.

THE COURT: The question I had in mind was, What was said by you and by Mr. Brown from the time that you first got this notice of his desire to have you come to his office, up to the time it was signed, - this statement.

MR. McMANUS: You may answer that question.

A. Well, there was - I was all hurried up there, in a hurry, you might say, and I don't remember of anything, - anything in particular, being said at all, in regard to how exact I should be; just merely came into the office and he asked me several questions.

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Q. Was this statement as it is written here, - is that your language, or is it Mr. Brown's language? A. it don't read exactly like my language.

Q. Did you state all those things in the paper to him?

A. I couldn't swear to it.

Q. Or did you talk with him and did he write down in his own words what you - - A. I talked to him and he wrote down.

Q. Did he write down what you said or did he put down in his language what is on the statement? A. Well, I think he used his own language.

Q. Before you signed that statement that day did you read it over carefully? A. Well, I read over some of it; I was in a hurry and I didn't read it all through.

Q. How much of it did you read? A. I just read a little] of it, here and there.

Q. Then, at the time you signed it, you may state whether or not you knew its exact contents completely? A. No, sir, I did not.

Q. Did Mr. Brown read it to you aloud? A. No, sir

Q. Did you swear to that statement? A. No, sir.

MR. McMANUS: If it please the court, on this showing of the witness it seems to me that the statement, where it bears his signature, did not then purport to be his signature; he did not read it over so as to know its contents before he signed it. it seems to me it is going pretty far to ask this defendant to be bound by a statement made by a statement maker, which he signed without due care and which is now sought to be used, not against him. From the testimony of the witness it is apparent that the statement is not his words, was not read over by him, that he did not know the full contents of it, that he was in a hurry and signed it without due care.

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I think it clearly inadmissible, and I object to it
on that ground.

THE COURT: The objection is overruled.

MR. McMANUS: An Exception.

(Recess for a few minutes).

Exhibit D read to the jury.

CROSS-EXAMINATION

By Mr. Forbes:

Q. You are living up there at 326 East Second street, that
is where you live? A. Yes, sir.

Q. How long have you lived there? A. Lived there a little
over two years.

Q. Who lives there with you? A. We keep roomers.

Q. How many roomers? A. Well, five or six roomers, something
like that.

Q. this defendant Stevenson rooms there with you? A. Yes,
sir.

Q. How long had he roomed there? A. Pretty close to two
years.

Q. Your wife, and - - Hilda is your daughter? A. Yes, sir.

Q. This Earl Connors, how long has he lived there? A. I
believe he has been there with us about, - I should judge about
four to five months.

Q. How long had Stevenson been with you? A. Stevenson has
been with us about two years. it may lack a little less or a
little more; I think it is a little over two years.

Q. This number of roomers varies, - some come and some go?
A. Yes.

Q. Your wife and your daughter have lived there with you for
two years, at least, at this same address? A. Yes, sir.

Q. In this statement you refer to her as your wife?
A. Yes, sir.

Q. When were you married? A. I was married twenty years ago.

Q. Twenty years ago? A. Yes, sir.

Q. This child is the child of yours? A. No, sir.

Q. Is a child of hers? A. Child of hers.

MR. McMANUS: just a moment. What has this to do with this, Mr. Forbes, in any way? I ask that that be stricken out.

THE COURT: There is nothing objectionable about it.

MR. McMANUS: it is immaterial and not proper cross-examination.

Q. Was your wife's former name Svarse - -

MR. McMANUS: Objected to as incompetent, irrelevant and immaterial.

THE COURT: You would not say this is material?

MR. FORBES: it is, - it affects the credibility of the witness.

THE COURT: The objection will be sustained.

By Mr. Forbes:

Q. Howl old are you, Mr. LeMasurier? A. I am forty.

Q. And how old is your wife? A. Thirty-five.

Q. I will ask you if your wife's former name wasn't Swanson?

THE COURT: I assume counsel has some - - The objection is overruled.

A. Yes.

Q. I will ask you if you did not, on the 30th of last month, that is Monday, no, Monday, if you didn't get your license to marry her?

MR. McMANUS: That has nothing whatever to do with the credibility of the witness. I object to that as incompetent, irrelevant, immaterial, and not proper cross-examination,

and wholly objectionable.

THE COURT: It will be sustained at this time and the Court will look up the matter when we .

MR. McMANUS: I move that that be stricken from the record, may it please the Court.

MR. FORBES: Just a moment. The witness has testified he was married twenty years ago, and referred t this woman as his wife. I offer to show the license was not issued until the 30th of August.

MR. McMANUS: If you are going to make any offer, you are going to make it in writing. I ask that that be stricken from the record.

THE CORT: There is nothing objectionable, Mr. Mc-manus, in asking the question. The statement, Exhibit D, refers to some lady as the witness's wife, and possibly she is not his wife. it will go to the question of accuracy of the statement. I would not be seriously objectionable, although it may not be of any great merit.

By Mr. Forbes:

Q. In this statement, State's Exhibit D, this statement made by you, shortly after the 8th of August, you refer to "my wife." To whom did you refer when you said, "my wife"? A. Why, to Myrtle.

Q. When were you married to Myrtle?

MR. McMANUS: Objected to as incompetent, irrelevant and immaterial.

Objection, overruled, to which ruling counsel duly excepts.

THE COURT: You may answer.

A. Why, two days ago.

Q. By a man named Stenberg, - is that correct? A. Yes.

Q. You got your license day before yesterday? A. Yes, sir.

MR. McMANUS: I object to what as incompetent, irrelevant and immaterial, and not proper cross-examination, and it has no proper place in this case. it has no bearing on the materiality nor the truth of anything this witness has said.

THE COURT: The objection is sustained as immaterial.

MR. McMANUS: I move to strike out the question and the record in relation to that.

THE COURT: The motion is denied.

REDIRECT EXAMINATION

By Mr. McManus:

Q. You signed this statement in Mr. Brown's office? A. Yes, sir.

Q. When you signed it did our know what its contents were?

MR. FORBES; That is objected to as repetition.

THE COURT: Overruled. You may answer.

A. Not in particular.

By Mr. McManus:

Q. Did you know that you stated in this statement that at no time during the evening of June 15th, 1920, while this riot was going on, did my wife, Hank, and myself, stand on the corner near the Orpheum Drug Store.

MR. FORBES: That is objected to as not proper redirect examination and cross-examination of his own witness.

Objection overruled.

A. No, sir; I did not.

By Mr. McManus:

Q. Did you make such a statement as that to Mr. Brown?

A. No, sir.

Q. Did you know that Mr. Brown had inserted that statement in

the statement that you signed? A. No, sir.

Q. At that time or ever until today? A. No, sir.

Q. Did you know that there was a statement in this as follows:

“ We stayed on the dry cleaner’s corner for about ten or fifteen minutes after hank left us, then we went over to the city hall corner. When we went across the street Hank was standing on the corner as we approached. he joined me there and stayed with us about ten or fifteen minutes, and while standing there the police ordered the crowd back, and as we backed up going east and across the street again to the place in front of the dry cleaner’s and while making this movement we lost Hank again.”

Did you make this statement, - did you know that this near as I can remember, but I never said we lost Hank.

Q. Did you make this statement, - did you know that this statement was in the record, - the written statement that you signed when you signed it? A. No, sir; I did not.

Q. Did you make this statement: “We noticed when we got across - - “ Did you know that that statement was in that written statement at the time that you signed it? A. No, sir; I did not.

Q. Did Mr. Brown read it to you? A. No, sir.

Q. Did you, yourself, read it in there? A. He handed it to me to read and I was in a hurry, and I didn’t pay very much attention to it, because I didn’t think it amounted to anything.

Q. Did you make this statement, or did you know that this statement was in this written statement at the time you signed? - which you say you signed: “A short time after we arrived the second time in front of the dry cleaner’s I saw Hank again. I think I was talking to him, but I am not certain.” Did you take that statement? A. No, sir.

Q. Did you know that that was in the written statement, on the

second page, when you signed it? A. No, sir; I did not.

MR. FORBES: May it be understood my objections applies to all this, on the round it is cross-examination of his own witness?

THE COURT: Yes.

MR. FORBES: Received over my objection, - may the record show that?

THE COURT: It will so show.

MR. FORBES: And on the further objection the questions are leading and suggestive.

By Mr. McManus:

Q. Did you know that you stated in this statement that you went home to get your daughter "and then came away again, and Hank wasn't there the first time I went home but he was there when I returned the second time - -"? A. Would you read that question, please?

Q. I guess that is your testimony here. Strike that out. Did you know that his statement contained this statement when you signed it, or did you know it was in there as follows: "I first met them after calling them on the telephone. (Referring to Hank and your wife)" - "after calling them on the telephone; then after that the nearest we were to the Orpheum Drugstore was the corner across Second Avenue East while we were standing in front of the dry cleaner's?" A. No, sir.

Q. You didn't know that statement was in there? A. No, sir.

Q. Was it in there as far as anybody communicated to you at that time? A. No, sir; not that I know of.

Q. And did you make such a statement as that to Mr. Brown?

A. No, sir; I did not.

Q. Now, then, did you make this statement to Mr. Brown: "When I first met Hank and my wife on superior Street and up to the time

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my wife and I left to go home the second time I did not see Hank except as stated above, three times for a few minutes at a time.”

A. No, sir.

Q. Did you make such a statement to Mr. Brown? A. No, sir; I did not. It was impossible for me to make it because it is not so.

Q. Did you know such a statement was in the statement which you signed? A. No, sir.

Q. Are you able to say, Mr. LeMasurier, that - - I notice you only signed the last page of this. Are you able to say that these three pages are the ones that were attached to that at the time that you signed the last page? A. I couldn't say.

Q. You don't know? A. No, sir.

Q. Did you state to Mr. Brown, - following up the last statement - -

MR. FORBES: it seems to me counsel is being allowed to cross-examine his own witness here by leading and suggestive questions. the man has testified that he read this statement over and signed it. Now³ he is being cross-examined by his own counsel and attempting to vary the statement.

THE COURT: I think probably the cross-examination is more in the tone of counsel than in the form of the question. The question merely is whether or not certain things were in that statement and were read by him before he signed it, or that he knew it was in there.

MR. FORBES: Perhaps it was counsel's tone more than anything else that led me to believe it was cross-examination.

It was "cross" enough.

By Mr. McManus:

Q. Now, did you know that his statement was in there, or did you make this statement to Mr. Brown at the time: " I do not know

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where he was or what he was doing. Hank did not tell me whether he was in the police station or not, neither did he tell me whether he was at the pole." A. No, sir.

Q. Did you state to Mr. Brown at that time, and did you know that there was a statement that you " did not see anyone there that night that I knew."

THE COURT: Referring to what ?

MR. McMANUS: " I did not see anyone there that night that I knew." I don't know what it refers to. it is a sentence all by itself. it is on the last page. I don't know that it refers to.

THE COURT: I haven't any objection to it.

A. No, sir; I did not.

By Mr. McManus:

Q. Did you know that statement was in there? A. No, sir.

Q. The last statement on this – did you make this statement to Mr. Brown, or did you know that this statement was in the paper you signed: "I think the above is a complete statement of what I saw and did on the night of June 15, 1920."

A. No, sir.

Q. You did not? A. No, sir.

Q. How long did you have to examine this statement after Mr. Brown had written it? A. Well, I was - - I was in a hurry and I didn't - - -That is the reason I didn't take time to read it all over; I presume probably five minutes, probably six or eight, or ten minutes. Not over ten minutes.

Q. I mean after it was completed? A. Yes.

Q. You say that is all the time, - you were in a hurry and left? A. Yes, sir.

Q. But this statement to which I have drawn your attention you did not make? A. No, sir.

Q. And they were not, to your knowledge, in the statement you

signed? A. No, sir.

Q. Are they true if they are in there? A. No, sir; they are not true.

Q. When you went on the stand here and were asked a few questions I relation to the execution of this statement, you did not know Mr. Brown was a sheriff? A. No, sir; I did not.

MR. FORBES: Objected to as repetition.

MR. McMANUS: I am just leading up to a question.

THE COURT: Proceed.

By Mr. McManus:

Q. Where did you think you were when you went into that office? A. Well, I didn't know exactly what it was. I knew it was somebody that was looking for some information, and that is all I knew. I didn't know it was Mr. Brown nor Mr. Brown - -

Q. You knew what this building was? A. Yes, I knew what the building was.

Q. You knew what office that was generally, did you not?

A. Yes.

Q. Whose office did you think it was? A. Well, I didn't know exactly, only I supposed it was Mr. Brown's office.

Q. You didn't know it was the county attorney's office?

A. No, sir; I didn't know it was the county attorney's office.

Q. You knew this was the court-house? A. I knew this was the court-house, yes.

Q. Did you know anyone was being sought by the authorities?

A. No, sir.

Q. Did not? A. No, sir; I did not.

Q. What if any importance did you attach to this statement, or what did Mr. Brown say to you as to what this statement was for? A. He said that he wanted to get something on this riot case; that he understood I knew, - that I was there and knew something about it.

Q. You say he did not read this statement over to you?

A. No, sir; Mr. Brown did not.

Q. Did he sit at the typewriter in the room where you were and write it? A. Yes.

Q. Did you have an opportunity or did you look over his shoulder to see what he was writing? A. No, sir; he was sitting one side of the table and I was over at the end of the table.

Q. Was anybody else in the room besides yourself and Mr. Brown at the time? A. There was another man, but I couldn't tell you who he was.

Q. Wasn't somebody waiting there - - or seemed to be occupying the room? A. He seemed to be occupying the room.

Q. An official? A. Yes, sir.

MR. FORBES: That is objected to as irrelevant and immaterial.

By Mr. McManus:

Q. Do you know Mr. John H. LaVaque? A. No, sir; I do not.

Q. The deputy sheriff? A. No, sir.

Q. Was he an elderly man? A. Yes, he was an elderly man.

MR. McMANUS I think that is all.

RE-CROSS-EXAMINATION

By Mr. Forbes:

Q. You say you did not know that was the county attorney's office, at all? A. No, sir; I didn't know it was the county attorney.

Q. Right in the next office to me? A. Yes.

Q. You saw me there? A. Yes, sir.

Q. Did you know who I was? A. No, sir; I didn't know who you was.

Q. Don't you know who Mr. Greene is? A. Mr. Greene, - I don't know Mr. Greene; I don't know you, nor I didn't know Mr.

Brown.

Q. You sat there in the office, in the waiting room of the county attorney's office, didn't you, for some time, you and your wife and daughter? A. In the waiting room?

Q. Yes, all sat around there in the waiting room. A. That is in Mr. Brown's office, you mean?

Q. No in the waiting room, - in the county attorney's office?

A. I have no recollection sitting there. Mr. Connors was there - -

Q. Don't you remember waiting to see Mr. Greene and Mr. Greene was busy and you folks complaining because you had to wait so long to see Mr. Greene? A. Yes, sir.

Q. Then you know it was the county attorney's office?

A. I heard of it when it was all over, yes, sir.

Q. Were you in the waiting room, at all, of the county attorney's office? A. What?

Q. Were you in the waiting room? A. In the waiting room?

Q. Yes. A. I don't know exactly where you call the waiting room.

Q. Where your wife and daughter were sitting and Connors was sitting. A. I was there - - I went down after her and that was, I believe, after six o'clock in the evening.

Q. That was after you had gotten through making your statement? A. That was after - - I went down there to meet her - - She wasn't in the waiting room when I went down there.

Q. You didn't have any idea you were in the county attorney's office? A. No, sir.

Q. You didn't know where you were? A. I was going by the number of the room.

Q. You didn't know who Mr. Brown was? A. No, sir.

Q. And the day before you had been up talking to Stevenson

about this case? A. Up where?

Q. Up in the jail, talking to Stevenson? A. I was talking - -

Q. You knew he had been arrested? A. yes.

Q. You knew it had been claimed that you were with him that night, didn't you? A. That night, I didn't know whether - -

Q. You knew he claimed you were with him at the time of the riot? A. Oh, - -

Q. Weren't you with him at all during the night of the riot?

.A. Yes, sir.

Q. You knew that, didn't you? A. Yes, sir.

Q. You must have known Stevenson knew it? A. Yes.

Q. So the next day after Stevenson was arrested you came down to the county attorney's office, and you haven't any idea what you were down there for or going to make a statement for, is that the idea? Is that what you want this jury to believe?

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

THE COURT: "Is that what you want this jury to believe?"

A. I don't exactly understand it, - that is why I can't answer it.

MR. FORBES: All right, - that is all.

A. If you can express it more plainly I will be glad to answer it.

Q. You went to the jail on Sunday, didn't you? A. Yes, sir.

Q. You knew he was arrested for rioting? A. Yes, sir.

Q. And you knew they claimed you were with in the night of the riot? A. I didn't know what he claimed.

Q. You went up there and talked to him about his arrest?

A. I went up there Sunday evening, yes, sir.

Q. You talked to him about being arrested? A. Yes, sir.

Q. You knew what he was arrested for? A. Why, certainly.

Q. You knew he was arrested for rioting? A. That is what I understood.

Q. You knew you were with him that night? A. Yes.

Q. And you knew, from your statement, that he couldn't have been guilty of rioting, didn't you? A. (No answer).

Q. From what you have said about it today? A. Yes.

Q. You knew he couldn't be guilty? A. Yes, sir.

Q. And you came down the next day to the county attorney's office, or to the court-house, and made a statement down there, and you were asked about Hank Stevenson, and you haven't any idea what it was about? A. I didn't say what it was about.

Q. You didn't know what it was for? A. (No answer).

Q. You didn't know what you were making your statement for?

A. (No answer).

Q. Is that right? A. Well, yes, I knew what - - I knew - -

Q. That is enough; you have answered.

MR. McMANUS: May it please the Court - -

By Mr. Forbes:

Q. Did you at that time know it pertained to Stevenson's case?

A. Why, I knew it pertained to Stevenson's case, yes, sir.

Q. You knew they were trying to find out whether or not you were with Stevenson that night, didn't you. A. I didn't answer what they were trying to find out, whether I was with him or whether I was not. I was just asked to tell what I knew about it.

Q. After you had told them, he wrote it down on the typewriter? A. Yes, sir.

Q. And handed it to you to read? A. Yes, sir.

Q. You say you were in a hurry and only read part of it?

A. Yes.

Q. While you only read it over casually, you signed it, - is

that right? A. Yes, sir.

REDIRECT EXAMINATION

By Mr. McManus:

Q. But when you signed this paper do you remember the questions I have asked you in relation to certain statements I there, - have you anything to change, that you did or did not know that those statements were in there? A. Yes, sir; there are lots of them.

Q. That were not made by you? A. Yes, sir.

Q. As you have testified? A. Yes.

Q. When you say you knew that this statement related to Henry Stevenson does that in any way change your view of the statement that was presented to you here? A No, sir; not a bit.

Q. You still adhere to your testimony that there are a lot of statements in there that you did not make? A Yes, sir.

Q. As you have testified? A. Yes, sir.

MR. McMANUS: That is all.

By Mr. Forbes:

Q. During the recess, while the jury were out, Mr. McManus and you went over this statement, after you had read it over?

A. Why, he asked me - -

Q. You read it all over? A. Yes, sir.

Q. Just before you went back on the stand? A. Yes, sir.

MR. McMANUS: I move to strike that all out as an attempt to insert into this record something that is not material and not proper cross-examination.

THE COURT: The motion is denied.

MR. McMANUS : exception.

At this time a recess is taken until two o'clock p.m.

Two o'clock p.m.
Case called.

CLARENCE T. LeMASURIER on the witness stand.

By Mr. McManus:

Q Mr. LeMasurier, when were you married? A. Well, about nine years ago.

Q. to the woman whom you are now living with - - A. Yes, sir.

Q. - - as your wife? a. Yes, sir.

Q. Where you married by any ceremony? A. No, sir.

Q. What was the character of your marriage?

MR. FORBES: objected to as being incompetent, irrelevant and immaterial.

Objection overruled.

Q. Answer. A. Well, we just made up our minds to live together as man and wife.

Q. Since that time have you introduced Mrs. LeMASURIER as your wife? A. Yes, sir.

Q. Invariably? A. Yes, sir.

Q. Lived and cohabited with her as our wife? A Yes, sir.

Q. Has she introduced you as her husband? A. Yes, sir.

Q. Held you out to be her husband? A. Yes, sir.

Q. Did you live and hold yourself only to her as your wife?

A. Yes, sir.

Q. And she to you as her husband? a. Yes, sir.

Q. Now, you testified this morning that you got a license and were married by some person. Who was that person?

A. I forget this name; I can give it to you, though.

Q. J. H. Stenberg, is that the man? A. Yes.

Q. Who is he? A. he is the pastor of the Swedish church.

Q. Why did you do this? A. Well, we just simply done it on account of we had thought probably it was a better way to be

married this way.

Q. Did Mr. Wineberg or myself know of this until you testified to it on the stand, as far as you know? A. No, - -

MR. FORBES: That is objected to as incompetent, irrelevant and immaterial, and not proper redirect examination.

Objection overruled.

A. No, sir.

Q. Did either one of us advise you to do this?

MR. FORBES: The same objection - -

A. No, sir.

MR. FORBES: A self-serving declaration, calling for the conclusion of the witness, incompetent, irrelevant and immaterial.

THE COURT: The objection will be sustained.

Q. When you referred to this woman as your wife, in the statement which has been introduced here, and the woman you referred to in your testimony as your wife, do they refer to this woman that you have been living with as your wife for over nine years?

A. I don't understand you.

Q. This woman you have referred to, - who is she?

A. Mrs. LeMasurier.

Q. That is the woman you married nine years ago by a common-law marriage? A. Yes, sir.

Q. And with whom you have lived ever since as your wife?

A. Yes, sir.

- - - - -

LESLIE D. FORD sworn and testifies as a witness on behalf of the defendant.

- - - - -

JOHN CLARK, Being first duly sworn as a witness on behalf of the defendant, testifies as follows:

DIRECT EXAMINATION

By Mr. McManus:

Q. Mr. Clark, you are now an inmate of the county jail of St. Louis County? A. I am.

Q. You are a trusty there? A. Yes, sir.

Q. What does that mean? A. Trusties are - -to assign new prisoners to their cell and give them bedding and food.

Q. Do you know the defendant Hank Stevenson here? A. I have known him for some little time.

Q. Do you know what cell he occupied during the time he went into the county jail, until the 14th of August, 1920?

A. Yes, sir.

Q. What cell did he so occupy? A. he first occupied cell number twenty.

Q. How long was he in there? A. I can't say exactly to the date, but perhaps ten days. Might be more or less.

Q. Something like that? A. Yes, sir.

Q. And then he was moved? A. Yes, sir; he moved then.

Q. He went into the county jail, the record shows, doesn't it, Mr. Forbes - -

MR. FORBES: I don't think it shows. I don't know.

THE COURT: The sheriff's return shows the 6th of August.

By Mr. McManus:

Q Ten days after he went in he was in cell twenty, - about ten days? A. Yes.

Q. Which side of the county jail is that on, the east or west?

A. The east side.

Q. Upstairs or downstairs? A. Upstairs.

CROSS-EXAMINATION

By Mr. Forbes:

Q. Have you ever been convicted of a crime, Mr. Clark?

A. Yes, sir.

MR. McMANUS: convicted, - he says.

MR. FORGES; Yes, convicted.

A. I have had a trial, yes.

Q. Been convicted? A. Yes.

Q. That is the crime of desertion of your children?

A. Yes, sir.

- - - - -

J. E. BIETIL sworn and testifies on behalf to the defendant.

- - - - -

MYRTLE LeMASURIER, being first duly sworn as a witness on behalf,
of the defendant, testifies as follows:

DIRECT EXAMINATION

By Mr. McManus:

Q. Mrs. LeMasurier, you are the wife of Clarence LeMasurier?

A. Yes, sir.

Q. When were you - -

THE COURT: The first name?

A. Myrtle LeMasurier.

By Mr. McManus:

Q. When were you married? A. Eighteen years ago.

Q. To Mr. LeMasurier? A. Day before yesterday, the 30th.

Q. When were you first married to him?? A. The thirtieth.

Q. How long have you been with LeMasurier? A. Nine years.

Q. When were you first married to him? A. Married to him

when we made out an agreement between ourselves we were going to

live as man and wife.

Q. When was that? A. That is nine years ago.

Q. Have you lived together as man and wife since that time?

A. Yes, sir.

Q. and up until the present time? A. Yes, sir.

Q. You held yourself out as his wife? A. Yes, sir.

Q. Introduced him as your husband? A. Yes.

Q. He introduced you as his wife? A. Yes, sir.

Q. You have lived in Duluth for the last - -how long?

A. About fifteen years.

Q. You are now living where? A. At 326 East Second.

Q. Do you know the defendant, Henry Stevenson? A. Yes, sir.

Q. He has lived in your house for two years? A. Pretty

close to two years.

Q. Rooming in your house? A. Yes.

Q. You keep a rooming house up on Second Street? A. Yes.

Q. You have known Stevenson, the defendant, for about two years? A. Yes, sir.

Q. Did you see him on the night of the 15th day of June, 1920?

A. Yes, sir.

Q. That was the night of the riot and the hanging of these Negroes – Negro boys? A. Yes, sir.

Q. When did you first hear that there was anything going on down town that night? A. When my husband called me up from down town.

Q. About what time of the night was that? A. About nine o'clock.

Q. He called you how? A. By telephone.

Q. What did you do then? A. he asked me, - told me to come down, to come right away, and he told me to go out and call Hank.

Q. Did he tell you what for? A. No, he did not.

Q. Do you know whether Henry Stevenson knew what you wanted him to go down town for - -A. No, he didn't, because I didn't know, myself.

Q. You went down town? A. Yes.

Q. Where did you meet your husband? A. Between Second and Third Avenues East.

Q. Now, Mrs. LeMasurier, you met him where? A. Between Second and Third Avenue East.

Q. On what street? A. On Superior Street.

Q. Now, let us go back to before you left the house. Do you know what Mr. Stevenson had been doing that night prior to the time, - before the time you got this telephone call? A. Yes, he was in the kitchen.

Q. Others there with him? A. Yes, sir.

Q. Do you know whether or not he had changed his clothes, or whether he was in his working clothes? A. He was dressed up.

Q. Do you know whether or not he was clean-shaven, - whether he had shaved that night? A. He was shaved, I am sure.

Q. He was shaved? A. Yes, sir.

Q. What kind of a collar did he have on? A. A white collar.

Q. You may look at Mr. Stevenson here now and tell me whether or not the clothing he had on resembled in any way that which he has on now? A. It is the same suit.

Q. You know it to be the same suit? A. I am positive.

Q. Did he wear an overcoat? A. No, sir.

Q. Did he have on overalls? A. No, sir.

Q. Did he have on a black sateen shirt? A. No.

Q. Did you particularly notice and do you now remember the way he was dressed that night? A Yes, sir; I do.

Q. He was dressed as you have described? A. Yes, sir.

Q. Did he change his clothes before he went down town?

A. No, sir.

Q. What kind of a hat did he have on? A. He had on a green felt hat.

Q. Does that look like the hat? A. Yes, sir; that is the hat.

Q. You may look at it to make sure. (Witness examines hat).

A. Yes, that is the hat.

Q. You are quite sure of these facts? A. Yes, sir.

Q. When you got down to Superior Street you say you met your husband? A. Yes.

Q. On the upper or lower side of the street? A. On the upper side.

Q. Where did you first go? A. We went down, across over - - across from the police headquarters.

Q. On which side of Second Avenue East? A. The upper side.

Q. Of Second Avenue East? A. Of Second Avenue East.

Q. Yes. A. That would be on this side.

Q. You mean on the Orpheum side, or the police headquarters?

Q. The Orpheum side.

Q. How long did you stop there? A. Oh, about half an hour.

Q. There was a large crowd on the street, as testified to by the witnesses, - is that true? A. Yes.

Q. You stayed there about half an hour? A. Yes, sir.

Q. Then you went where? A. We stood there and left, - we left there and we went across over to the city hall.

Q. Did you stay anywhere else before you went over to the city hall? A. No.

Q. You went over to the city hall corner? A. Right across in front of the hall, just a little bit below the city hall, west of the city hall a little bit.

Q. This way? A. This way.

Q. Towards police headquarters? A. Yes, sir.

Q. Where were you when the crowd - - did you see the crowd turn the hose on the policemen? A. Yes, sir.

Q. Where was Henry Stevenson when the crowd turned the hose on the policemen? A. He was with us.

Q. That is, where you could see him? A. Yes, he was.

Q. Did he leave you at any time while the crowd was turning the hose on the policemen or on the police headquarters?

A. Not until we had crossed over to the city hall, he didn't leave us.

Q. When you moved across to the corner in front of the city hall, or to the place in front of city hall where you were, you say you stayed there thirty minutes? A. About that.

Q. You don't pretend or assume to state exactly the time that you stood in different places? A. No; I didn't have no watch.

Q. About what time was it when you went down town?

A. About nine o'clock. I would judge pretty close to nine o'clock.

Q. Why do you think that? A. Because it was dark.

Q. How long did the crowd play the hose on the city hall after you went across in front, - on the police headquarters after you went across in front to the city hall? A. They didn't play it on the police station at all after.

Q. Did you hear any sounds in the city hall? A. Yes, sir.

Q. How long was that after you got down there? A. Oh, I would judge about an hour.

Q. Where were you standing when that took place? A. by the city hall.

Q. Beg your pardon? A. Close by the city hall.

Q. Where was Henry Stevenson during the time this pounding took place? A. He was with me.

Q. That is, where you could see him? A. He was where I could see him. We could see him pretty near all the time.

Q. Do you remember seeing him? A. Yes, sir; I do.

Q. How long did he leave you at any one time while this pounding was going on? A. Oh, I should judge maybe fifteen or twenty minutes; I couldn't say for certain.

Q. Would that be the shortest or the longest time? A. I would judge that would be the longest.

Q. Then he would be right back? A. Yes, sir.

Q. Did he at any time while that crowd was there or while he was in the crowd change his coat and his clothing and put on a blue smock or any other clothing except that - -A. No, sir.

Q. do you know whether he to wet from the hose? A. He might get a little bit wet, but I didn't look at him to see.

Q. Yu don't remember? A. I didn't look at him to see.

Q. How long do you think it was you stood in front of the city hall? A. I would judge about half an hour.

Q. Did you see the crowd come up and rush up the avenue with the first Negro? A. Yes, I did.

Q. How long before that was it that you had seen Henry Stevenson? A. Well, he was with us just before the crowd rush up.

Q. Just before the crowd rushed up? A. Yes.

Q. Was he away from you long enough to be gone down and into the jail and participate in taking, - in the taking of those Negroes out and rushing up with the crowd at the same time?

MR. FORBES: That is objected to as calling for the conclusion of the witness.

Objection sustained.

Q. How long had he been away from you before the crowd rushed out of there? Oh, he had been - - he wasn't gone any more than ten or fifteen minutes at a time, - my best knowledge he had not.

Q. You are quite positive that he was with you all the time that he pounding was going on? A. Well, we would get scattered - - so we could be together all the time; we could see him pretty near all the time.

Q. During the time the pounding was going on? A. Yes, sir.

Q. Did you see him - - did you see the man who had hold of the nozzle of the hose? A. No, I did not.

Q. Did you, while the hose was being played, see Henry Stephenson? A. Yes, I did.

Q. Was he taking part in the handling of the nozzle of the hose and directing it as the police headquarters? A. No.

Q. At any time? A. No.

Q. You said that one reason why you think it was nine o'clock was that it was dark. is there any other way that you can fix the time as nine o'clock when you were called? A. Well, a short time before that, a - - about 8:30 I had looked at the clock, and they wee going to the show, some of them in the house, and I told them it was eight-thirty.

Q. You looked at the clock and saw it was eight-thirty?

A. Yes, sir.

Q. How long was it after that that the telephone ring came in?

A. I couldn't say just definitely the time; quite a few minutes after, I would judge.

Q. Well, how long? A. Well, say fifteen, maybe twenty minutes.

Q. Who was it said they were going to the show? A. My little -

Hank said he was going to the show and he asked my little girl to go with him.

Q. That night? A. Yes, sir.

Q. Did he say what show he was going to? A. No, he didn't say to me.

CROSS-EXAMINATION

By Mr. Forbes:

Q. Mrs. LeMasurier, you remember being in the county attorney's office a day or so after this riot? A. Yes, sir.

Q. Do you remember what day? A. No, I do not.

Q. You came back from Menominee, - or Marinnette, on Sunday?

A. We came back on Sunday.

Q. That was the 8th of August? A. I don't know just what date it was but it was on Sunday.

Q. A day or so after he was arrested? A. Yes, sir.

Q. And you went up to the jail to see him then? A. Yes.

Q. The first Sunday after you got back? A. Yes, sir.

Q. And he had only been in jail a couple of days then?

A. That is what I heard.

Q. That is what he told you? A. Yes.

Q. Then the next day, - Monday were you up to the county attorney's office? A. On Monday, I couldn't say what day, but I was at the county attorney's office.

Q. Monday or Tuesday - -A. I should judge - - I think it was Monday.

Q. It was in the forenoon? A. Yes.

Q. While in the county attorney's office with whom did you talk? A. I don't know; I think it was Mr. Brown.

Q. Did you meet Mr. Greene, at all? A. No, I didn't speak to Mr. Greene, not as I know of.

Q. He was there? A. Not in my presence.

Q. You were waiting to see him, were you not? A. No, I was not waiting to see Mr. Greene.

Q. Did you see anyone else in the county attorney's office?

A. There was - - there was another man, but I don't know who he was.

Q. You talked with Mr. Brown about where you were during the riot down there on the 15th of June? A. Yes, sir.

Q. And he asked you a lot of questions about where you were, where you went, who was with you, and things of that kind?

A. Yes, sir.

Q. Then, after you had answered those questions, he wrote it out on a typewriter? A. Yes, sir.

Q. He sat at the typewriter and you sat right alongside?

A. Yes, to one side.

Q. You watched him write it up on the typewriter? A. Yes, I seen him writing it.

Q. When he had completed his typewriting he showed you what he had written, did he? A. Yes; I read a little of it, but not all of it, because my husband was waiting for me to go home.

Q. He showed you what he had written and asked you to read it? A. Yes.

Q. Did you read it? A. I read some of it, but not all of it, because he was in a hurry to go to me.

Q. And then you signed the statement, did you? A. Yes, I did.

Q. I will ask you if you did not tell Mr. Brown at that time that about ten o'clock on the night of June 15th Stevenson - - I withdraw that.

Q. You are in the habit, Mrs. LeMasurier, of calling Stevenson Stevens? A. I call him Hank.

Q. And have you ever called him Stevens - - A. I have always called him Hank.

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Q. Do some people call him Stevens? A. I don't know; I never paid no attention; his name is Stevenson, I know.

Q Stevenson? A. Stevenson?

Q. haven't you heard him called Stevens? A. I never called him Stevens; I always called him Hank.

Q. I will ask you if at the time you talked to Mr. Brown in the county attorney's office on the night of August of this year you didn't say to Mr. Brown that at about ten o'clock on the night of the riot Stevens "left my husband and myself, and I didn't see him any more until later on." And then in the same statement did you not say: "About ten o'clock I saw Stevens for the last time until my husband and I go home" - -

MR. McMANUS: If counsel has the statement here that he wants to produce let him produce it. If not, I object to this question as not proper impeachment, and improper cross-examination.

Objection overruled, to which ruling counsel duly excepts.

A. About ten o'clock?

THE COURT: Yes.

A. I will tell you at that time, you said about - -might be about ten o'clock, I had no time to really say what time it was. I remained around ten o'clock, - and it might be later - I had no time, but I know it was late in the evening.

Q. You fix the time in that connection the same as you do it regard to other matters that night? You didn't have a watch and you just gave you best judgment as to what time it was?

A. I figure as best I can; I couldn't say it was ten or after or it was - - I know it was late.

Q. Well, about ten o'clock? A. I couldn't exactly say it was ten, or not.

Q. Was it a few minutes after? A. It might have been quite

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bit after ten, I don't know. It might have been quite a bit after.

Q. do I understand you are giving us your best judgment that about en o'clock, or soon after it was that Mr. Stevenson left you? A. Quite a bit after.

Q. How long after? A. I can't say; I didn't have no time to go by.

Q. Give us your best judgment. A. I am giving you the best judgment I can; I figure it was quite a bit after ten.

What do you mean by "quite a bit"? A. I figure maybe - - around between ten and eleven; pretty close to eleven. It wasn't after that, I don't think.

Q. That was about the time Mr. Stevenson left you? A. He was with us until the crowd went up the hill.

Q. Until about some time after then, or it might have been eleven, that he left you? A. I couldn't say just what time it was.

Q. I will ask you if you didn't tell Mr. Brown, in the statement, that it was about ten o'clock that you saw Stevens for the last time until you got home?

MR. McMANUS: I ask that the witness be furnished with her statement.

By Mr. Forbes:

Q. By that statement, I mean your talk with Mr. Brown on the ninth of August.

MR. McMANUS: The witness cannot probably remember what was said. She cannot remember, - she is not charged with knowing.

THE COURT: counsel is only referring to a verbal statement.

A. I am not certain whether it was ten o'clock, or not, or whether it was quite a bit after ten.

THE COURT: The question is not that. The question is,
Didn't you tell Mr. Brown - -

THE WITNESS: I told him I wasn't certain it was ten
o'clock or after then.

By Mr. Forbes:

Q. That is what you said to him, was it? A. Yes; I don't
know exactly what time it was, but I figure maybe it was around
ten o'clock, but I wasn't sure, I had no time with me.

Q. You did not say to Mr. Brown at that time, about ten o'clock,
you saw Stevens for the last time "until my husband and I go home"?

A. I figured around ten - -

Q. You didn't say that to Mr. Brown? A. I say, I don't know
just what time it was.

Q. You will not say you did not say that to Mr. Brown?

A. I think it was ten - -

Q. You don't remember whether you said that to him at that
time, - ten o'clock, or not? A. I said it was ten, or maybe
after ten.

Q. I will ask you if at the same time you did not say to Mr.
Brown, "My husband and I went home about eleven o'clock, - all
three of the niggers had been hung before we went home"?

A. I said maybe eleven, maybe a little after eleven.

Q. You said that to Mr. Brown? A. Yes, sir.

- - - - -

FLORENCE LARSON, Being first duly sworn as a witness on behalf
of the defendant, testifies as follows:

DIRECT EXAMINATION

By Mr. McManus:

Q. What is your name? A. Florence Larson.

Q. You are a working girl, Miss Larson? A. I am.

Q. You work in the Peerless laundry? A. Yes, sir.

- Q. How long have you worked there? A. About fourteen months.
- Q. Your home before you came to Duluth was where? A. Moose Lake.
- Q. On a farm near Moose Lake? A. Yes, sir.
- Q. Your folks are farmers? A. Yes, sir.
- Q. How old are you? A. Nineteen years old.
- Q. Your folks are still living on the farm down there?
- A. Yes, sir.
- Q. Mother and father both living? A. Yes.
- Q. They know you are here working? A. Yes.
- Q. And approve of it? A. Yes, sir.
- Q. You are rooming with your sister? A. Yes.
- Q. Where? A. 326 East Second.
- Q. That is at the LeMasurier rooming-house? A. Yes, sir.
- Q. You and your sister room together ? A. Yes, sir.
- Q. Your sister also works at the Peerless laundry? A. Yes, sir.
- Q. Which of you is the older? A. I am.
- Q. How old is your sister? A. Seventeen.
- Q. You know Henry Stevenson? A. I know him for a short time, yes, sir.
- Q. How long did you room there before the 15th of June, 1920?
- A. About ten or twelve days.
- Q;. Are you sure how long - - when did you go there, do you know? A. I am not quite sure.
- Q. Well, it is not important, - you had been there some days. During that time you met Stevenson so as to know him? A. Yes, sir.
- Q. Do you remember the night of June 15th, when the Negroes were lynched and when the riot was on down town? A. Yes, sir.
- Q. Did you see Henry Stevenson that night? A. Yes, sir.
- Q. Where? A. I saw him down at the land lady's kitchen.

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Q. At 326 East Second Street? A. Yes, sir.

Q. The place where you lived? A. Yes.

Q. Now, then, what time did you first see him that evening?

A. (No answer).

Q. About? A. Seven o'clock, I think it was I first see him.

Q. Did he stay there with you girls, - were there more than you there? A. There was other girls with me.

Q. Did Mr. Stevenson go in and out? A. he stayed in the kitchen with us.

Q. State what you were doing there? A. We were washing our head.

Q. How late did Mr. Stevenson stay there, if you know?

A. I don't know for sure, but it was around nine o'clock.

Q. What makes you think that, Miss Larson? A. Well, it was getting rather dark and had the light on in the kitchen.

Q. That is your estimate of it? A. Yes.

Q. Do you know what induced him to go away?

MR. FORBES: That is objected to as incompetent, irrelevant, immaterial and hearsay.

Objection overruled.

THE COURT: Answer, if you know.

MR. McMANUS: Do you know why he went away?

THE COURT: Yes or No.

A. Yes, I do.

Q. Why? A. The telephone rang.

Q. Did anybody ask him to go away with them?

MR FORBES: That is objected to as being suggestive.

Objection overruled.

A. Yes.

Q. Who? A. Mrs. LeMasurier asked him to go.

Q. Did she say where she wanted him to go? A. No, sir.

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Q. Did you know? A. No, sir.

Q. He was there, you say, in the kitchen with you girls,
from seven o'clock until he went away, - you think that was about
nine? A. Yes, sir.

Q. Where there lights lighted in the kitchen? A. Yes.

Q. Did you hear any talk there about anybody going to the show
that night? A. No, sir.

Q. Did you notice how Henry Stevenson was dressed when he left
the house with Mrs. LeMasurier that night? A. I don't know for
sure, but I think he wore some - the same suit he has got on now.

Q. Of course, it is important that you give your best recol-
lection of that.

(A man stands up).

Q. Did he have on a white collar ? A. Yes, sir.

Q. What was the general color of the suit? A. Dark blue.

Q. You say it is this same suit ? A. Yes, sir.

Q. If not, was it one very much like it? A. Yes, sir.

Q. Was it a cotton jumper? A. (No answer).

Q. Did he have on a jacket? A. No, sir.

Q. Did he have on overalls? A. No, sir.

Q. Did he have on a black sateen shirt? A. No, sir.

Q. Did he have on a brown khaki shirt? A. No, sir.

Q. What color shirt did he have on? A. He had a light shirt
on.

Q. What kind of a collar? A. A white, stiff collar.

Q. Did you notice whether or not he was clean-shaved or was his
beard - - A. He was clean-shaved.

Q. Did you notice what kind of a hat he wore? A. He wore kind
of a green felt hat.

Q. You have seen him wear that hat before, have you? A Yes.

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Q. And since? A. Yes, sir.

Q. It was not a cap? A. No, sir.

Q. It was a hat? A. Yes, sir.

CROSS-EXAMINATION

By Mr. Forbes;

Q. When you say he left the house at nine o'clock, is that the last you saw him that night? A. Yes.

Q. You didn't see him after he went away about nine o'clock, at all? A. No, sir.

- - - - -

ETHEL LARSON, Being first duly sworn as a witness on behalf of the defendant, testifies as follows:

DIRECT EXAMINATION

By Mr. McManus:

Q. Your name is Ethel Larson? A. Yes, sir.

Q. Your sister is Florence Larson? A. Yes, sir.

Q. And you folks live on a farm near Moose Lake? A. Yes, sir.

Q. You and your sister are living at 326 East Second Street?

A. Yes.

Q. You are both working in the Peerless Laundry? A. Yes, sir.

Q. When did you first meet Henry Stevenson, the defendant here?

A. It was about the 10th or 11th of June.

Q. Somewhere along there? A. Yes, sir.

Q. You are not sure of the date, - or are you? A. I am not quite sure of the date.

Q. Where did you meet him? A. At 326 East Second.

Q. That is where you first met him? A. Yes.

Q. Did you get to know him fairly well? A. Yes, sir; I did.

Q. So you would know him? A. Yes.

Q. Which one of these men? A. That one with the dark-blue suit.

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Q. Sitting beside me? A. Yes.

Q. You saw him the night of June 15th, 1920? A. Yes, sir.

Q. Where? A. At the house, 326 East Second.

Q. When? A. from seven o'clock on.

Q. On to when ? A. Until the telephone rang.

Q. Then what did he do? A. He went out with Mrs. LeMasurier.

Q. Mrs. LeMasurier? A. Yes, sir.

Q. Did you notice what time it was that this telephone rang?

A. It was about nine o'clock.

Q. What makes you think that? A. it was dark enough to have the lights lit.

Q. You say that he came in there where you were about seven?

A. Yes.

Q. And stayed there until the telephone rang? A. I think it was about nine. He may have come in there before seven, but that is the time I saw him first.

Q. That is the first time you saw him? A. yes.

Q. How was he dressed? A. He had a navy-blue suit on.

Q. State whether or not it looked anything like the one he has on now? A. I am quite sure it is the same suit.

Q. What kind of a collar did he have on? A. A white stiff one.

Q. What kind of a shirt did he have on? A. A light shirt.

Q. Are you quite sure the didn't have on a black sateen shirt?

A. I am quite sure he did not.

Q. Or a brown khaki shirt? A. I am quite sure.

Q. Did he have on overalls, - a cotton jacket? A. No, sir; he did not.

Q. Or overalls? A. No, sir.

Q. Was he dressed in his working clothes? A. No, sir.

Q. You are quite sure this is the way he was dressed, - the way he is now, practically? A. Yes, sir.

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Q. Was he so dressed when he left the house with Mrs. LeMASURIER?

A. Yes, sir; he was.

Q. Did you see him again that night? A. No, sir; I did not.

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

Q. You have seen him wear that hat since? A. Yes, I have.

Q. And before? A. Yes.

Q. Do you know whether or not he was intending to go anywhere that night before Mrs. LeMasurier asked him to go out with her?

A. I am quite sure he was.

Q. How do you know? A. he was dressed up and was going out.

Q. Did he say anything about where he was going? A. Not that I heard.

CROSS-EXAMINATION

By Mr. Forbes:

Q. You say you thought he was going out some place, - because he was dressed up? A. Yes, sir.

Q. When he wasn't going to the theater he didn't bother about dressing up? A. No sir.

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ILDE LeMASURIER, Being first duly sworn as a witness on Behalf of defendant, testifies as follows:

DIRECT EXAMINATION

By Mr. McManus:

Q. Ilde, how old are you? A. Fifteen years old.

Q. Mr. LeMasurier is your stepfather? A. yes.

Q. You live with them at 326 East Second Street? A. Sir?

Q. You live with them at 326 East Second Street? A. Yes, sir.

Q. You were living there on the 15th of June, 1920? A. yes.

Q. And for two years prior thereto? A. Yes.

Q. Did you at that time know Henry Stevenson? A. Yes, sir.

Q. Did you see him that night? A. Yes, sir.

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- Q. Where? A. In the kitchen.
- Q. At your home? A. Yes, sir; 326 East Second Street.
- Q. Who else was there? A. Ethel Larson, Earl Connor, and Hank Stevenson, and me - -Henry Stevenson and myself.
- Q. In the house they called him Hank? A. Yes, sir.
- Q. And you have gotten into the habit of calling him that, yourself? A. Yes, sir.
- Q. How old did you say you were? A. Fifteen years old.
- Q. When did you first see him that night? A. Five-thirty in the evening, - five-thirty in the evening, p.m.
- Q. How long was he in the kitchen with you and the other girls and Mr. Connor? A. Well, from about 6:30 on until nine o'clock, if not after. I couldn't say for sure what time it was, but it was around nine o'clock.
- Q. What makes you think it was around nine o'clock? A. I heard the curfew blow.
- Q. What do you mean by the curfew? A. The nine o'clock whistle.
- Q. It is a whistle, is it? A. Yes, sir.
- Q. Did you notice how Henry Stevenson was dressed that night?
- A. Yes, sir.
- Q. How was he dressed? A. He had on the suit he has on now.
- Q. What kind of a shirt did he have on? A. I don't remember the shirt.
- Q. Did he have a white collar? A. I don't quit recall what collar.
- Q. Do you know where he was going that night before the telephone rang? A. Yes, sir.
- Q. How do you know? A. He asked me to go to the show.
- Q. With him? A. Yes, sir.
- Q. Was he dressed to go out? A. Yes.

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- Q. But you don't remember the details? A. No, sir.
- Q. You say the telephone rang some time that night?
- A. Yes, sir.
- Q. About what time? A. About nine o'clock.
- Q. How long was it before or after the curfew rang, - blew?
- A. I don't remember.
- Q. Was it a long time or a short time? A. A short time.
- Q. How short a time? A. Well, it wasn't any more than then minutes, - anyway five or ten.
- Q. What was the condition of the light outdoors, the natural light, at the time the telephone rang? A. Dark.
- Q. Were the lights lighted in the house? A. Yes, sir.
- Q. When the telephone rang who went to it? A. I did.
- Q. Who was on the other end of the line? A. My stepfather.
- Q. Did you recognize his voice? A. Yes, sir.
- Q. Whom did he ask for? A. he asked for my mother.
- Q. Did you call her to the 'phone? A. I did.
- Q. What happened after that? A. Well, ;other came into the kitchen and asked Hank to go along with her down town. She said she didn't know what had happened.
- Q. What did he do? A. He went with her.
- Q. Did he go and change his clothes first? A. No, sir.
- Q. Did he put on a cotton overall jumper? A. No, sir.
- Q. Or overalls? A. No, sir.
- Q. Or a flat cap? A. No, sir.
- Q. Or did he go out bareheaded? A. No, sir.
- Q. What did he have on his head? A. A cap.
- Q. What kind? A. Green felt hat.
- Q. You know that hat well? A. Yes, sir.
- Q. You have seen him wear it, have you - - A. Yes, sir.

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Q. - -since? A. Yes, sir.

Q. What kind of a suit did he have on? A. he had a blue
navy suit.

Q. And he didn't change those clothes when he went out?

A. No, sir.

Q. Did you see him again that night after the riot was over?

A. Yes, sir.

Q. Where? A. Second Avenue East and First Street.

Q. What clothes did he have on? A. The same clothes that
he has on now.

Q. He didn't have overalls on then? A. No, sir.

Q. Nor a cotton jacket? A. No, sir.

Q. Nor a flat cap? A. No, sir.

Q. He was not bare-headed? A. No, sir.

Q. He had on the same kind of hat? A. Yes.

Q. Did you go home with him? A. Yes, sir.

CROSS-EXAMINATION

By Mr. Forbes:

Q. About what time was it you saw him last? A. Pardon me?

Q. About what time in the night was it that you saw him last?

A. The last?

Q. Yes. A. during the - - after we came home.

Q. That is after the riot? A. Well, about 12:30 is when I
went to bed.

Q. Was it just before that a little bit? A. I met him about
a quarter to twelve.

Q. About a quarter to twelve? A. Yes.

Q. Between the time that he left the house at nine o'clock and
a quarter to twelve you didn't see him, at all? A. No, sir.

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EARL CONNORS, Being first duly sworn as a witness on behalf of
the defendant, testifies a follows:

DIRECT EXAMINATION

By Mr. McManus:

Q. Earl Connors is your real name? A. Yes, sir.

Q. How old are you? A. Twenty-one years old.

Q. What do you do for a living? A. Truck driver.

Q. Where do you board? A. Board, - LeMasurier - - 326 East

Second Street.

Q. Were you at LeMasurier the night of the 15th of June?

A. I was.

Q. 1920? A. I was.

Q. That is sort of a boarding house, is it? A. Well, it is
kind of light housekeeping place.

Q. They rent apartments there? A. They do.

Q. For light housekeeping? A. They do.

Q. Did you know Henry Stevenson? A. I did.

Q. Do you know where he rooms? A. I did.

Q. Where? A. he roomed at 326 East Second, the same place as
I do.

Q. Did you see him the night of June 15, 1920? A. I did.

Q. Where? A. At the house.

Q. What time? A. I seen him when he come there from work, -
about five-thirty I seen him, shortly after he had his supper.

Q. Do you know whether he shaved himself that night? A. He
did.

Q. You saw him do it? A. No; I seen him after he was
shaved, thought.

Q. Was he clean-shaven that night? A. He was, yes, sir.

Q. Where did you spend the evening, that evening up until
nine o'clock? A. At the house.

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- Q. What part of the house? A. In the kitchen.
- Q. There are some girls there? A. Yes.
- Q. Who were they? A. Florence Larson and Ethel Larson and
Ilde LeMasurier.
- Q. Yourself, - and who else? A. And Henry.
- Q. Did you notice how Henry Stevenson was dressed that night?
A. He had on his blue suit, light shirt and white stiff collar.
- Q. Did you notice what kind of a hat he wore when he went out?
A. Kind of a felt hat, green felt hat.
- Q. Mr. Connors, how long did he stay in the kitchen with you
and these girls? A. (No answer.)
- Q. Mrs. LeMasurier was in the kitchen, too, was she not?
A. She was.
- Q. How long did Henry stay in the kitchen, with all these
girls, Mrs. LeMasurier and the rest? A. About an hour and a half.
- Q. What time did he leave there? A. At nine o'clock, - may
be a little after.
- Q. Why do you think it was nine o'clock? A. Mr. LeMasurier
called up, - it was just - - Well, Mr. LeMasurier called up from
down town, he hadn't left very long, and he left about 8: 30, I
know that. he was down town and he called up Mrs. LeMasurier,
and Mrs. LeMasurier and Henry left together.
- Q. You say Henry had on a blue suit. Was it anything like the
suit he has on now? A. Yes, sir; it was.
- Q. If it wasn't this one was it one very much like it?
A. It was.
- Q. Did he change his clothes before he went out? A. He did
not.
- Q. You say he had on a hat. Are you sure he didn't have on a
flat cap? A. I know he didn't have on a flat cap.

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- Q. Are you sure he didn't have on a black sateen shirt?
- A. No, he did not.
- Q. Or a khaki shirt? A. No, he did not.
- Q. Are you sure he did not slip on his overalls? A. No, he did not.
- Q. Or overall jacket, a jacket of light blue? A. No, he did not.
- Q. He did not? A. No.
- Q. One that had been laundered and was frayed at the edges?
- A. No.
- Q. He went out just as he was in the kitchen? A. He did.
- Q. Did you hear Mrs. LeMasurier tell him that she wanted him to go down town, - what she wanted him to go down town for?
- A. No, sir.
- Q. You went down that that evening, did you? A. I did.
- Q. Did you see them take the Negroes out of the jail? A. I did not.
- Q. Did you see who took the Negroes out of there? A. No - -
- Q. Did you see the men break open the door? A. No.
- Q. The door was broken open when you got there? A. It was.
- Q. Did you see people around in the cell? A. No, I did not.
- Q. Where did you see anybody in the police headquarters?
- A. Out on the landing there, - I was standing on the landing, when the Negroes was taken out, and I stood there, about three steps from the bottom, on the steps, when the last two came out.
- Q. Did you see Henry Stevenson in there at that time?
- A. I did not.
- Q. Were you in a position where you could have seen him if he had been in there?
- MR. FORBES: That is objected to as incompetent, irrelevant and immaterial.

Objection sustained.

Q. Were you standing where you could see him if he had been in there?

MR. FORBES: The same objection.

Objection sustained.

MR. McMANUS: I respectfully submit that that is not - -

THE COURT: The proper procedure would be to find out what the arrangement is.

By Mr. McManus:

Q. From where you were standing could you see the people who went in and out of the jail where those niggers were taken from?

A. I could from downstairs but not from up.

Q. How long did you stay downstairs? A. About three-quarters of an hour.

Q. Were any of the Negroes taken out then? A. I said I seen the last two Negroes taken out, yes.

Q. Did you see Henry Stevenson coming in or out of there during that time? A. I did not.

Q. Did you see him in there at any time? A. I did not.

Q. You took Ilde down town, did you not? A. I did.

Q. Did you see Henry Stevenson that night after the hanging?

A. I did.

Q. How was he dressed? A. He had - - he was dressed in his blue suit.

Q. Had he changed his clothes? A. No, he had not.

Q. Was his clothing mussed or torn? A. No.

Q. Show wear or tear? A. No.

Q. About what time did you see him? A. Oh, a quarter to twelve.

Q. That was after the hanging had been consummated? A. That was after the hanging took place.

CROSS-EXAMINATION

By Mr. Forbes:

Q. You live up there at the same place this defendant does?

A. I do.

Q. Mr. and Mrs. LeMasurier, and the two Larson girls, and little Miss LeMasurier and you all live in the same house?

A. Yes, sir.

Q. You have lived there how long? A. About four months.

Q. How long have you known this defendant Stevenson?

A. About six months.

Q. You referred to these clothes that he has got on, - that is the clothes when he dressed up? A. This suit he generally wears.

Q. Then you know what his working clothes are? A. Yes.

Q. Those are not his working clothes? A. No.

Q. Do you remember, Mr. Connors, on the ninth of August going up to the county attorney's office and having a talk there with Mr. Brown, deputy sheriff attached to the county attorney's office?

A. I do.

Q. Mr. and Mrs. LeMasurier and the young lady and you were up there? A. Yes, sir.

Q. And you had a talk with him about where you were on the night of the riot, June 15th? A. I did.

Q. He asked you certain questions about Mr. Stevenson, did he?

A. He did.

Q. As to when Mr. Stevenson left the house and when he returned? A. Yes, sir.

Q. And about what you did and where you went that night?

A. Yes, sir.

Q. I will ask you if in that conversation you did not say to Mr. Brown, at about the time Mr. LeMasurier called up his wife and asked her to come down town to meet him, it was between eight

and nine p.m. when they left the house to go down town in response to his call. That is correct? A. Yes, sir.

Q. I will ask you if you did not say: "I think it was close to nine p.m. when they left to go down town."? A. Yes, sir.

Q. Then I will ask you if you didn't say: "Hank Stevenson left the house with Mrs. LeMasurier and wore his working clothes. He had on a blue shirt of light weight material and I think he had on grey trousers, green hat, dark, green." did you say that?

A. I didn't say what he had on that night; I wasn't quite sure.

Q. You were not quite sure? A. No.

Q. Did you tell Mr. Brown that? A. I couldn't say that is what he had on that night, I didn't tell him what kind of coat. I told him what his working clothes were like.

Q. Didn't you say to Mr. Brown when they left, "I think it was close to nine p.m. when they left to go down town. Hank Stevenson left the house with Mr. LeMasurier and wore his working clothes. He had on a blue shirt of light weight material and I think he had on grey trousers, a green hat, dark green." Did you tell Mr. Brown that? A. I didn't tell him what he wore that night. I described his working clothes but I didn't say he had them on that night.

Q. The question is, Didn't you tell Mr. Brown that? A. I told Mr. Brown that he went out that night; I didn't see what clothes he had on.

Q. Did you say to Mr. Brown, "Hank Stevenson left the house with Mrs. LeMasurier and wore his working clothes." – and then described them? A. (No answer.)

Q. "He had on a blue shirt of light weight material and I think he had on grey trousers, green hat, dark green." You didn't say that to Mr. Brown? A. No, I did not.

Q. After you got through talking to Mr. Brown he wrote off on

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a typewriter what you had told him, is that right? A. Yes, sir.

Q. And after he had written it on the typewriter he showed you what he had written? A. He did.

Q. And you read it over? A. I didn't exactly read it over; looked over a couple parts of it.

Q. You signed it, did you? A. I did.

Q. You didn't exactly read it over? A. No.

Q. What do you mean? A. I just looked at different parts, first one page and then the other. I didn't read it to read it all through.

Q. You held it in your hand and saw the pages? A. I did.

Q. And when you got through you signed it at the bottom?

A. I did.

Q. What did you think the purpose was, having you sign at the bottom? A. The way I supposed, I think - - the way I thought it was my oath and I signed my name.

Q. You signed something, thinking it was our oath, and you say you didn't read it over carefully? A. No, I didn't read it over carefully.

Q. That is, you didn't care what you swore to, whether it was true, or not, - is that correct? A. No, not exactly. I thought what words I was telling him that he wrote down right, that I didn't read - didn't need to read it over again to see that he wrote down as I told him.

Q. Didn't he show it to you ? A. Yes.

Q. And ask you to read it? A. He did.

Q. And did you read it? A. Not all; I read some parts of it.

Q. That is one of the parts you did not read? A. Not exactly, no.

Q. Did you read that? A. I read kind of skipping, - I didn't pay much attention if that is the clothes he wore.

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Q. That is the part you overlooked? A. Not exactly, no.

REDIRECT EXAMINATION

By Mr. McManus:

Q. If any statement made by you is to the effect that he wore his working clothes that night is that statement true or false?

A. I didn't understand you.

Q. if you sated, or if Mr. Brown states that you stated to him, that Mr. Stevenson had on his working clothes that night, would that be true? A. It would not.

Q. You say Mr. Brown asked you to describe what kind of working clothes Henry had when he worked ? A. He did.

Q. Did you describe them to him? A. I did.

Q. Did you know that he had written that in there that you said he wore them that night? A. No, I did not.

Q. If you had known that was in the statement would you have signed it? A. No; I don't think I would.

Q. Would you have signed it? A. No.

Q. Would it have been true? A. No.

Q. Therefore, would you have signed it? A. No, sir.

Q. If any such statement as that is in this written statement it is not your statement? A. it is not.

(Paper marked Exhibit E.)

By Mr. Forbes:

Q. I show you State's Exhibit A, purporting to be a typewritten statement. On the third page I noticed the words "Earl Connors." did you sign that? A. Yes, sir.

Q. That is your signature? A. Yes, sir.

Q. I show you this exhibit and ask you if that is the typewritten statement that Mr. Brown showed you in that office, - in his office on the ninth of August of this year, and which you read over and which you signed at that time?

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MR. McMANUS: Before answering that read the statement carefully and see what it is.

MR. FORBES: Sure.

(Witness reads the statement).

By Mr. Forbes:

Q. Did you read it? A. Yes, sir.

(Question repeated by reporter, as follows: " I show you this exhibit and ask you if that is the typewritten statement that Mr. Brown showed you in that office, - in his office on the ninth of August of this year, and which you read over and which you signed at that time?"

MR. McMANUS: Now, may it please the Court, the witness has testified that he did not read the statement over which Mr. Brown drew up. The question is directed to one which he head over.

THE COURT: I presume there is no objection to asking if he signed this statement?

MR. FORBES: Yes.

THE COURT: You may answer that question.

A. I did sign that statement.

MR. FORBES: I offer in evidence State's Exhibit E as part of the cross-examination of this witness.

MR. McMANUS: We will object to the introduction of this on the ground that the witness has testified that he did not read it over and that there are statements in it which he did not make and which he did not know were in the paper and which if he had known he would not have signed the paper.

Objection overruled, to which ruling counsel duly excepts.

(Recess for a few minutes).

Q. Mr. Connors, you have read the statement all over carefully today, haven't you? A. I have.

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Q. This statement: "I am twenty-one years of age" is correct, is it? A. It is.

Q. It is correct, "I have been rooming at 326 East Second Street for about four months"? A. Yes.

Q. "On the night of the riot, June 15th, 1920, I got to my room about 5:15 p.m."? A. I did.

Q. "I board with the family." Is that correct? A. Yes, sir.

Q. The statement, "About that time Mr. LeMasurier called up his wife and asked her to come down town to meet him, " is that correct? A. Yes, sir.

Q. "It was between eight and nine p.m. when they left the house to go down in response to his call." Is that correct?

A. Yes, sir.

Q. "I think it was close to nine p.m. when they left to go down." Is that correct? A. Yes, sir.

Q. The statement, "Hank Stevenson left the house with Mrs. LeMasurier and wore his working clothes," is that correct?

A. No, sir.

Q. "He had on a blue shirt, of light weight material and I think he had on grey trousers, green hat, dark green." is that correct? A. No, sir.

Q. "I asked him where they were going and they told me that Clarence had called them up and asked them to come down but that he had not told them what he wanted them for." Is that correct?

A. Yes.

Q. "About half an hour after they left the house Mr. LeMasurier called up the house and told the girl, Ilde, that there was rioting going on down at the police station and for her to say at home, that it was no place for her down town." That is correct?

A. Yes, sir.

Q. "This message to the girl aroused my curiosity, and I went

down to see what was going on." Is that correct? A. Yes, sir.

Q. The statement, "I went down Second Street to Second Avenue East, then right down Second Avenue East to Superior Street, and as I passed down by the Orpheum theater I noticed that there was a hose laid from First Street and Second Avenue East down to the police station." Is that correct? A. Yes, sir.

Q. "I stood back quite a ways up Second Avenue East to keep away from the water, as I had my good clothes on and did not want to get wet." Is that correct? A. Yes, sir.

Q. "At the close of the water fight the crowd went into the police station and as the crowd went inside I followed them." Is that correct? A. I followed them down as far as the police station.

Q. "As I reached the middle landing of this first flight of stairs I saw William Hughes standing there against the railing." Is that right? A. He did.

THE COURT: He is commonly known as "Buck" Hughes?

A. Yes, sir.

Q. "We talked there on this one landing for about an hour. During that time I saw Mr. Perry there in the hall below, also Officer Payer and Charles Ek." Is that correct? A. Yes, sir.

Q. "There was a big crowd there. I forced my way to this stairway and then when I got to the landing I couldn't get any further, so stood there talking with Hughes." Is that correct?

A. Yes, sir.

Q. "I could hear the crowd hammering on the cell doors before I went inside." Is that correct? A. Yes, sir.

Q. "Hughes and I went further up the stairs together, after being on the stairs about an hour." Is that correct? A. After the crowd came down we went up the stairs again.

Q. "While we were still standing on this first landing until after this first nigger was taken out" - - ? A. Yes, sir.

Q. "They took him out of the cell on the floor above us and brought him down the stairs past me and Hughes." Is that correct? A. Yes, sir.

Q. "Then after this first nigger was taken out we went up the stairs together. We went up to the top of the stairs and looked at the door, the big steel door, it was lying down on the floor and we went in and looked at the hole through the wall which leads into the cell room on the second floor of the jail." Is that correct? A. Yes, sir.

Q. "I did not see anyone in the crowd there that I knew except Hughes, and he was with me." A. Yes, sir.

Q. Is that correct? "some time after they took the first nigger out I saw Murphy, and Schulte come into the room where we were. We were standing on the second landing off the stair-way when I saw these men. They were below, on the first floor. They went to the door of the cell room on the first floor and tried to get inside." Is that correct? A. Yes, sir.

Q. "I do not know where they went. I did not hear any speeches by anyone while I was inside the station." Is that correct? A. Yes, sir.

Q. "After we saw what damage had been done we came down to within three steps of the bottom of the stairs and stood there until we saw the other two niggers taken out." Is that correct?

A. Yes.

Q. "Soon after the two niggers were taken out the crowd followed right out and we, Hughes and I, followed out and up the street. I only saw the last nigger hung." Is that correct?

A. Yes, sir.

Q. "Hughes and I separated in the bunch right there at First Avenue East as they were taking the nigger around to the pole where he was hung." Is that correct? A. Yes, sir.

Q. "I was standing on the west line of Second Avenue East

at the intersection of First Street when I saw this last one hung." Is that correct? A. Yes, sir.

Q. "After the hanging of this third nigger I went home and this girl, Ilde LeMasurier, was in bed, and I woke her up and asked her if she wanted to go and see the niggers hanging on the pole." A. Yes, sir.

Q. "She dressed and went down with me. We walked over in front of the garage near the Shrine Auditorium and there we met Hank Stevenson." Is that correct? A. Yes, sir.

Q. "He walked up to us and afterwards he walked home with us." Is that correct? A. Yes, sir.

q. "After we got home we all sat down and talked about the affair." Is that correct? A. Yes, sir.

Q. "Hank said he had seen the lynching, and we talked for a while about the affair generally. Then I went to bed and Hank and the others were still sitting around talking about it when I left to go to bed." Is that correct? A. Yes, sir.

Q. "Since then Hank has not talked to me about it. What he did or saw that night - -" Is that correct? A. Yes, sir.

Q. "At the time he joined Ilde and I at the pole and walked home with us, and when he was at the house before going down with Mrs. LeMasurier to meet her husband were the only times I saw him that night." Is that correct? A. Yes, sir.

Q. "I have seen Buck Hughes once since the night of the riot. It was after he was let out on bail." Is that correct?

A. Yes, sir.

Q. "I asked him what they had him for and he said they accused him of being in the cells that night." Is that correct?

A. Yes, sir.

Q. "I said to him, 'They are foolish, I was with you all the time and I know where you were.'" Is that correct? A. Yes, sir.

Q. "Then he asked me for my name and address. he did not know

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my name. I gave him my name and address and he said, 'I may call you for a witness most any time,' and I said, 'All right.'" Is that correct? A. Yes, sir.

Q. "While I was still outside of police station, before I even went in, I heard some pounding inside, and then after that I went inside and pushed my way to the stairs. I saw one big pole brought in and passed up the stairs but I did not see any other tools passed up." Is that correct? A. Yes, sir.

Q. "As near as I can remember, this is a complete statement of what I saw and id no the night of June 15th, 1920." Is that correct? A. Yes, sir.

Q. As I understand it, Mr. Connors, every single word of that statement that you signed is true except the only thing that is vital in this case, namely, that you told him that he wore his working clothes that he had a blue shirt of light weight material and I think he had on grey trousers, green hat, dark green, - that that is the only thing in this statement that is false? A. That is all.

REDIRECT EXAMINATION

By Mr. McManus:

Q. Now, Mr. Connors, did you make the statement to Mr. Brown as follows: "Hank Stevenson left the house with Mrs. LeMasurier and wore his working clothes"? A. No.

Q. "He had on a blue shirt of light weight material and I think he had on grey trousers, green hat, dark, green." That is - -

A. No.

Q. Did you make that statement? A. No.

Q. Did you know that that statement was in the written statement which you signed? A. No.

Q. If you had known it was in there would you have signed it?

A. No.

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Q. When you looked it over did you see it in there? A. No.

Q. Is it true? A. No.

Q. Is that statement true? A. No.

Q. Now, what was said to Mr. Brown by you about his working clothes? A. he asked me what kind of clothes he wore and I told him I didn't quite remember on that night. he asked me what his working clothes were and I described them to him the best I knew.

Q. He asked what his working clothes were - -A. Yes.

Q. - - -and you described them to him? A. Yes, sir, I did.

Q By Mr. McManus:

Q. In looking back to the night of the 15th of June is there anything that draws your attention to what you did and which fixes it in your mind particularly?

MR. FORBES: That is objected to as not proper redirect examination and cross-examining his own witness, leading and suggestive.

Objection overruled.

A. At that time I was keeping company with Ilde, the girl at the house, and on that night Henry asked her to go to the show, and in that way I remember that Henry was dressed, that he had on his light shirt, stiff collar, and a blue suit.

Q. Did you say all this at the time you made this statement to Mr. Brown? A. I did not.

Q. When you made this statement to Mr. Brown did you know where you were, - that is, that you were in the court-house, in the sheriff's office or the county attorney's office? A. I didn't know who the man was; I never seen him before, I didn't know him.

Q. Did you know whose office you were in? A. I did not; I knew I was in the county attorney's office, - one of them.

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Q. You knew you were being inquired of about his riot?

A. I did.

Q. What was the condition of your mind as to being worried about what you were being inquired about?

MR. FORBES: Objected to as being leading and suggestive.

Objection overruled.

A. I didn't quite understand.

By Mr. McManus:

Q. Did you or did you not know at that time that they were arresting a great many boys who were down on the street that night, on indictment from the grand jury?

MR. FORBES: If that is not leading and suggestive I never heard one.

THE COURT: It is. You may answer it.

A. I knew they were – they were arresting the boys, yes.

By Mr. McManus:

Q. You state in this statement here that you were with Buck Hughes all the time, and that you told Buck Hughes they were foolish to arrest him because you knew he had done nothing, - or words to that effect. Did you know at the time that they had arrested Buck Hughes, when you made this statement? A. I did.

Q. Did you know at this time that buck Hughes had not done anything for which you thought he ought not to be arrested?

MR. FORBES: That is objected to as incompetent, irrelevant and immaterial, and cross-examination of his own witness.

Objection sustained.

By Mr. McManus:

Q. As far as you know, you may state whether or not Buck Hugh was any more guilty of violation of law at that time than you we

MR. FORBES: that is objected to as calling for the conclusion of the witness. Objection sustained.

By Mr. McManus:

Q. How long were you in Mr. Brown's office? A. I was in there about three-quarters of an hour.

Q. Were you alone? A. I was - -was Mr. Brown and another gentleman there who came to the house after us, - there was one other man in there.

Q. Do you know deputy sheriff John A. LaVaque? A. I do not.

Q. Was he an old man, a man about sixty-five or seventy?

A. No; this man seemed to be between thirty-five and forty years old.

By the Court:

Q. Which man? A. This man that was with Mr. Brown.

Q. Not the one that came up to get you? A. That is the same man came up to get me.

By Mr. McManus:

Q. You don't know who it was? A. I didn't know. He has - -

Q. Do you know whether he as a sheriff? A. I do not.

Q. When those papers were presented to you for signature were they fastened together when you signed them? A. No, they were loose-leaf.

By Mr. Forbes:

Q. The statement was correct, as you recollect it, just as you remember it, except in the particular you have called attention to? A. Yes, sir.

By Mr. McManus:

Q. That is on the first page? A. That is on the first page.

GILBERT HENRY STEPHENSON, the Defendant, sworn as a witness in his own behalf, testifies as follows:

DIRECT EXAMINATION

By Mr. McManus:

Q. Your name is what? A. Gilbert Henry Stephenson.

Q. Where were you born? A. I was born in the united States, -
in Iowa.

Q. Howl old are you? A. Thirty-four.

Q. What part of Iowa were you born in? A. I can't tell exactly as - - I didn't see no birth record kept of it. I think it was close to Des Moines, anyway.

Q. On a farm? A. Yes, sir.

Q. You name is spelled S-t-e-p-h-e-n-s-o-n? A. Yes, sir.

Q. What is your nationality? A. Irish.

Q. How long have you lived in Duluth? A. Well, about - -
between eight and nine years.

Q. What has been your business since you have been in Duluth?

A. Well, I have been working off and on for contractors, - for George H. Lounsberry for one; for McLeod & Smith.

Q. Now, what has been your occupation during the last nine years? A. (No answer).

Q. Just tell us generally? A. Well, mostly working for contractors.

Q. As what ? A. Well, part of the time - -I worked for George Lounsberry.

Q. How long did you work for Mr. Lounsberry? A. About a year.

Q. What were you doing? A. Unloading gravel and cement and lumber; I had charge of that, and unloading coal.

Q. When was that? A. It was in 1913 and '14, I think.

Q. What did you do after that? A. Well, I think I - -
I think I worked for McLeod & Smith.

Q. In what capacity? A. Well, I was supposed to be carpenter

helper.

Q. How long did you work for them? A. About three months.

Q. And then what did you do? A. I went down in the country where I lived when I was taken.

Q. Are your parents living? A. My father.

Q. What have you been doing in the last two years? A. Running a truck.

Q. For whom? A. Popkin and Bloom & Company.

Q. Bloom & Company are the last people you worked for? A. Yes.

Q. They run a store here? A. Yes, sir.

Q. Where? A. Twenty - - seven and twenty-eight - - - No, 27 - - 25 and 27 - - 23 - - 25 and 27 West Superior Street, I think.

Q. West Superior? A. West First Street, I should say.

Q. Driving truck for them. What were you hauling? A. Furniture.

Q. Delivering and taking care of their work? A. Yes, sir.

Q. Were you working for them when you were arrested?

A. Yes, sir.

Q. Where have you lived here in Duluth the last two years?

A. Well, at LeMasurier.

Q. That is the place you have hear them describe there on the witness stand? a. Yes, sir.

Q. That is a rooming-house and sort of light housekeeping apartment house, its it not? A. Yes, sir.

Q. Where people do their own cooking? A. Yes, sir.

Q. Were you doing that? A. I was doing my own cooking.

Q. You are a single man? A. Yes, sir.

Q. How many brothers have you? A. Five - - four.

Q. Two of your brothers are in the court-room with you?

A. Yes, sir.

Q. Your own mother is not living? A. No, sir.

Q. Your father is living? A. Yes, sir.

Q. He is still down in Iowa? A. No, sir; he lives here in Minnesota. A. Yes.

Q. But not in Duluth? A. No, sir.

Q. How old is your father? A. Why, I think he is eighty-one.

Q. Eighty-one years old? A. Yes, sir.

Q. A feeble, old man? A. Yes, sir.

Q. Coming down now to the evening of the 15th day of June, 1920, where were you, - we will start at five-thirty. You were working that day, were you? A. No, sir; I did not.

Q. Where were you beginning at five-thirty? A. I was at home. I was in the back yard at LeMasurier's.

Q. What were you doing? A. Well, kind of cleaning up out behind there a little bit.

Q. Between five-thirty and the time you went down town that evening what did you do? A. Well, I was upstairs - - I shaved myself first, I changed, clothes, I got my supper and then I went upstairs in LeMasurier's house and with the girls.

Q. What girls were there? A. Edith Larson and Florence Larson and Ilde LeMasurier.

Q. Who else was there? A. Earl Connor and Mrs. LeMasurier.

Q. Was Mr. LeMasurier in the room at nay time during that evening? A. I didn't see him.

Q. What part of the LeMasurier establishment were you in?

A. I was in the kitchen.

Q. Were the girls also in the kitchen and Mrs. LeMasurier and Connors? A. The girls were in the kitchen, and Earl Connors, - - I don't think Mrs. LeMasurier was.

Q. Was she there part of the time? A. She was there part of the time.

Q. When you had shaved yourself what if anything did you do as to your clothing? A. I changed my clothing.

Q. What clothing did you put on? A. This same suit I have on.

Q. At the present time? A. Yes, sir.

Q. Do you remember what kind of a shirt and collar you had on?

A. I had on a white collar - -a white shirt with black lines, - or black stripes, and a white, standup collar.

Q. What was your intention as to what you were going to do that night? A. I was going to the show.

Q. Had you asked anybody to go with you? A. Ilde LeMasurier.

Q. What show were you going to? A. To the Grand Theater.

Q. The first, or second show? a. The second show.

Q. Now, then, - that show begins when? A. Nine o'clock.

Q. You heard the testimony of the different witnesses about the telephone ringing? A. Yes, sir.

Q. Just tell us about that. A. Well, the first I knew, I heard the telephone ring and Ilde jumped up and went out and answered the 'phone. She afterwards called Mrs. LeMasurier, and afterwards Mrs. LeMasurier came into the door and called me and said that Clarence said for us to come down on Second Avenue right away; and we jumped up and started. I grabbed my hat - -

Q. Which hat? A. The hat I am wearing today. I put on my hat and we started down and walked down Second Street as far as Third Avenue East and turned down and went down by the Peerless Laundry and down on superior Street.

Q. Now, did you meet Mr. LeMasurier? A. Yes, sir.

Q. Where? A. between Third - - between Second and Third Avenues East and Superior Street.

Q. Where did you go from there that night, if anywhere?

A. We went to the corner of the Orpheum, on the upper side of Superior street.

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Q. About what time was it? A. Well, that was about nine o'clock or possibly a few minutes after nine.

Q. When you got down there? A. Yes, sir.

Q. How long did you stand or stay in front of the drug store?

A. Possibly half an hour.

Q. A big crowd on the street there? A. Yes, sir.

Q. Did you get down there in time to see the police turn the hose on the crowd? A. yes.

Q. Where were you then? A. I was across, - close to the Zenith Dry Cleaner on the upper side of Superior street, across from the city hall.

Q. When you stood in front of the drug store state whether or not the LeMasurier's had left you? A. Of the Orpheum drug store?

Q. Yes. A. No, sir; they had not.

Q. When you went across in front of the drug store state whether or not they were with you? A. They were, yes, sir.

Q. How long did the police play the hose on the crowd?

A. I should judge fifteen or twenty minutes.

Q. Did any water come on the party? A. Splattered on me a little bit, not enough to wet me much.

Q. How long did you stand there? A. Well, about half an hour, I should judge.

Q. And that would make up to about ten o'clock? A. About ten o'clock.

Q. Are you sure that is the time or are you just giving us - - anybody's time at the time when we were there.

Q. What was the condition of the natural light when this telephone call came up at the house? A. The lights were on in the house.

Q. The natural light? A. It was dark.

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- Q. It was dark? A. Yes.
- Q. You stayed there thirty minutes. Then where did you go?
- A. Went across in front of the city hall, - city jail.
- Q. When you went across to the city jail, was that before or after the crowd had turned the hose onto the city jail?
- A. That was after.
- Q. Did you see them turn the hose on the city jail?
- A. Yes, sir.
- Q. Did you take any part in turning the hose on the city jail?
- A. No, sir.
- Q. How were you, the nearest you were to the parties who did have hold of the hose that was being turned on the city jail?
- A. I should judge about thirty or forty feet.
- Q. Did you change your clothes before you went down town?
- A. No.
- Q. What suit did you wear during that entire evening?
- A. The same suit I have on.
- Q. What hat? A. The same hat I am wearing today.
- Q. Did you have on a black shirt? A. No, sir.
- Q. Did you have on a - - have you a black shirt? A. I have.
- Q. What was it used for? A. A working shirt.
- Q. Did you have it on that night? A. No, sir.
- Q. I mean, after seven o'clock? A. No, sir.
- Q. Did you have it on before? A. I had it on about five o'clock, or a little bit after five.
- Q. How long did you stand over across in front of the city hall? A. Well, I should judge about half or three-quarters of an hours.
- Q. When you were in front of the dry cleaner's place state whether or not you were at all times with Mr. and Mrs. LeMasurier?
- A. I was.
- Q. Was there a large crowd on the street? A. Yes.

Q. Did you become separated? A. Yes, a little bit.

Q. For how long a time? A. Well, I don't think over, - probably five or ten minutes, something like that; hardly that long.

Q. At a time? A. Yes,.

Q. But all the time where you could see them? A. Yes, sir.

Q. And where they could see you? A. Yes, sir.

Q. If they were looking in that direction. When you went over in front of the city hall how long did you stand there?

A. Well, I should judge about half or three-quarters of an hour.

Q. Did you hear pounding over in the city jail that night while you were down town? A. I did.

Q. Where were you standing, - where were you when you heard this pounding? A. Standing in front of the city jail.

Q. In front of the city jail? A. Yes, sir.

Q. Were you then with the LeMasurier's? A. Yes, sir.

Q. Did you at any time during that night go into the city jail? A. No, sir.

Q. Did you at any time during that night use a sledge hammer on the locks in the city jail? A. No, sir.

Q. Did you at any time during that night, or at any other time, attempt to or threaten to assault Officer Olson - - - A. No, sir.

Q. - - - in front - - or any other officer? A. No, sir.

Q. With a sledge hammer or with anything else? A. No, sir.

Q. Did you see Officer Olson that night? A. I don't know him.

Q. Did you see Lieutenant Barber that night? A. I don't know him.

Q. Did Lieutenant Barber call on you in the county jail?

A. No, sir.

Q. Did he come up there and ask you if you remembered him?

A. There was a man come up there and asked me if I remembered

him, but he was a man that wore plain clothes, - it wasn't Barber, it wasn't the same man.

Q. Are you sure - -A. Yes, just as I can see it, - it was dark, of course, in the county jail. it was after seven o'clock.

Q. Were there lights on? A. I think one light in the front was on but it was a very dim light.

Q. You heard the testimony of this engineer who was here, that he came up there and saw you in a cell on the 8th of August, came up to the county jail and identified you in the cell, on the west side of the upper part of the county jail. Is that true?

A. No, that is not.

Q. Were you on the 8th of August or any time prior to the 14th of August - -where were you in the county jail? A. I was in cell number 20.

Q. Where is that in the county jail? A. On the east side of the jail.

Q. Up to the 14th of August you remained on the east side of the jail? A. Up to the 14th, until the 14th day of August.

Q. Then you moved? A. Then I moved.

Q. Did you see this man? A. No, sir.

Q. Did you ever see him before he came on this stand?

A. No, sir.

Q. Did you of your own knowledge ever see or meet Lieutenant Barber before he came on the witness stand? A. I couldn't say positively; might have seen Barber on the street.

Q. But to meet him and know him? A. Oh, no, to know him, I have not.

Q. Did you ever meet to know or see to know Lieutenant Olson?

A. No, sir.

Q. Or Sergeant Olson? A. Yes, sir.

Q. Did you meet either of them that night? A. Not that I know of.

Q. Did you meet them in the city jail? A. I wasn't in the city jail.

Q. You heard the testimony of Officer Walker here that he pulled a gun - -

MR. FORBES: Not Walker. Nesgoda.

By Mr. McManus:

Q. Nesgoda, that he pulled the gun when you threatened to strike Olson. Did you threaten to strike Olson? A. No, sir.

Q. Did you see him in the jail again?

MR. FORBES: There is no testimony that anybody pulled a gun and this defendant threatened to strike Olson. Olson was not back in the cell with him, at all.

MR. McMANUS: Which officer was it?

MR. FORBES: The testimony was that Nesgoda pulled a gun at the time this man raised his sledge hammer to hit Sundberg.

MR. McMANUS: That is the man I mean.

A. No, sir.

Q. Did you threaten to hit anybody that night? A. No, sir; I did not.

Q. You stated, I think, when I asked you if you stood in front of the Zenith cleaner across from the city hall - - A. Well, it wasn't - - I wouldn't swear that that was right - -

Q. You mean the Orpheum Cleaner's ? A. Yes, the Orpheum Cleaners.

Q. On the upper side? A. Yes, on the upper side of Superior Street, on the corner of Second Avenue and on the southeast corner. I mean - -

Q. When you went down town with Mrs. LeMasurier did you go over right on - - did you know there was a riot going on down there?

A. No, sir.

Q. Had you heard anything about it? A. No, sir.

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Q. Had you understood the Negroes had been - - Well, I didn't pay any attention to that for the rioting, I didn't - -

Q. You didn't know anything about it? A. No.

Q. Lieutenant Barber says, and this man Natelson says, that you had on a blue-colored laundried jacket that night and working clothes at the time the jail was broken into, and that they saw you there. Were you in our working clothes at any time that night, after five-thirty? A. No, sir.

Q. Were you at any time bare-headed while you were down town that night? A. No, sir.

Q. When you speak of nine o'clock, and then o'clock, and thirty minutes, and twenty minutes, and five minutes, and your words meaning time, do you intend us to think or understand that you looked at your watch and are giving the exact time? A. No, sir; I do not.

Q. You estimated it? A. Yes, sir.

Q. Did you see any stones or brick thrown that night?

A. No, sir.

Q. Did you see the windows in front of the jail - -

Q. I could see from across the street.

Q. Where were you standing when they were broken? A. Right across from the city hall.

Q. Did you leave these people, the LeMasuriers, at any time - - Strike that out. State whether or not you left the LeMasuriers before the time that the pounding ceased in the city jail?

A. I did not.

Q. Did you see the crowd surge up the hill with these Negroes?

A. I seen the crowd go up the hill.

Q. Where were you then? A. I was standing on the corner of

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Second Avenue, right by the water faucet, right by the city hall.

Q. When did you finally separate from the LeMasuriers that night? A. I should judge about ten-thirty.

Q. When was that in relation to the time the crowd took the negroes up the hill? A. Right shortly after.

Q. Right shortly after? A. Yes, sir.

Q. That is the last you saw of them? A. Yes, sir.

Q. Until you got home? A. Yes, sir.

Q. This man LaShells testifies it was daylight and he could see you holding this hose downtown plainly. You have already testified it was dark before you went down town? A. Yes, sir.

Q. You heard Mr. LaShells testify to your having on a jumper which was laundered many times so it showed the wear of laundering, and a cap with a vizer? A. Yes, sir.

Q. You have already answered as to what you had on that night?

A. Yes, sir.

Q. Any reason to change that? A. No, sir.

Q. Did you know this man LaShells, at all? A. No, sir.

Q. Ever meet him? A. No, sir.

Q. Before, or see him before? A. No.

Q. Now, what is the fact as to what took place in the county jail between two and three p.m. of Sunday the eighth day of August, 1920? A. On the 8th day of August?

Q. Wait a minute now. yes. A. Well, I was - -

Q. Between two and three? A. I was sitting in church.

Q. They held chapel up there? A. Yes.

Q. You were attending it? A. Yes.

Q. Where did they hold it? A. The preacher was on the outside of the bar - -of the door that goes into the cells, and I was sitting right close to where the doors were.

Q. When did this take place? A. Two o'clock.

Q. That day? A. Yes, sir.

Q. How long did it last? A. It lasted until pretty close to four.

Q. Mr. LaShells testified that he was up there and identified you in the cell lying down, between two and three o'clock p.m., the 8th day of August, 1920. You say at that time services were going on? A. Yes, sir.

Q. And you were attending them? A. Yes, sir.

Q. Didn't your brothers come up and call on you while you were in church that day? A. They did.

Q. What time was that? A. Shortly after two o'clock; just shortly after the meeting had started.

Q. They were there at the services then, with you? A. They were not at the service with me; they were downstairs and I went out during the service and went downstairs.

Q. You saw them there? A. Yes, sir.

Q. How long were you with them? A. Until a little bit after four o'clock.

Q. A little bit after four? A. Yes.

Q. Which brothers were they? A. Two right there.

Q. These two brothers here? A. Yes, sir.

Q. I want to direct your attention, - you remember the testimony of Mr. Natelson? A. Yes, sir.

Q. About how you were dressed? A. Yes, sir.

Q. In which you stated you had on overalls, dark-blue cotton overalls, a black sateen shirt, and no hat. When you held the hose, - the same when you were up in the cell. Is that true?

A. A. No, sir.

Q. Were you up in the cell, at all? A. No, sir.

Q. Did you ever see Natelson before he got on the witness stand here? A. Not that I remember of.

Q. He testified here, if I remember right, that he saw you down in Brown's office. do you remember seeing him there?

A. No, sir.

Q. If he came in you did not notice him? A. No, sir.

Q. Now, you heard the testimony of Officer Nystrom?

A. Yes, sir.

Q. Who says your brother is the one that did this? A. Yes.

Q. Is that true? A. No, sir.

Q. As far as you know? A. No, sir.

Q. You don't think your brother is guilty of this charge?

A. I know he is not.

Q. You remember he identified him as being the defendant?

A. Yes, sir.

Q. Now, I have already asked you whether you ever saw Mr. Barber before, Lieutenant Barber. he said that the man he was talking to, - I think he said Sundberg stood outside the cell and that he was talking to this man outside of the cell and had an argument with him and that his man said that he was going to get those negroes and that he, Barber, would do the same thing if it was his sister. Did you make that statement or statement of kindred nature, to anybody? A. No, sir.

Q. Now, Sergeant Walker, - Officer Walker testified, and Barber testified, that, - Sergeant Walker said, "Do you know this fellow here?", and described him as wearing a flat cap, working jacket, a dirty working jacket, and a dark color, looked like cotton. did nay police officer that night say to any other police officer, in your presence, referring to you, "Do you' know this fellow", or words of like import, or words meaning practically the same thing? A. No, sir.

Q. Did you ever have any argument with any police officer or anybody else that night? A. No, sir.

Q. Lieutenant Barber testified that he saw you in the county jail and that he thought you were downstairs in the county jail. Were you eve kept downstairs in the county jail? A. No, sir.

Q. To be fair, Mr. Stephenson, Lieutenant Barber was not positive of that. he said he thought it was downstairs. But were you ever downstairs in the county jail, - I mean in a cell?

A. No, sir.

Q. Officer Sundberg testified that a man who he – came down and pointed his finger at you, pointed his finger at you and said you were the an he saw that evening, that night, had the sledge hammer and hauled it up and told him to get out of there or he would strike him with it, - and that he got out. Did you have any talk with any policeman, or anyone else, officer or otherwise, in which you threatened to strike them or made any threat of any kind at any time that night in the city jail or elsewhere? A. No, sir.

Q. I think you said that you never saw Officer Sundberg before? A. I seen Officer Sundberg here in the - - in the court-house the day I was arrested.

Q. The day you were arrested? A. Yes.

Q. That is the first time you ever saw him? A. That is the first time. I might have seen him on the street and not pay any attention to him.

Q. Officer Walker testified that some man, whom he identified as you, as I remember it, - Yes, was breaking the cell, and that he never himself personally asked Lieutenant Barber if he knew him and also stated that that man was you. Did you ever see Officer Walker before you were on the stand here? A. Not that I know of.

Q. Did he ever make a statement to you - - did he ever make a statement to you or did any officer that night make any such statement to you as I have just quoted? A. No, sir.

Q. Officer Nesgoda testified that he saw you, or a man whom he said was you, described you as dressed - -No, he didn't know

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how you were dressed, at all, - around cell five in the county jail, - in the city jail. You know where I mean? A. Yes, sir.

Q. Pounding at the door and the lock, and that this man, whoever the was, hollered - -raised a sledge and threatened to strike Officer Sundberg. Did nay such occurrence take place, as far as you are concerned? A. No, sir.

Q. Did you take any part in any such occurrence? A. No, sir.

Q. Were you the man to whom he referred? A. No, sir.

Q. Officer Nesgoda says, after he had said he didn't remember how you were dressed, that you had on working clothes, had on no collar, that you had quite a growth of beard. Did you have on working clothes that night? A. No, sir.

Q. Did you have on a collar? A. Yes, sir.

Q. Were you clean-shaved, or otherwise? A. I was clean-shaved. I shaved at six o'clock.

At this time an adjournment is taken until tomorrow,
Thursday, September 2nd, at 9:30 o'clock A. M.

- - - - -

Thursday, September 2nd, 1920

(9:30 o'clock A.M.)

Case Called.

GILBERT HENRY STEPHENSON on the witness stand.

DIRECT EXAMINATION (continued)

By Mr. McManus:

Q. Now, Mr. Stephenson, I have tried to draw your attention to the claims made by the state, or actions done or committed by you which they allege were done by you inside of police headquarters and the city jail, - by individual questions. I want to ask you this question generally: Were you at any time on the 15th or 16th of June, 1920, - - Strike that out. State the nearest you were on the 16th of June, 1920, - -

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THE COURT: The 16th ?

Q. The 15th of 16th of June, 1920, intending to cover the time after twelve o'clock, if you were down town, to the city jail, and the intent thereof? A. The closest I was to the city jail was in front of the city hall, the night of the riot.

Q. Or at any time comprised within my question? A. Yes, sir.

Q. State the nearest you were at any time mentioned in the last preceding question, to the hose which was being played, or at any time when it was so being played upon the city jail or upon the police? A. I didn't quite understand. You mean in regard to - -

Q. The nearest you were to the parties? A. I should judge about thirty feet.

Q. That was the nearest you were at any time? A. That is my best judgment.

CROSS-EXAMINATION

By Mr. Forbes:

Q. Mr. Stephenson, you say you are thirty-four years old?

A. Yes.

Q. How long have you lived in Duluth? A. Going on between nine and ten years.

Q. First you worked for Mr. Lounsberry? A. A short time - -

Q. What work? A. I worked first, carpenter helper, worked on the Peyton Paper Company building and worked on different buildings - -

Q. What kind of work? A. Carpenter helper.

Q. All the time you worked for Lounsberry? A. No, sir; not all the time.

Q. That is what I am getting at. A. Part of the time I worked as carpenter helper and part of the time as foreman.

Q. When you worked as carpenter helper what were you doing?

A. That is all I worked at.

Q. During all the time you were with Mr. Lounsberry you worked as carpenter's helper? A. Yes, sir.

Q. How long did you work for him? A. I worked for Mr. Lounsberry off and on for about four years.

Q. You worked for McLeod & Smith for a while? A. Yes.

Q. For about how long? A. I couldn't exactly tell.

Q. And you worked for Bloom & Company? A. Yes.

Q. And for Popkin? A. Yes.

Q. Who else? A. I worked on Fifth Street last fall just before I went to work for Mr. Popkin. Worked upon the school on Fourth Avenue East and Second Street.

Q. For whom? A. Well, I don't just remember the contractor's name. I only worked for a short time, then I went to work for Mr. Popkin.

Q. When you were working, what kind of working clothes - -

A. usually my working clothes is a suit of brown khaki trousers; that is what I have been working in for the last - - let me see, for the last four months - - and a blue shirt.

Q. A blue shirt? A. Yes, sir.

Q. Those are the clothes that you wore, - that you wear when you are working, are they? A. When I wasn't working, no, sir.

Q. When you were working? A. When I was working, yes.

Q. On the 15th of June were those your working clothes?

A. Well, outside of trousers; I didn't have the trousers on; I had a blue shirt.

A. What kind of overalls are they - - A. They are not overalls; they are just khaki. I don't know just what they call them; they are brown.

Q. Is that the same outfit you had on when you went into the county attorney's office Saturday? A. That is the same that

I had that day I wear when I am working.

Q. That was your working clothes you had on that day you went in there? A. Yes.

Q. You remember that day? A. I remember the day.

Q. You saw me there that day? A. I don't know as I did.

Q. Do you remember Mr. Natelson coming in that day?

A. I do not.

Q. You remember Mr. Brown? A. I don't know Mr. Brown.

Q. You don't know who he is, at all? A. No, sir; I do not.

Q. You don't know Mr. Green? A. No, sir; I don't.

Q. So you don't know whether you saw any of those men, or not?

A. I did not.

Q. do you remember anybody that you saw when you came there?

A. Well, no, not in particular I do not, no man that I - -

Q. Didn't you see Mr. Brown when he came in the door yesterday? A. I didn't look at, - didn't notice him, at all.

Q. You don't know who it was you talked to when you came to the county attorney's office, at all? A. I do not.

MR. FORBES: Mr. Boyle, ask Mr. Brown to step to the door.

(A man comes in the court-room).

Q. Do you know that man? A. I can't say that I do. I know - I believe I seen him in there, but I couldn't say whether I talked to him, or not.

Q. don't remember talking to him, at all? A. I do not.

MR. FORBES: May the record show the man is John C. Brown, deputy sheriff of this county.

By Mr. Forbes:

Q. do you remember what day it was you came to the county attorney's office? A. Yes.

Q. What day was it? A. On the 6th day of August, Friday.

Q. Friday? A. Yes, sir.

Q. Do I understand you do not remember talking with anybody that day there? A. Well, there was so many of them there talking and walking back and forth that I couldn't really place any of them.

Q. I mean, you don't remember talking to anybody?

A. (No answer).

Q. You don't remember anyone asking any questions and your talking to anyone? A. Well, no, I do not.

Q. Do you remember talking to someone you do not remember - - if you did talk to someone, you don't remember what you said to him, - is that correct? A. I couldn't say for sure. I know I talked a little bit, - did very little talking.

Q. In the very little talking that you did do you remember anything that you said? A. Well, the only thing I can remember that I said, I was down, I was down to the town. They asked some questions, and I said I was down town, I could prove I was down town with Mr. and Mrs. LeMasurier.

Q. Do you remember to whom you said that? A. I don't know the man.

Q. You wouldn't know him if you saw him? A. Well, I couldn't say; hardly believe I would, I have seen so many different men, just hat short time that afternoon.

Q. Will you say, Mr. Stephenson, that you did not talk to Mr. Brown?

MR. McMANUS: I don't think that is fair. This witness seems to be frank.

MR. FORBES: I object to counsel making any attempt at this time in that regard. If he has any objection, I think the objection ought to be made on the record, without any speech.

MR. McMANUS: If the Court please, if that is the pra-

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tice in this court I would like to be advised of it
right now.

THE COURT: it is the practice to make the objection,
of course.

MR. McMANUS: I object to that.

THE COURT: On what ground?

MR. McMANUS: Unfair to the witness.

MR. FORBES: May the record show what the objection
is, on the record?

MR. McMANUS: I object to that as not proper cross-
examination and not proper impeachment, if that is what
it is intended for; as incompetent, irrelevant and im-
material; he said he didn't know any of these parties,
couldn't remember who he talked to, at all.

Objection overruled, to which ruling counsel duly excepts.

A. I don't know for sure whether I talked to him, or not.

By Mr. Forbes:

Q. If you don't remember whether you talked to hi, or not,
I presume you are not in a position to testify as to what you did
talk about, if you did talk to him? A. no, I wouldn't because
I don't know the man.

MR. McMANUS: May I ask a question?

By Mr. McManus:

Q. You mean by that, Mr. Stephenson, that what talking you did
you could not positively say to whom you did talk, and therefore
you do not want to say whether it was to Mr. Brown or who it was?

A. Yes, sir.

By Mr. Forbes:

Q. I will ask you this question, Mr. Stephenson, - I will ask
you if you did not say to Mr. brown when you were in the office
that day that all of the evening of the night of the lynching,

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you were with Mr. and Mrs. LeMasurier and their daughter from eight o'clock p.m. until it was all over?

MR. McMANUS: Now, just a minute. This question is hardly fair to the witness because he has testified several times that he did not know Mr. Brown and could not remember whom he talked to.

THE COURT: He may answer it in his own way.

A. Well, I said I was with Mr. and Mrs. LeMasurier, but at the same time when I said I was with Mr. and Mrs. LeMasurier all the time, what I meant was that I was with them, was with Mrs. LeMasurier from the house and I was with Mr. LeMasurier down town, and Mrs. LeMasurier, and that what I meant by all the time was that, - and their daughter, - was that I was not out of their sight. Well, I don't think I was out of any of their sight half an hour, or over twenty minutes.

By Mr. Forbes:

Q. Is that what you told Mr. Brown? A. Well, Mr. Brown didn't ask me in that statement all where I was that night.

Q. Didn't you tell him at that time what you were with these people, LeMasurier and his wife and daughter, from eight o'clock that night until it was all over? A. I told him I was with Mr. and Mrs. LeMasurier - -

Q. Didn't you say to him: "There is some mistake about this. if you will let me go I can bring two ladies here to prove that I was with them during all the riot and the lynching. They are out of town now, they will be back Sunday night. It is Mrs. LeMasurier and her daughter. I was with them and Mr. LeMasurier from eight o'clock p.m. until it was all over." A. I didn't say - - I didn't say that I would bring two ladies.

Q. You didn't say that? A. No, sir.

Q. Did you say the rest? A. I said I could bring proof, - that I had witnesses.

Q. I will ask you if you didn't also tell Mr. Brown at that time that you stood on the corner at the Orpheum Drug Store nearly all the evening - -

MR. McMANUS: May I ask a question before this goes any further?

By Mr. McManus:

Q. Were you then under arrest? A. I don't know whether I was, or not.

Q. When were you arrested? A. I don't know I was ever arrested.

Q. Were you taken directly from there to the county jail?

A. Yes, sir.

Q. Taken from your place of work to that point? A. Yes, sir.

Q. When you were making this statement or these questions were asked you were you told that you were under arrest? A. No, sir.

Q. Were you told the statement would be used against you?

A. No, sir.

Q. Did you know that these people were police or sheriff's officers - - A. I did not.

Q. Were you ever shown a warrant? A. No, sir.

Q. Were you ever released after you were in that room?

A. No, sir.

MR. McMANUS: I object to any further questioning of this witness as to this statement, on the ground that he was in duress and was not told that he was in duress and was not told that he was under arrest.

Objection overruled, to which ruling counsel duly excepts.

By Mr. Forbes:

Q. And that you didn't have anything to do with the riot and that you were with them all the evening? A. I can't say that I told them I stood on the Orpheum Drug Store Corner all the time.

Q. Will you say you did not tell him that? A. I wouldn't say I didn't tell him that, no, but I say I don't know for sure whether I told him that, or what.

Q. You sat there in the office and there were people going in and out all the time? A. Yes, sir.

Q. People going along the hall? A. part of the time I was in the office alone.

Q. Part of the time you sat there alone? A. Very little. Passed back and forth from one room to the other, looking at papers, I didn't pay much attention.

Q. Lots of people moving back and forth there? A. Yes, sir.

Q. You don't remember whether it was the office that joins mine? A. I don't know where our office is, or any of them.

Q. There was part of the time none of the boys in the office were with you, at all? A. Well, it wasn't only just as they passed back and forth from one door to the other.

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THE DEFENDANT RESTS
- - - - -

E.H. Barber, recalled as a witness on behalf of the State in rebuttal, testifies as follows:

DIRECT EXAMINATION

By Mr. Forbes:

Q. Lieutenant Barber, ;I want to ask you with reference to the noises coming from the jail on the night of the riot, June 15th, as to how long the pounding and racket continues, about when it began, as you remember, and about how long it lasted? A. When I first came down to the station there was a lot of pounding but it was on the back end of the jail, sounded like pounding or hitting a back door with a brick.

Q. Did you hear it in the front part of the jail?

MR. McMANUS: That is objected to as calling for the conclusion of the witness.

Q. Did you hear it? A. I did.

MR. McMANUS: I move to strike it out because it doesn't show where he was, at all.

Motion denied, to which ruling counsel duly excepts.

Q. That pounding was in the basement, you say? A. Yes, sir; Michigan Street entrance.

Q. This would be, - where was the pounding done? A. Why, when I got into the jail I heard, or the pounding could be heard in the hallway, and the front door was open, could be hear out in the street, too.

MR. McMANUS: I ask that this time be fixed with some certainty.

By Mr. Forbes:

Q. Where was that pounding? A. That pounding was on the first floor of the superior Street entrance, on the big cell door, and also the pounding was on the boys' department, between the first and second floors.

Q. Do you remember how the door into the cell room was broken and by what means? A. The big cell door?

Q. Yes. A. Why, it was broken with a sledge hammer and pinch bars and battering ram.

Q. The noise in the boys' department, that would be the noise on the second floor? A. Yes, sir.

Q. How was that noise being made? A. That noise was being made by sledge hammers and a battering ram and pinch bars.

Q. You got down there about what time, Lieutenant, approximately? A. Just about, - in he neighborhood of ten minutes after nine.

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Q. Ten minutes after nine? A. Yes, sir.

Q. There was noise at that time? A. Yes.

Q. Pounding in the jail? A. Yes, sir.

Q. How long did that noise, - tell the jury how long the noises or pounding continued from that time? A. Why, the noise continued until it ceased a little bit, but the noise was practically going on until the last nigger was taken out.

Q. About what time was that? A. That was around, - - I should judge after eleven o'clock some time, or about eleven.

CROSS-EXAMINATION

By Mr. McManus:

Q. Lieutenant Barber, you have gone over this story a good many times with the county attorney, before you went on the witness stand? A. I have not.

Q. You have gone over it with Mr. Brown? A. I have.

Q. How many times? A. Possibly - - I went over once or twice.

Q. Didn't you testify yesterday you had gone over it yesterday as much as twenty times? A. I don't recall that I talked with the county attorney twenty times about it.

Q. You talked it over with somebody connected with this prosecution, over and over and over? A. I have not.

Q. Sir? A. I have not.

Q. Didn't you so testify in Judge Dancer's room yesterday?

A. The question was if I had gone over it with the county officials or some of them? A. Well, Mr. Forbes - - I don't know if I went through the testimony with Mr. Forbes; I did with Mr. Brown and I don't know if I went through all of this testimony with Mr. Greene. Certain parts of it I did.

Q. How much time did you spend with Mr. Brown on your testimony

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in this case? A. Altogether?

Q. Yes. A. I don't think I spent over fifteen or twenty minutes with him.

Q. Did I ask you when you were on the stand before as to when you first learned there was danger of a riot there?

MR. FORBES: Objected to as not proper cross-examination.
Objection overruled.

A. I believe you did.

By Mr. McManus:

Q. When was that? A. That was when I was at home.

Q. What were your hours of duty? A. From twelve o'clock midnight until eight o'clock in the morning.

Q. You were not in touch with headquarters during the interim unless you were specially called, - unless you were specially called you were not in touch with police headquarters?

A. No, sir. I was called shortly before nine o'clock.

Q. Have you since learned when the police headquarters found out that his riot was starting or threatening?

MR. FORBES: That is objected to as not proper cross-examination and calling for the conclusion of the witness.
Objection sustained.

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J. C. BROWN, Being first duly sworn as a witness on behalf of the State in rebuttal, testifies as follows:

DIRECT EXAMINATION

By Mr. Forbes:

Q. Your name is John C. Brown? A. It is.

Q. You are a deputy sheriff of this county? A. I am.

Q. How long have you been a deputy sheriff? A. Since the first of January this year.

Q. I will ask you if since your appointment you have been

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attached to the county attorney's office for investigation work?

A. I have.

Q. Where is your office with relation to the county attorney's office? A. It is in connection with the county attorney's office, room 301 this building.

Q. The sheriff's office and the sheriff's force are quartered in this building where? A. On the first floor.

Q. In which end of the building? A. The north end.

Q. The county attorney's office is where, on what floor?

A. The third floor.

Q. And what end of the building? A. Generally called the southwest corner.

Q. Where is your office with reference to my office?

A. The first room.

Q. Mr. Brown, I want to call your attention to the day that this defendant, Gilbert Henry Stephenson, was brought to the county attorney's office, and I ask you if you remember what day that was? A. I can.

Q. Was it on the 7th or the afternoon of the 7th of August?

A. No, sir.

Q. What date? A. The sixth.

Q. That is Friday? A. That is Friday.

Q. When he came to the county attorney's office in what room was he, - to what room was he taken? A. My office, 301.

Q. I will ask you if you had a talk with him that day with reference to the rioting? A. I had two different conversations with him.

Q. Where they both the same day? A. The same afternoon.

Q. I will ask you if in that conversation you asked him where he was the night of the riot?

MR. McMANUS: Well, now, I think Mr. Brown is perfectly capable to give that conversation without having it sug-

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gested to him. Objected to.

Q. What did he say with reference to it? A. When I first approached him and asked him if his name was Henry Stephenson, or Hank Stephenson, he said it was; and I told him I was in the county attorney's office, and asked him to come up to the office, I wanted to talk to him. "Well, " he says, "I don't know anything about the riot, I was down there but I didn't have any part in it, don't know anything about it." I says, "I would like to have you come up to the office and go over it." So he said, "All right." We came up to the office - -that was the first conversation - - came up to the office, left him in my office and I went in the adjoining offices. Mr. Greene was back and forth in the office there where he was sitting. Meantime we had brought in three or four, possibly, to identify him. Then about that time he got up and came to me, and asked me if he couldn't be excused, that he would like to have another day or two to get a number of witnesses to prove that he was not active in the riot. I cannot relate his exact words, but anyway he was going to prove he didn't have anything to do with this thing. he went on to say that Earl Connors, who was a truck driver, came to the house about eight o'clock that night, the night of the riot, and said there was a big crowd down in front of police headquarters and there was going to be something doing, and he said after that he and Mr. and Mrs. LeMasurier and the daughter, all four of them, went down together. They went as far as the Orpheum Drug Store corner and stood on that corner together until they went home, they all went home together. That is all he knew about the riot. he was afterwards taken in custody and taken to the jail.

Q. Was he arrested by you? A. I didn't place him under arrest, no. I gave the warrant to another deputy sheriff.

Q. Mr. Brown, do you remember the occasion when Clarence T. LeMasurier was in the office? A. I do.

Q. Do you remember when that was? A. Yes, sir. That was the 9th day of August this year.

Q. I show you State's Exhibit D and ask you if you recognize that paper? A. Yes, sir.

Q. Calling your attention to the date again when Mr. LeMasurier was in the office, I will ask you if you talked with him about the riot matter and about this man Stephenson? A. I did.

Q. I will ask you whether or not you wrote out in typewritten form what Mr. LeMasurier told you? A. I did.

Q. After you had typewritten that matter, did you show it, - did you show what you had written, to Mr. LeMasurier? A. I did.

Q. I will ask you if State's Exhibit D is that statement so written and shown to Mr. LeMasurier? A. It is.

Q. Calling your attention to the signature on the last page I will ask you if that was signed by Mr. LeMasurier in your presence? A. It was.

Q. After you had written it up just what did you do with it as far as Mr. LeMasurier was concerned? A. I just arranged it in order, that is, with reference to the numerical order of the pages, handed them to him, and he took them and looked them over, had it quite a length of time.

Q. I will ask you whether or not he looked at the different pages and turned the pages? A. He did. They were not bound at that time and as he read each page he shuffled it and put it in back of the others.

Q. You say at the time he read it it was not bound?

A. No, sir.

Q. Then it was stapled together on one of these staplers?

A. No, the pages were all four loose.

Q. How long afterwards was it you stapled it together?

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A. That is the first thing I did after I gave it, - after signing it.

Q. Are the four pages which compose this statement and are stapled together the same four pages that were shown Mr. Le Masurier? A. Yes.

Q. And they contain the statement made by him to you?

A. Yes, sir.

Q. Do you remember an occasion when a man named Earl Connors was in the office? A. Yes, sir.

Q. That is, in your office? A. In my office.

Q. Do you remember when that was? A. The following day, I think.

Q. Did you have a talk with him as to where he was on the night of the 15th of June of this year? A. I did.

Q. And as to where Mr. Stephenson was that night? A. Yes.

Q. After you had talked with him did you typewrite substantially what he said? A. Well, I typewrote that statement as he went along; it was written down and prepared as we went along.

Q. Who was doing the typewriting, yourself? A. I did.

Q. As you finished each topic you would write it up? A. Yes.

Q. When it was so typewritten did you show the statement so make to Mr. Connors? A. I did.

Q. I show you State's Exhibit E and ask you if that is the statement, - whether or not that is the statement which you showed to Mr. Connors at that time? A. It is.

Q. Was it stapled together at the time you showed it to Mr. Connors? A. No, sir.

Q. How soon after that was it stapled? A. Just as soon as 'he signed it I took it into the other room and put the fastener in there.

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Q. I will ask you if the three sheets containing that statement are the same three sheets that were shown Mr. Connors at that time? A. They are.

Q. Have any changes or alterations been made in the typewritten matter? A. No, none whatever.

Q. Have any new sheets or alterations been made in the statement? A. None.

Q. Are any changes made or substitutions made of the sheets?

A. No, sir.

Q. At the time that Mr. LeMasurier was in the office I will ask you whether or not you informed him as to what office he was in? A. I don't think so.

Q. At any time I will ask you whether or not Mr. Greene was there in the room with you? A. Mr. Greene was, - it was either in the hallway near the office or else in the office, but I cannot recall which.

Q. I will ask you whether or not you introduced Mr. LeMasurier to Mr. Greene that day? A. I did. I cannot recall just where it was.

Q. Do you remember the occasion when Mrs. LeMasurier was in the office? A. I do; it was the same day.

Q. Did you at that time have a talk with her? A. I did.

Q. In regard to where she was and where Stephenson was on the night of the riot? A. I did.

Q. Was that statement taken in the same manner that you testified the other statements were taken, that is, were they typewritten by you as each topic was covered? A. Yes, sir; the same way.

Q. And when it was typewritten state whether or not, - I will ask you whether or not you showed the typewritten statement to Mrs. LeMasurier? A. I did.

(Statement marked Exhibit F)

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Q. I show you State's Exhibit F and ask you if that is the statement that was made up by you in typewritten form and given to you by Mrs. LeMasurier?

MR. McMANUS: I object to that as leading.

Objection overruled, to which ruling counsel duly excepts.

A. That is the statement as prepared by me on the typewriter from information furnished me by Mrs. LeMasurier in my office.

Q. Did you show State's Exhibit F to Mrs. LeMasurier when it was completed? A. I did.

Q. I call your attention to the signature on page 3, at the bottom, and I will ask you if that signature was signed by Mrs. LeMasurier in your presence? A. It was.

Q. Mr. Brown, I will ask you whether or not Mrs. LeMasurier read this statement over before she signed it? A. She did.
Read it over very carefully.

Q. And after the statement was shown to her how soon was it before you stapled the pages together? A. Well, not longer than a minute or a minute and a half.

Q. Are the three pages stapled together the same three pages as shown upon that occasion to Mrs. LeMasurier? A. They are.

Q. Have nay alterations or corrections or changes been made in that statement? A. No, sir.

Q. Have there been any substitution of pages or sheets?

A. No.

MR. FORBES: We offer in evidence State's Exhibit F.

MR. McMANUS: That will be objected to on the same ground as before made to the other statement as shown in the record.

Objection overruled, to which ruling counsel duly excepts.

MR. FORBES: You may cross-examine.

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MR. McMANUS: No Cross-Examination.

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The State Rests in Rebuttal.

The Defendant Rests.

T e s t I m o n y C l o s e d .

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MR. McMANUS: May it please the Court, at this time I move to dismiss the action, or the indictment against the defendant, and for a discharge therefrom, on the ground that the State has not shown facts sufficient to bring the defendant within the statute on this charge, or otherwise. There has been a total absence of showing of an assembly of the defendant with anybody else for any purpose whatsoever. I think probably that covers the grounds of the motion which I make. I make it under the statute as it now stands as amended, - Section 8793, Chapter 100 of the General Statutes.

Motion denied, to which ruling counsel duly excepts.

Mr. Forbes goes to the jury on behalf of the State.

A recess is taken until two o'clock p.m., at which time Mr. Forbes resumes his argument.

Mr. McManus goes to the jury on behalf of the defendant.

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STATE OF MINNESOTA
County of St. Louis

IN DISTRICT COURT
11th Judicial District

STATE OF MINNESOTAPlaintiff,
vs.
GILBERT HENRY STEPHENSON Defendant.

Sentence and proceedings had at time
of sentence.

The above entitled matter came on before the court,
Honorable Bert Fesler, on Saturday, January 22nd, 1921,
at the Court House in the City of Duluth.

Appearances:

For the State, Mason Mr. Forbes, Assistant county Atty.

For the Defendant, A. E. McManus and Harry E. Weinberg.

Gilbert Henry Stephenson

The above name defendant, is brought before the
court.

THE COURT: You may be sworn.

(The defendant is sworn)

THE COURT: the law requires me to ask you certain questions
at this time, which you do not have to answer; but
if you do answer them I shall expect you to answer
them truthfully.

Q. Where were you born? A. In the State of Iowa; I don't
know just what part of Iowa, but close to Des Moines,
Iowa.

Q. What month, day and year? A. January 13th, 1886.

Q. so you were thirty-four years old this month? A. Thirty-

four the 13th.

Q. Where did you next live? A. Well, of course, I can't - - as

I remember it in Sioux Rapids; I couldn't say - -

Q. About how old were you then? A. About six years old.

Q. How long did you live at Sioux Rapids? A About two
years.

Q. Tell me, where did you go from that time on until you were
of age. A. I have lived in this state ever since 19—
1889, 1888, I think it was.

Q. Where? A. At Walnut Grove, Iowa - - -

Q. You mean in this state? A. Walnut Grove, Minnesota, I
should say.

Q. About how old were you when you came to Walnut Grove? A.
Ten years.

Q. How long did you live there? A About three years.

Q. And then where did you go? A. I think it was in Lucas,
Minnesota.

Q. What county is that in, do you know? (No answer)

Q. What part of the state? A. It is in the southwestern part
of the state; I couldn't tell you just the county.

Q. How long did you live there? A. About a year.

Q. And then where? A. Then I left there and I went to work
on farms. I was working out the most of the time.

Q. Is your father living? A. Yes sir.

Q. What is his name? A. James Madison.

Q. Where does he live? A. Duquette, Minnesota.

Q. Your mother living? A. No, sir.

Q. When did she die? A. When I was nine years old.

Q. Have you any brothers and sisters? A. Yes, sir.

Q. How many? A. I have four brothers and five sisters.

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No. 6598: Gilbert Henry Stephenson [Transcript].

- Q. Where do you come in in the family? A. I am the third youngest.
- Q. You seem to have left home at a rather early age. What was the occasion for that? A. Well, I always did work out from the time I was - -my father was crippled up with paralysis and I always have worked out.
- Q. You went to school some, of course? A. Yes, sir.
- Q. How far along did you get? A. I didn't get very far, because I was out early in the spring and late in the fall; naturally set me back.
- Q. About what grade did you get in? A. Well, about the 5th or 6th.
- Q. When did you come to Duluth? A. I came to Duluth in 190-5 the first time.
- Q. How long did you remain here then ? A. I didn't stay here; I was working outside of Duluth.
- Q. When did you come back? A. I came to Duluth in 19 - - I think it was 1908.
- Q. Then did you remain? A. The most of the time.
- Q. What have you been doing since 1908? A. Worked for George H. Lounsberry and for McLeod & Smith. I have worked for Stone-Ordean-Wells; and for the Sulphur Mining Company, about a year and a half at Mesaba for the Sulphur Mining company.
- Q. what has been the nature of the work you have done for the different employers? A. foreman for George H. Lounsberry. I was running the engine for the Sulphur Mining Company.
- Q. Are you a married man? A. No sir.
- Q. Have you ever been married? A. No sir.

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Q. Where is Duquette, Minnesota? A. In Pine County.

Q. What is your father's business down there? A. What is that?

Q. What is your father's business? A. My father was on a farm. he is eighty-three years old. he doesn't do much of anything.

Q. Living with one of the children? A. No; he is married.

Q. Have you ever been arrested before this time? A. No sir.

Q. Have you anything to say before I pronounce sentence upon you? A. No more than I am an innocent man and I never took no part in anything that I was charged with.

THE COURT: Mr. County Attorney, have you anything to say?

MR. FORBES: The facts appear sufficiently from the record and there is nothing more to add to them. The defendant is unknown to my office and as far as we know he has no record prior to this. I have no recommendation to make in the matter.

THE COURT: Mr. McManus:

Mr. McManus: If Your Honor please, I have tried a great many cases and I have never tried one before that when I got though with the trial that I was so completely convinced that I had failed in my duty as I feel in this case. As Your Honor knows in our practice you learn from your clients either before or after the trial more than anyone else in the world knows about a case; and I will say that, if this man is guilty of what the jury has found him guilty of, that he is not only one of the cleverest actors but one of the cleverest scoundrels that I have ever met. he has convinced me

No. 6598: Gilbert Henry Stephenson [Transcript].

absolutely that the story he told on the witness-stand is true. I feel in this case as if I would give a good deal if I had never heard of him, at all. I feel I must have to blame someone for what I consider to be (in good faith, of course, on the part of this jury and of the court and I accuse nobody of anything but good faith) a miscarriage of the facts. The man was unfortunate in the place where he was living. The people upon whom he was compelled to rely for an alibi were people who did not carry the force they should. They were rather unfortunate. The court will realize to what I refer. They had been living in a common law marriage, or in promiscuity, I don't know which, and for some reason, unknown to me, they married while the trial was going on and the matter came out before the jury. I cannot, of course, say what effect that had on the jury, but I know the effect it had on me. It gave me a very distinct shock and made me feel they were not people upon whom I could want to stake my life or have men depend upon what they testified to. Although they may be perfectly honest people, - of course I am not in any way impugning their character, I don't want the court to understand that I am, - I am simply telling what, - - I cannot tell what effect that may have had. I have talked to Henry Stephenson a great many times since this conviction and I have tried to get some admissions from him, but he simply keeps going over the fact that

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I know he is innocent and he knows he is innocent and I firmly believe he is a victim of untoward circumstances. His record so far has been clean. he is no loafer; he has been a worker and a hard worker. He bears a good reputation with George Lounsberry and with the smiths as far as I can learn, - I will admit I haven't made a very careful investigation, just simply in a casual way. I have never heard anything against him of any kind. If unfortunately he is innocent and convicted it is a crime. Of course, I realize fully that you are confronted with a verdict of a jury and that your duty is simply under the statute to pass such a sentence as the law requires. Mr. Stephenson understands that. he understands that Your Honor has nothing to do with this verdict, that that is simply out of our province and it is only your duty to pass sentence. But I would feel as if I had been derelict in my duty to Mr. Stephenson if I did not express my firm conviction that in this case, either by some mischance of my own, or something I left undone, or by some other was in the mind of the jury, - or some juror, - -anyhow I feel very sure that this man stands before this court, notwithstanding the fact that here is a verdict of guilty recorded against him, that he stands here today just as innocent as I am myself. I shall say no more. I know shat Your Honor's duty is. I know you have got to pass sentence. Mr. Stephenson knows it. I have talked frankly to Mr. Stephenson, I have said everything to him; I have

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No. 6598: Gilbert Henry Stephenson [Transcript].

told him the County Attorney, of course, had to carry his matters to the jury as best he could, and we stand here now, as far as I am concerned, unless my associate has something to say, ready to take whatever the law may impose.

THE COURT: Have you anything to say, Mr. Weinberg?

Mr. WEINBERG: I will be very brief. I became acquainted with Mr. Stephenson, having met him prior to the time this trial came up and I became his counsel through Bloom xxx & Company, who are my clients, - I look after their civil business. I was informed they had lost their chauffeur, - had been arrested, and asked me to interest myself in his case. I went to the county jail and I there met Mr. Stephenson for the first time. He told me his story. And I went and interviewed the LeMasuriers, - they were absent from the city but returned the next day, and in response to such questions as I put to them as I thought would bring out the facts, and from what Mr. Stephenson told me, I was convinced that time that Mr. Stephenson was innocent. I have not learned a thing since which has changed my mind, and Your Honor knows, from his acquaintance with me in the years you have known me as a boy and as a man, that what I tell you now will go for the truth, that if I were asked if I knew positively whether or not Gilbert Henry Stephenson were guilty or innocent, I could not say, but that I would have to say that from what he told me and from what I have learned since, taking his word and getting no other ad-

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mission from him, that I was convinced that he was innocent. but that is now a matter of ancient history. The verdict has come in. Twelve men sat on Mr. Stephenson's case and said that he was guilty. there are some tings to be said in extenuation and in mitigation of Mr. Stephenson's case. he has been in the county jail for the past six or seven months and if the court passes sentence I would humbly suggest that that time should be applied on any sentence that the court may impose. I don't suppose, Your Honor, tat we have any right to ask, or to expect, that the court will suspend sentence in this case. I feel that perhaps it was through my error, through error on my part, that Henry Stephenson did not get the kind of a trial he should have gotten from counsel. Mr. McManus admitted perhaps he made a mistake. I am willing to do more and take all the blame. I think perhaps that Mr. Stephenson was injured by too much counsel, and I am willing to take the most of the blame for that. I do not think, however, that Mr. Stephenson should suffer for the acts of commission or omission that they are guilty of. He is a man thirty-four years of age, a good, strong, healthy young man; and to send him away for any appreciable period of time, would not, in my opinion, serve the best interests of society. His employers, and particularly his last employer, Bloom & Company, speak in the highest terms of his honesty and faithfulness in the

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performance of his duties. Henry Stephenson, if he is innocent, and as I have said before and I say this in all solemnness, - - I cannot tell whether he is guilty, or not, I have his word and he has never said anything else, - I say if he is innocent and if he is sent to prison for any appreciable period of time, he would suffer a most grievous error. It would be one of those cases apparently where blind justice can only do its duty as it finds the facts. I submit, Your Honor please, that if the court upon consideration cannot see its way clear to suspend sentence in this case, that it might mitigate the sentence by a fine. it is a peculiar case and, perhaps, I have not the right, as associate counsel, to make a request of this kind, but I am speaking now, not so much as counsel but simply as a friend and the acquaintance of Henry Stephenson.

THE COURT: I suppose the court should say, in view of what counsel for the defense have stated, that in my experience I have never seen any one accuse of crimes more ably defended than this defendant was in this case. I think that the remarks of counsel are due more to disappointment from the result of the trial than any real recollection of anything that they did or did not do as counsel, which resulted in an adverse verdict to their client. This defendant has been detained in the county jail for an unusually long period of time on account of efforts, as this court was advised,

of friends to consider the matter of making a motion for a new trial and securing the necessary funds to get a transcript of the evidence and pay other expenses. The length of time that the defendant has been in the county jail since his conviction should be taken into consideration in the case hereafter if any effort should be made to secure for him a pardon or parole. As far as the court is concerned it accepts the verdict of the jury in this case as one that was amply justified by the evidence. But, if the verdict had been the other way, there would also have been evidence which would have justified such a verdict.

S e n t e n c e :

It is the judgment and sentence of the court that you, Gilbert Henry Stephenson, as punishment for the crime of Riot, of which you have been duly convicted, be taken by the sheriff of this county to the Minnesota State Prison at Stillwater, in this state, and there confined according to the laws of this state.

Dated, January 22, 1921.

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FORM 286

CLERK'S CERTIFICATE

State of Minnesota

DISTRICT COURT

COUNTY OF St. LOUIS

ELEVENTH JUDICIAL DISTRICT

I, J. P. Johnson, clerk of the district court, St. Louis County, and State of Minnesota, do hereby certify
that I have compared the foregoing papers writing with the original **Testimony, Minutes of Examination
before Sentence and Sentence**

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in the action therein entitled, now remaining of record in my office, and that the same is a true and correct
copy and transcript of said original **Testimony and Minutes of Examination and sentence** and the whole thereof.

WITNESS, My hand and seal of said court, at Duluth, this 1st

day of Februsry A.D. 1921

J. P. JOHNSON, clerk of District court,
By Deputy Clerk.