

1969

## Volume 10 (Part 3 of 4)

Cuyahoga County Court of Common Pleas

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were on the corner. Two got into some bushes with shotguns. He was fired from both sides, cross-fired. It was daylight. They observed him; they knew he had a uniform. To them, these conspirators, he was a policeman. He had a badge, he represented authority, and because of the admonishment that the Court gave me a few moments ago, I will not repeat what was said in evidence, when he was being fired upon by the man who was firing at him, Mr. Evans.

You recall those words he called them and kept shooting at them. Cold-blooded, just like the others. Cold-blood shooting. Cold-blooded attack.

Shortly after 8 o'clock, this happened: This poor McMillin was being shot from both sides, and then comes Evans down the street and pumps the carbine in him, the bullet is still near his liver.

And oh, how the defense tried to show you that the only thing that hit McMillin were shotguns. They worked on it and worked on it, and they wanted to put up a smokescreen in front of you, perhaps, for you to think that

somebody else shot him, not Mr. Evans.

It doesn't matter, if one of his co-conspirators shot him with a shotgun, it would have been just as much the act of Mr. Evans. It doesn't matter, but they tried to put this veil in front of you and the evidence turned out a little bit different, didn't it?

This poor man is carrying a slug in him and every time he moves he said it spread out, every time he moves it cripples him, it hurts him; he is still pulling out BB's from his body from the hands of these conspirators. This man is still in pain after all these months, like the rest of them.

But for the grace of God, he didn't get killed, either. He says he remembers seeing him, he was honest about it, he could have told all about it, if he wanted to plan something.

Again, this man, he was honest. He said, "I saw him from the neck up." What are you going to see, the gun and the face, the points of danger, and who was it -- he couldn't remember what he wore, what he had on his head and whatnot. Well, who cares? The identification was good; it was positive, and they

made much that he goes to the hospital and tells this girl, who has an amazingly -- has a fantastic memory, after all these months and all of the hundreds of people that go through the hospital, she came here and remembers McMillin. I wish I had that memory; I wouldn't need all those tools.

MR. TOLLIVER:                      Objection to this.

THE COURT:                          Overruled.

MR. LAURIE:                        She had a keen memory about what he said and everything else, even the holes in his body; when she started to read the report, she goofed, because the doctor read it differently, didn't he?

What was she doing again? I can't understand some of the testimony coming from the stand in this case. Aren't we looking for the truth?

If they wanted that report in, why didn't they bring a doctor in? I will spend another day to clear that up.

Poor man is carrying bullets, still in his body. How did he identify this man? He was truthful, even if he thought those people over there -- I know who shot him. He had never



seen Ahmed Evans in his life before. This is a truthful man.

His answer was, "I don't know who shot me," but when the officers went to his house and gave him some pictures, he said, "I peeled them off, and when I came to the fourth one," he said, "that's it," and he says, "that's the man."

Isn't he telling the truth? Absolutely, he is telling the truth, because the other people also made him truthful.

Mr. Turpin sees three men down there. Ahmed Evans jumping over the fence behind him, Mr. Teel sees Ahmed Evans back there.

MR. TOLLIVER: Objection.

THE COURT: Overruled.

MR. LAURIE: I will get to his testimony more complete a little later on. Other officers saw snipers shooting down Auburndale.

Now we got the cincher to put in there. Thank God for officers like Sergeant Joyce, Reiss, Officer Garcia, who has the will to stick and to fight and to look and to explore, as policemen should, and they want you to kick

them around because they finally found, months later, something in 591, a bullet.

Do you remember the haggling over we had over that bit of testimony? They knew it would close a gap, along with McMillin's identification. They fought like dogs to get it out, but there is the truth, folks.

They were watching. They would want you to believe, according to their examination and the pictures and the problem we had about the photograph of 591, that we, sometime after that, a week after, sometime after that, took this gun and put the bullet in there.

Again, attacking my integrity, because this gun was in my possession.

MR. TOLLIVER:

Objection.

THE COURT:

Overruled.

MR. LAURIE: I asked Sergeant Kovacic: "When did you turn this gun over to me?"

And he answered: A number of days before they went out to get a bullet.

If I was going to put a bullet some place, I would find another place other than a car to put it in.

MR. FLEMING: Objection.

THE COURT: Sustained.

MR. LAURIE: That bullet was found because of good police work. God only knows, we only have two hands apiece.

This case took thousands and thousands of hours, many hours of manpower, and as Sergeant Kovacic told you on the stand, he is still working on this case. This is only the beginning. Thank God for officers like these men, that came here and worked hard, faithfully.

They found that pellet in the car by patience and hard work. They dug it out, photographed it, brought it right down to the minute details, what they did to get it out, how they did it, when they did it. We don't hide anything.

Call them liars now? That's another compliment we have to give to the police, besides

having them dying on the streets, now we're going to call them liars, too? That's what they want you to do.

This wasn't true, what they did; they planted there, somebody did? Good police work should be congratulated, not kicked around. They brought that pellet in. A ballistic man put it under the microscope and made a match, the hard way, not like that expert from Pittsburgh that you send it away and get it in a second. They made it the hard way - hard work, sticking to the job, we made a match.

Let him explain that, when he gets up and argues his case - Mr. Fleming and Mr. Tolliver. I am anxious to hear them, how they are going to comment about this.

Oh, I expect that these officers are going to get blasted: Why didn't they do it in July, and a lot of things, why we didn't do it in July? I can think of some things that we could have done on July 23rd, in the afternoon, too, that wasn't done; but not on the same basis as this.

You don't get all this stuff (indicating) overnight, folks; there are cases, other cases in this city going on every day. We have got to

sandwich this in --

MR. FLEMING:

Objection.

MR. TOLLIVER:

Objection.

THE COURT:

Objection sustained.

The jury will disregard the last remarks by  
Mr. Laurie.

MR. LAURIE:

The officers came  
in here and testified what they did. Are you going  
to disbelieve them now, because they came up several  
months later with the pellet?

Are we going to hear some argument about  
this car was repaired, painted, and this and that?  
Not a bit of evidence in there shows the inside was  
done over again, not a bit.

It was tried very hard by counsel --  
wasn't it completely repaired? -- trying to put  
words in that man's mouth, and he says no, the  
inside wasn't done.

MR. FLEMING:

Objection.

MR. TOLLIVER:

Objection.

THE COURT:

Objection sustained.

MR. LAURIE:

Anyway, the  
evidence shows there isn't -- find it in there,  
where the inside was repaired. Look for it,  
this exhibit, find the word "complete" in there,

if you will. Their exhibit, but all this evidence-- are we going to throw in a phony now, with all the tie-up we have got of Mr. Ahmed Evans? Are we going to throw a phony in there?

They said, "What do you need it for?"

You never have enough, so we get all we can, any time we can. If we hadn't looked for it and it came out that we didn't examine it, they would have been up here screaming, "Why didn't you examine 591?" So you are hit from both angles.

Now we got it all covered.

Talking about late in bringing in stuff, how about their photograph from down in the basement of this tavern? There was no objection to that on our part. Let them bring in all they want.

I will hit on that a little later.

That is supposed to be a shotgun hole in that brick wall, with a half a BB in there, a 2-inch hole.

Good trick, if it can be done with a BB, and the man says he was shot upstairs and downstairs.

Where was he shot? What was he shot with? Pellets were flying from the house on 12312 into the tavern. There are holes in the wall. They brought the picture in.

I don't know if they noticed or not.

They wanted to bring in that side of the tavern for the windows, and they got even the bad things with it, besides the windows. They brought in the holes. Thank God they did, because we didn't have a picture of that house.

So there was firing from 12312 in there, too, and this John Pegues, if he was shot, he was shot by snipers, not policemen.

What evidence is there that a policeman shot him? Where is the double-0 buckshot on him? And if it was a buckshot, it would have blown the

other man's head off, that man that testified here, whatever his name was, because he told you where he was standing when the man was shooting from upstairs in there.

Why, the spread of 10 feet would have knocked his head off, with double-0 buckshot. Boy, they really got a defense, and they are hopping on those things.

McMillin, in addition to all of the other evidence, put this man, Mr. /Ahmed Evans, shooting at policemen.

Mr. Teal was back there with Mr. Evans.



Mr. Charles Teal was another State's witness. I believe he is a candidate now for the East Cleveland police force.

MR. FLEMING:

What page is that?

MR. LAURIE:

I'm not reading.

He's a candidate from the East Cleveland police force. He came here and testified that on that particular day, I think I remember that pretty well, on that particular day --

You want to take that out, Sarge, please?

(Sergeant Joyce responded to the request.)

He came down to the area from visiting. I think, his grandmother or somebody on the east side here, and found his way coming down Auburndale (indicating). There was some complication here (indicating), some automobile or whatever, and you remember he testified that when he got around this area (indicating), he saw, oh, four or five -- I don't know what it was -- a number of young men in an army scrimmage form, if you recall, armed.

He thought they were toy guns, or whatever, but he recalls the formation. He was an ex-army man himself and used the army terminology in the formation that it appeared to him as,

And he heard some shooting, if I recall,

in the northerly direction, and he ran around, ducked in his car and finally got around Beulah (indicating) and came down here (indicating), and stopped here, near the tow truck driver (indicating) and noticed the tow truck was shot up.

He got out of the car and he went behind this particular house (indicating), I guess, or this garage over here, to get cover, and while he was there he told you that he saw Fred Ahmed Evans, the defendant in this case -- first he heard the jingling of what he thought was the bullets, as his experience in the army told him.

He looked around and saw Fred Ahmed Evans jumping over the fence, coming toward him (indicating). I think he said, loading his gun, and at that time he thought he was going to shoot him. But he walked away from him.

And then we have this man, Mr. Teal, coming around this area (indicating), and came, as he was about to go into this second house, he decided to go in the first and changed his mind, and it was -- he was going to go into the second house.

Just before he was getting in the house, lo and behold, he sees 591 come down there. You remember this?

Now we'll find out if Mr. Evans' Exhibit 190 was not a match. Get this point. See if Mr. Garcia is a liar.

As he was about ready to go into that house, he saw 591 come down and he heard a burst of automatic firing, a semiautomatic firing. He noticed 591 crashed into the tree or sidewalk or whatever it was.

And who was in 591? Who? Patrolman Szukalski and his partner, whose name slips my mind right now -- oh, McManamon, they are in 591.

They came down in response to the tow truck driver -- his partner apparently had called for help at the instruction of McMillin. Calling for help.

We find a burst of semiautomatic fire being fired. McMillin tells us there are three men, two with shotguns, one a carbine. Moments later, moments, we find 591 coming down.

Teal saying, "I heard the firing."  
And is this such a surprise that we find a bullet of the Exhibit 190 in Car 591, which belongs to the defendant? It fits. It fits.

Szukalski's leg was hit through the door.

You remember the big rhubarb we had about the picture of that car, the hole in the driver's side of the car -- the door, not the driver, the passenger's side.

Szukalski was hit in his leg, among other places, and he's still got a cast on his leg, that poor fellow, all these months, still got a cast.

The car was shot in various places on the right side, as the picture of the car shows, because the firing was coming from this direction (indicating).

Evans was seen, moments earlier, at the fence, by Teal. Moments. As soon as Teal got to the house here (indicating), the car came there and we heard a blast of semiautomatic fire (indicating).

How do you put that in together?

Again the car tracks in my driveway. You just can't dispute facts. It's just that clear.

Who even shot Szukalski? Who had a gun of that caliber in the area at the time?

One of the three snipers, one of the three men identified by Teal (indicating) --

MR. TOLLIVER:

Objection to that.

THE COURT:

Overruled.

MR. LAURIE:

We find here, folks, that not only did he get fired on while he was in the car; when he fell out of the car, we got Patrolman Zagore came on the scene and he saw shots coming from Auburndale down towards where Szukalski fell out and tried to get cover into a gutter area.

He saw the dirt flying around Szukalski, with bullets (indicating), even when he was on the ground.

You think there is any mercy in this case? Any resemblance of mercy?

We find the car that was stopped here (indicating), the patrolman that came, being Zagore and his partner, but for the grace of God again -- there were two bullet holes, one on the windshield part where the driver was; one on the passenger side, and other spots in the car -- had they got out of the car moments later, they would have been killed, too.

What a holocaust. Chaotic. That's the least you can say about it.

They are going to make much about Mr. Teal's identification. They are going to come up screaming he didn't identify him. Don't you believe it for

a moment.

Let's reveal what was said. When he was, I think, a P. D. worker at the time, working in the district or something, delivering, supervising a paper route or something; anyway, with the P. D. You recall his testimony.

The next day or two, whenever it was he saw Ahmed Evans' picture in the paper and it came to his mind, "This is the man I saw on Beulah," when it was fresh in his mind. What did the man do, as a good citizen should do? He made inquiry of a supervisor or somebody.

The supervisor said, "You had better get to the prosecutor or the police department."

What did this good man do? He did just that. He did just that, immediately -- well, not the same day, but whenever he saw it, he went down and told the police who he saw. He told the police the facts and circumstances.

Now, seven, eight months later, for the second time in his life, he looks at this defendant and what does the defense ask him? Let me tell you what he asked him.

By Mr. Fleming -- 13 --

MR. FLEMING:

What page?

MR. LAURIE:

I'll give it to you,

1363.

Mr. Fleming, on recross. Now, get this.

"Mr. Teal, are you absolutely positive that this man is the man that you saw back there," and it's "indicating", I guess whatever he was indicating at.

And the answer was: "I couldn't say I'm absolutely positive but to my knowledge he was."

Did you get those last few words?

Don't let them fool you when they come up here screaming he didn't identify him.

"But to my knowledge, he was."

What in the name of heaven is "absolutely positive"?

Beyond any doubt? Beyond a shadow of a doubt?

The degree of proof is, beyond a reasonable doubt.

Is there another kind of proof or identification as there is for conviction? Let us be consistent in all our proof.

"But to my knowledge, he was."

Now, this is months later. Pointed him out to you, who he was. To his knowledge, he was the man that jumped over the fence.

Let's take that one step further to see if he is telling the truth.

McMillin says he was there. Who else tells you he was there? Let them get around this one.

They called in Mr. Turpin. Turpin saw Mr. Evans jumping over his backyard at the fence. He put him in that area.

Now they're going to come back here, I'm certain, and say Mr. Teal did not identify him. Well, then, are they saying that Mr. Turpin also is lying, in addition to Mr. McMillin, that doesn't know what he saw that night?

Mr. Turpin makes Mr. Teal exceptionally honest.

"To my knowledge, he was."

And the bullet in the car says he was.

Mrs. Schepperd says there were three men on the corner. One had a beard, he was a handsome man. God love her. I can understand her position. You don't have to expand on it. A fine woman.

She told you she saw the same action Mr. McMillin saw, three men back there, but right away, even before I asked the question -- you remember? -- she said, "He's not the man."

She came here prepared, obviously, for some unknown reason, and I guess I know why.



MR. FLEMING:

Objection.

MR. TOLLIVER:

Objection to this,

Judge.

THE COURT:

The objection is

sustained.

MR. LAURIE:

You can draw your --

MR. FLEMING:

Your Honor, we

request that the jury be instructed to disregard the remarks.

THE COURT:

You are admonished

to ignore the remarks that counsel just made, that he knows the reason.

MR. LAURIE:

Draw your own

conclusion. I will give you what she said.

She said, even before I asked the question, "He is not the man."

Who are you referring to? I didn't even ask you that.

MR. TOLLIVER:

Objection to that.

She didn't say that.

THE COURT:

Overruled.

MR. LAURIE:

What is the infer-

ence you get from that?

She's obviously a fine woman. Certainly, not a liar. Why did she say that, even without my

asking for an identification of anybody? She was prepared to say he was the man, so you drawn your own conclusion.

MR. TOLLIVER:                      Objection.

THE COURT:                      Well, she said:

He is not in the courtroom.

That is my recollection.

MR. LAURIE:                      In other words, she didn't make an identification before I even asked for an identification.

MR. FLEMING:                      Objection.

That is not the way it happened.

MR. TOLLIVER:                      Objection.

THE COURT:                      Overruled.

MR. LAURIE:                      You read it when you get it.

MR. FLEMING:                      You read it.

MR. LAURIE:                      You read it.

You're the one that made the objection.

THE COURT:                      Continue, Mr. Laurie.

MR. LAURIE:                      But she put people firing at McMillin. She makes McMillin honest. She put a man with a beard on the corner, a handsome man. She testified on what she saw, and I think that she was a truthful person --

MR. FLEMING: I'm sorry, I didn't hear.

MR. LAURIE: And I think that she was a truthful person, whatever reason that she had to make this statement --

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Objection sustained.

MR. LAURIE: He had further some information as to the use of the weapon. I neglected to mention to you that the weapon that shot officer Lieutenant Joseph was the M-2, Exhibit 89, which was found in the hands of one of the co-conspirators, Leslie -- not in his hand, but by of having bullets in his pocket that corresponded to use of this gun, -- with Leslie Jackson, one of the three guns taken over by them when they took flight and cover from apprehension at what's-his-name's -- Mr. Matthews' home -- was this army carbine.

Sergeant Kovacic testified he had a test shot from this particular weapon. He had the pellet that came out of the body of Lieutenant Jones, who was found killed in front of -- well, not quite in front, but in the driveway area or close to the front of 12312 (indicating), when he dropped.

The pellet matches from this gun (indicating),  
this gun shot--

MR. FLEMING:

Objection.

MR. LAURIE:

-- Lieutenant

Joseph.

THE COURT:

Overruled.

MR. LAURIE:

There is no question  
about it. If you believe the testimony of Sergeant  
Kovacic, who says --

MR. TOLLIVER:

I'm confused.

THE COURT:

Well, I understand  
he is talking about the testimony of Dr. Kovacic --

MR. FLEMING:

Objection, your

Honor,

MR. CORRIGAN:

Charlie.

MR. LAURIE:

I'm wrong in  
saying "Lieutenant Joseph fell" --

MR. FLEMING:

You're wrong.

MR. LAURIE:

Wait a while, will  
you?

THE COURT:

Continue, Mr. Laurie.

MR. LAURIE:

Lieutenant Joseph  
was shot when he came around this corner (indicating)  
and finds his way back under the mailbox --  
Lieutenant Joseph, not Jones. I was confusing

"Jones" for a minute.

Lieutenant Joseph, the man that was wounded, the man that came in here crippled and said that he would never get any better - that is the man I mean. That he was shot from this weapon. The pellet was taken out of his leg, matched the test shot from this weapon (indicating).

How are you going to get around this?  
How are you going to get around this?

And this weapon was found in Matthews' home, taken by one of the three men that went there to hide. How are you going to get around that? With the bullet in his pocket that fits that gun, and the bullet in the other man's pocket fits the other gun, and the third man had the smaller gun. You can't get around it.

These are circumstances. More tire tracks. Conspirators.

And, again, but for the grace of God, Lieutenant Joseph could have been dead.

We have testimony from Mr. Stoiker, Mr. Shankland - who were at the point where this man, the defendant, was apprehended. Mr. Stoiker, if you recall, testified that he was one of several officers that was in front of 1384 that responded to

the call of Mr. --

MR. FLEMING:

McMillin.

MR. LAURIE:

No. -- Mr. Turpin,

to come and accept the surrender of Mr. Evans, who wanted to surrender.

He indicated to you that they told the man, Mr. Turpin, to have Mr. Evans, or whoever it was, have the man come out with his hands up.

He told you that that was about 1:00 o'clock in the morning or thereabouts. He told you that when he came out, that the defendant was put up against the house and patted down for weapons.

He told you at that time that he had instructed him as to his Constitutional rights and then proceeded to have some conversation with him. Do you recall that?

All right. We'll take it up from there.

"I advised him ---" 3129.

"I advised him of his Constitutional rights.

"What did he do, or you do, after that?

"He asked me, he says, 'How many of my men died?'"

Again, adding to the mountain of evidence that he was the leader of men who was in a warfare. These are the words of the defendant to Detective Stoiker.

"Question: What did you say?

"Answer: I said, 'Three or four.'

"Question: What did he say?

"He said, 'They died for a good cause.'"

Now, here's his own words.

"They died for a good cause."

Whatever it was. And we know from the other persons that testified, the cause was to kill policemen. This was the good cause.

Now, doesn't he even tell you, through Mr. Stoiker, that they died for a good cause? They had a reason? They had a plan? God, the evidence is just mounting.

"I said, 'Three or four.'" I read that.

"Question: What did he say?" Well, I read that.

"They died for a good cause."

Next question: "And after hearing this, did you have any further conversation with him at this point or not?"

"Answer: Well, I asked him how many men he had in the area. He said, 'Around 17.'"

We ended up with 5. Now, these are his words. So common deduction, if he had 17, there are some others somewhere.

"He said, 'Around 17.'"

We got 5. 3 are dead, is 8. No plan? He didn't know what was going on? He didn't have his boys out there doing the dirty work



that they had decided to do on?

"All right. Then -- incidentally, how did he appear to you when he was talking?

"He talked freely."

Down to the bottom of the page, it says, "How did he appear?

"He appeared calm."

Cold-blooded, killing, cold-blooded, pre-meditated act.

Next page, 3131.

MR. TOLLIVER: What page?

MR. LAURIE: 3131.

"What if anything did Detective Shankland say to him, in your presence?

"He asked Evans if he had been apprised of his rights."

3132, top of the page: "Did you do anything with Mr. Evans?

"I put him in the back of the police car with a uniformed man, and at the time I was shutting the door, I said, 'Where is your gun?'

"He said, 'In the bushes.'"

Exhibit 190, the carbine, which was found there exactly where he said.

"Question: All right. Go ahead.

"Answer: I made a quick check of the bushes and didn't look too good, because I was in a hurry to get back up with Shankland up on the third floor."

Primarily, his concern was to see that his partner had protection when Mr. Shankland was going up to the third floor. When they went up there, what did they find there? Lo and behold, we found something else that there dovetails in with the evidence, doesn't it?

Banana clips that fit the carbine, this machine gun; marijuana cigarettes identified, tested, proven to be. Testimony of marijuana was also in some of the pockets of one or two of the other men. The testimony, they smoked pot or weeds, whatever they call it, reefers, in some of these shops they had.

What a bunch of men.

MR. FLEMING: I didn't hear that.

MR. LAURIE: What a bunch of men. When they went downstairs, they looked back in the bushes and they found the gun wrapped up in a dashiki and in the dashiki was his web -- his belt with the ammo and in there we found

tracer bullets. Tracer bullets.

3138.

"Well, on a carbine, before you can take a bullet out of a chamber, you have to take the clip out because if you take one out, another one goes in from the clip, so you've got to remove the clip and pull the bolt back (indicating) and that will eject the shell if there is any in the chamber.

"Did that freely come out?

"It freely came out."

Where is his gun jammed? His gun wasn't jammed. When it got too hot, this man toward coward and hid in the attic. That's what he did. He left his man. He's not the leader that he wanted them to believe he was or he would have been on the street.

Do they know this? We know this.

He kicked the door in, after that, if you will please, or when it was getting dark, according to Turpin. Turpin gives you times, but he gives you darkness, too, at the time, so they don't go together.

It didn't get dark after 7:00 that night. It got dark close to 9:00 o'clock. He kicks in Turpin's door. Mr. Turpin says that this man was a gentleman, kind to him, and I asked him, "What do you mean kind? He busted in your house. He was hiding from the police in your house, this kind man."

Apparently, there was some relationship. He knew the man around the area, had some experience with him, associating with him at the workhouse, he said a couple of times, but what did he do?

Even though he said this kind man didn't bother him, he closed his door, had his children and wife get on the floor --

MR. FLEMING:

Objection.

THE COURT:

Overruled.

MR. FLEMING:

His wife wasn't

even there.

MR. LAURIE:

Well, whatever

it was, his family, whoever it was there. I can't remember everything in detail. You get up and tell me where I was wrong.

MR. FLEMING:

I will.

MR. LAURIE:

Mr. Turpin

says he saw him jump over the fence earlier before he came in the house. Then he says he came in. It was dark.

I tell you, ladies and gentlemen, there we have an hour and an hour and a half of time, at least, for this man to get back to where he was going to go, get back in the area, and help out his buddies and when he saw it was getting too hot over there, he came back and kicked in that door and wanted to hide and lie?

I say to you he was a coward. I tell you. He took off his identification, wrapped it around the gun, and hid the gun, so when he came out, they didn't know or wouldn't know he was a Black Nationalist or connected with that group. ((Indicating)).

This is the kind of a hero he turns out to be. He took off the identifying marks that he had. He comes out bare except with his pants on and sandals. He tells the officers

"If my gun hadn't jammed," Detective Starr,  
"I would have shot some more, killed some more  
policemen."

He's not a leader. He's a coward, a  
sniper coward.

MR. FLEMING:                      Objection --

THE COURT:                        Overruled.

MR. FLEMING:                      -- to the yelling.

MR. LAURIE:                        I don't have  
the time, I guess, to read all of the statements  
that Detective Shankland indicated when he  
testified what Mr. Turpin had told him in the  
house.

You recall me asking Mr. Shankland --  
I hope you can recall in your own memories  
what he said Mr. Turpin told him about seeing  
three men, not two, as he told on direct, go  
down Lakeview to Beulah and he saw his, his  
neighbor told him -- this is what Mr. Turpin  
tells Shankland, which is a little different  
from what Mr. Turpin said on direct.

He told Mr. Shankland that three men  
went up there, two of them he identified at  
the Morgue, which he saw at the Morgue, having  
been killed behind 1395, Bernard Donald and

James -- Sidney Taylor were two of the men of the three that he saw going down Lakeview and the third man he doesn't identify at that point.

However, he does tell Mr. Shankland that he saw Evans jump over his back fence and sometime later he came in and kicked his door in and went up to the attic.

Then some later time that night, he wanted to turn himself in; that is, surrender, again using the Army term "surrender." Who did he want to surrender to? Two black officers. Draw your own inference.

So, therefore, we find Mr. Turpin telling Mr. Shankland, Detective Shankland a little different story than he told in the court here on direct.

Also the time element, he was wrong. Now, he puts the -- Mr. Evans eventually in that house and why they do this, I don't know, because it didn't get dark after 7:00 o'clock. He hadn't even gotten out of the house yet, by anybody's testimony.

He was talking to Forbes about 8:00 o'clock --

MR. TOLLIVER:

Objection.

THE COURT:

Overruled.

MR. LAURIE:

-- so how in

the name of heaven was he going to be in Turpin's home?

Nevertheless, for some reason, he says that Mr. Turpin -- Mr. Evans was in his house. He put him in before any shooting; before any shooting in this house, time-wise, not daylight or darkness, time-wise, and he put him in there until 11:30 when the policemen came in and he surrendered to them.

We know this isn't true either because he surrendered about 1:00 o'clock. Now, what is he doing? Who is he shielding and why?

Mr. Evans after shooting McMillin, shooting at car 591, had ample time, according to Turpin's statement, before he went in that house, to go back at the headquarters, help his buddy do some damage in that area, make a determination it was too hot. This is the only inference I get. Whatever inference you get, you can make from it.



Go back to Mr. Turpin's house, who he knew is a friend. Obviously, they met before. He testified where. He had good words for him from the stand, "Treated me kind."

He busted in his house and wanted to get in. Turp says no, so then he goes up the attic. He was running away from that which he had started. He was running away from the murders that he had started. He gave up. He surrendered.

You can't surrender the blood that is on his hands and the malignant hear that he has. That stays with him. He can't surrender back to you the dead people that died because of him. He can't erase that 23rd day of July in this community.

He can't undo that which he did and initiated and controlled. He surrendered as a coward.

Floyd -- Flood asked him in the car, the colored officer, "Mr. Evans, what did this accomplish," words to that effect. A fine officer. He saw it was a futile thing, a vicious thing.

In response, he said something to the

effect he hasn't seen anything yet. My God.  
My God, are we going to see more?

Judge, can we recess?

THE COURT: Was it your  
intention to try to conclude shortly?

MR. LAURIE: No, Judge,  
I can't, really.

THE COURT: We will adjourn  
until tomorrow morning, folks.

Now, ladies and gentlemen, you know I  
have been giving you this admonition time and  
time and time again every day. I am sure every  
Judge has the same feeling that it's almost  
like playing a record over and again.

The law requires that it must be done.

Now, certainly, as of this stage, at  
least, of the proceedings, while it's been  
important up to the present time, let's say  
it is more important now because you are all  
aware of the fact that all the evidence is in.

We are drawing this case to a conclu-  
sion. Don't talk with anybody about any  
phases of this case at all. Don't discuss  
it with each other. Don't permit anybody to  
talk with you about it.

Don't formulate or express any opinion.

Don't even have any in mind, as a matter of fact, until the entire matter is concluded and when the 12 persons who are to decide this case are in the jury room.

We will adjourn court until 9:15 tomorrow.

(Thereupon an adjournment was taken to 9:15 a.m., Friday, May 9, 1969, at which time the following proceedings were had):

- - -

26

THE STATE OF OHIO, )  
COUNTY OF CUYAHOGA. )

SS:

FRIDAY SESSION  
MAY 9, 1969  
McMONAGLE, J.

IN THE COURT OF COMMON PLEAS  
(Criminal Branch)

THE STATE OF OHIO, )  
Plaintiff, )

vs. )

No. 90,257

FRED AHMED EVANS, )  
Defendant. )

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By Mr. Tolliver	4908
By Mr. Fleming	5065

FRIDAY, MORNING SESSION, MAY 9, 1969 9:15 A.M.

THE COURT:

Mr. Laurie.

MR. LAURIE:

Thank you, Judge.

Ladies and gentlemen of the jury, I believe yesterday we ended where I was relating the surrender of the so-called leader at 1384 Lakeview Avenue.

I was about to relate to you, very briefly, on the trip that he took downtown after he was being arrested.

You recall the evidence of Detective Kuchar. He indicated that on the way downtown he had some conversation with this defendant regarding to smoking marijuana. He indicated he wasn't an addict, but he had been smoking some marijuana that afternoon.

Taking all of the facts together, you have a picture of what type man you're dealing with in the person of this defendant.

The defense in their side of the presentation created smokescreens. That's all. Can they and did they produce any evidence in their testimony that he was not the leader?

That he was not armed? That he did not buy these guns? That he did not supply these boys with ammo? That he did not train them?

Contrary. Some of their own witnesses put credibility to the testimony of the State's witness or witnesses.

You recall the young lady, Sandra something or other, Brown, the girl that hadn't worked for over a year. Her demeanor on the stand, her candor. Her background. You can draw your own inferences what kind of a woman she was.

I cross-examined her, rightly so, like I do all the witnesses. This is my job. Whether they are women, men, children, or what. We are searching for the truth in the case and sometimes you've got to pry to get the truth. Pry. I pried.

What happened? After I got through with her, I don't think she's believable. The many things she said. The testimony to certain aspects wasn't worth a plug nickel, but she did put herself into the headquarters of these killers on the day in question.

Conveniently, she was there 12:00 o'clock.

Washington left at 12:00 o'clock. They are not going to put her in there before 12 because she's going to see -- show something different than Washington. She barely remembered Lanier. Her signals were wrong on that until I reminded her of the name "Squirrel."

Then she remembered, "Well, he was around there somewhere," because he stayed there later, you remember?

She put guns in the house. Why? So does Washington. So does Lanier. So do all of the gun sellers put guns in this man's hands and his fellow conspirators; by purchases. She said they were buying guns for a club. The club was organized to kill police; not target practice. Since when do you go target practicing with a carbine, tracer bullets, 30.06, the most vicious type of weapon, and the likes, high-velocity weapons? Target practice?

You know what their targets were. You know them, parading in this room, crippled; some crippled for life. This was their target, not some piece of paper that you shoot at. Don't buy that story.

He took them at a range somewhere in

Geauga County. You remember when I pried that out of her?

Then we get into another defense witness, Johnson, I guess his name was. that after this is all over, he buys a hunk of property somewhere in someother county. We were talking about buying property. What was he going to buy it with? Cleveland Now funds? Who bought the property? The Johnsons. They can buy whatever they wish. It's their business, but I'm saying as far as the evidence shows in this case, they bought it sometime, I think it was, in September.

Was it ever used for a target practice? We didn't hear anything about that. Who used it? And if so, who cares? What was done on the 23rd is what we want to know, of July. But they are trying to build up smokescreens to come up here later on, sure, they bought guns. It isn't unlawful to buy guns. Too bad I didn't have anything to do with that. I'd make that unlawful, too.

MR. FLEMING:                      Objection.

MR. TOLLIVER:                    Objection.

THE COURT:                        Overruled.



MR. LAURIE:

They're going to

come up screaming it was a legitimate deal.

Unfortunately, they were legitimate deals.

Buying guns, if you please, most destructive ammo, unfortunately, was legitimate purposes, just to buy, but not the way they used it wasn't legitimate.

This is another problem I'll take up at another time. However, their witnesses were put on merely so they can give you some explanation, even as bad as it is.

Are you going to eat it up? Are you going to accept it? That this is what this man was?

And who legitimately goes out and scrounges around to buy all the weapons he can, all the ammo he can, especially at the "D" hour, the zero hour, running here, running there, buying guns?

Any question in your mind that happened? Do they do this for target practice? On policemen, yes. They fulfilled that duty, that plan of theirs.

They were all phony witnesses --

MR. FLEMING:

Objection.

THE COURT:

Overruled.

MR. LAURIE:

-- completely,

because they even make DeForest Brown a liar,

because he said, "We chipped in money for paint and to fix up the other place." You remember.

What happened with the \$300 this leader of killers did then? Did he buy paints or did he buy paints? That is, DeForest Brown said he saw gallons of paint, representing some of the money he gave him. Stepladders. You can buy a roomful of paint for \$300.

But nevertheless, this girl said, "We chipped in and paid for that. We were being paid, not for making dolls, but for preparing a new place."

Making a liar out of DeForest Brown, again. She was something.

Defense gave you more smokescreens about what happened in the tavern. You don't believe that, do you? Was there any credible evidence that that was true? Any credible evidence? Any identification, even as short as it could be, about who did these acts?

We have testimony about there was gunfire from that building, the tavern, and above the tavern. The police officers told you, especially Patrolman Hart. You remember when he was up on the other side of the street (indicating), he was being fired from the tavern. He was across the street.

He came and showed you how they crippled him. You say the police weren't justified to smoke out that place? They'd be derelict in their duty if they didn't, and search those people that were in there; they would be derelict in their duty if they didn't. They had to do what they had to do. No shooting.

Double-O buckshot the police had would have blown their heads off at close range, 10 feet.

As I indicated before, brought in pictures to show where the bullet holes indeed came from. If that man got shot in that place, he got shot from the snipers --

MR. TOLLIVER:

Objection.

THE COURT:

Objection overruled.

MR. LAURIE:

He was upstairs,

he said, when he got shot upstairs.

When he was downstairs, do you remember, "I got shot once." Conflicting testimony.

The girl puts bullets in him in the back, front, whatever. They were putting towels over the places where he was hit.

Some said they were searched outside, some said they were searched inside. Where were they searched? Smokescreens.

The man across the street, that ran in the house, told that man to come inside, what was his name? -- I forget -- on the corner house.

MR. CORRIGAN:

Reed.

MR. LAURIE:

Reed.

He indicated that

there was somebody outside that wanted some cover, and he took him in the house and they spent -- what was it? -- from 7:30 - 8:00 o'clock, 7:00 o'clock, I guess he had the shooting started earlier, around 7:00 o'clock to 1:00 o'clock in the morning -- never learned the man's name.

Then he comes out with his eyes full of gas and he can see everybody in the darkness.

What an eyesight he has. Boxes being brought out of that tavern.

You know, there are gun boxes brought out of the place next door, he couldn't tell what kind of boxes they were. He wanted you to imply the police were hijacking this bar, taking the beer out. What a salacious story.

Their fellow officers being killed all around, bullets flying all around, bullets flying all around -- they're going to be worried about a bottle of beer, cases of beer?

Blackening the names of the fine men in blue.

Continue the same program. Maybe you'll believe it. That is their hopes.

And the theft they talk about. You recall that girl? What an insult to the policemen who laid their lives down for us, unprepared, without adequate counter-warfare equipment. They want you to believe that they went in there and rilled that register, taking the liquor off the bar --

MR. FLEMING:

Objection.

THE COURT:

Objection sustained.

That wasn't the testimony.

MR. LAURIE:

The girl said --

THE COURT:

That wasn't the testimony, as far as the register is concerned.

MR. LAURIE:

My recollection

is there was a lady in that bar that said she was in the basement and she heard that the alcohol, if I'm not right, she used the word, was being removed, taken off the bar.

What she meant by "alcohol," I suppose liquor. She also testified that money -- she heard money being taken, to my recollection. Now, mind you, she was in the basement, I recall because I crossed and crossed her if she knew who turned the chairs over, who turned the tables over, who was taking the money, who was taking this alcohol.

She said police. Because they were all coming here to hit the police. But when I said, "Did you actually see it?"

She said, "No."

My God, how can you blame a policeman if you don't see it? She didn't know who was up there. There were hours down in that basement. We know there was sniper fire from there. We know there were snipers in there downstairs and up, but then comes the real cincher, this lady.

Her husband owns the bar, who right

away, instead of going to the Prosecutor's office and talking about a theft, where does she go? Where does she go? Down to City Hall and makes a claim.

She doesn't make a claim for broken chairs or broken tables or stolen beer or broken whiskey or damage to the property. She was looking for the money. She made a \$200 claim. This is their witness.

You recall I hung on to her because I wanted to show you that what they are telling you is a bunch of lies.

Was the registered tampered with?

No, it was jammed. There was no money missing from the register and now, they want to label these police officers as thieves. Doesn't that knock wind out of that girl in the basement, hearing those falling things she heard?

Then where was the money? It was in a locked compartment under a key. Was the compartment, whatever it was, a secret place they had, damaged? No, it wasn't. Opened with a key. Who had the key? She said, "I do and two other of the employees."

I neglected to ask one more question.

I'm sorry I didn't. Did you collect \$200 from the City Hall? Because if she did, she owes it back to them.

MR. TOLLIVER: Objection.

THE COURT: Overruled.

MR. LAURIE: But blame the policemen. At any cost, they're expendable. They're no good. Here's our chance to show brutality. Here's our chance to show that they're improper.

Under those circumstances, let alone a policeman, who would ever think of molesting a woman? Oh, they'll go to no end, tear down these fine men in blue. To no end.

I'm not going to add any more dignity to any of their defense. They saw fit to put on the defense and they fell flat on their face. Did they counteract the real important things?

That situation at the bar has absolutely nothing to do with the killings. What might have happened between them and the police, how does that change who killed who? We know, as I indicated very briefly yesterday, that the war was started from 12312; that they went out



in guerilla-type warfare, armed with high-powered weapons, bullets all over their bodies. This was an arsenal (indicating). In this particular location. Here is part of it (indicating). Here is the ugly part of what was there. The murder weapons. The bullets. The remains of heroes (indicating). Look at it. Can they deny this? Can they erase this from the evidence?

I'm anxious to hear what the answer is going to be to these arguments. Can they deny that these policemen were shot at by these snipers, co-conspirators of this leader (indicating)?

As soon as they went around the corner, they were dropped. As soon as they went around the corner, they were dropped. As soon as they went around the corner they were dropped. Gibbons went there first and as he was holding somebody at bay with what, a pistol, he was shot in the groin and in the back and in minutes he was in the hospital. In minutes.

Lieutenant Jones comes down here (indicating), passes the corner and gets hit by

snipers again -- not again, but he hits him also. The side of the neck and he drops. Can they deny this? These are the cold facts of this case.

Patrolman Wolff comes around there after he held somebody at bay over there, obviously chasing him. He came by 12312 and caught it in the nose and he dropped. All in daylight. All in uniform. All in line of duty.

Levy comes in and he drops around the corner from gunfire (indicating), from headquarters. In the hands of these snipers; daylight.

Smith comes along. Heroically he tries to save a fellow officer. What happens to his life? He will never be able to walk like you and I again.

(Indicating) There is the culprit.

Rowell comes along and tries to help his fellow officers and he drops. As Captain Dregalla says, they were dropping -- they were gunning them down, is his words. Trying to keep his men away from the line of fire that was coming out of the headquarters of this killer, killer's group place.

They went to try to rescue their fellow officers, two or three of the officers dropped there.

So Sherbinski, or whatever his name was, goes upstairs to look for a vantage point and he gets shot somewhere.

(Indicating) Same place. Can they deny this to you? Hart across the street, gets crippled by gunfire. Crossfire, if you wish. Also from these houses (indicating). Can they deny this?

Back at 1395 (indicating) more gunplay. And we know who was in there. There's no question about it, like we knew who was in here (indicating). Two of them got killed back there, and rightly so. They were killing policemen. They're going to come up screaming coup de grace. They wouldn't keep their hands off their guns.

Wh What are you going to do, stand there and let them shoot you? And to borrow a phrase from that fine police officer, Officer Butler, they weren't playing cowboys and Indians. This was a death game.

Mr. Butler says, "They didn't ask us to

drop our guns. Why should we ask them? They were firing at policemen," he said.

Thank God for the Butlers on that police force and young, good, strong policemen like Peter Ventura, the young John Wayne of the Cleveland Police Force. Oh, how I wish we had more.

All these men either killed or wounded for life was done at the hands of one or more of the co-conspirators. The act of one is the act of all, and more viciously so, the act of this defendant because he was the leader.

He told Mr. Feagler, "I've become the leader." Mr. Ungvary, "I'm the Prime Minister." Mr. Starr, he tells, "Hadn't my gun jammed, I would be killing more of you policemen."

Are they going to say now he didn't do any killing, if you believe Mr. Starr? His own words to Detective Starr, and he wants to show in the last moments of this war, to his men, that he was not yellow. His color was a deep yellow with a stripe down his back.

When things got hot, he hid, discarding this identification so maybe somebody will believe he is an innocent bystander, but we've

got too much evidence for that, don't we?  
Too much to let him go free. You remember  
he told that other fine police officer, Mr.  
Flood, courageous police officer -- I'm sorry,  
Mr. Floyd in the police car, "What was this  
all about? What did you accomplish?"

MR. FLEMING:                      Objection to  
the repetition, your Honor.

THE COURT:                      Overruled.

MR. LAURIE:                      "You haven't  
seen anything yet."

Let that hold fast in your memory when  
you deliberate this case and determine if this  
isn't a premeditated at the hands and the direc-  
tion of this leader. And if you are ever for  
a moment going to consider his innocence in  
view of these undisputable facts, can you  
arrive at any other conclusion than that this  
man is guilty of the vicious crime there is,  
murder in the first degree, and without mercy,  
if you please. Without mercy.

None of these policemen were given one  
iota of mercy. One inch of mercy. As soon  
as they saw a blue uniform, he was practically  
dead.

And you're going to extend mercy to this man? I doubt it. I doubt it.

Read Pages 8 to 11, if I am correct, of the charge of the court, aiding and abetting and conspiracy. Most vital in this case. Most vital. Don't let them fool you. This man was never seen killing anybody?

MR. FLEMING:

Objection.

THE COURT:

Overruled.

MR. LAURIE:

Don't let them

tell you he wasn't even there. He was hiding. Do you remember the direct and positive testimony who put this whole thing in motion? Who procured these teenagers, some of them, and injected the thoughts and the hatred to kill officers?

This is the kind of malignant heart this man has. He is a cancer on our society and must be cut out.

MR. FLEMING:

Objection.

THE COURT:

The objection is sustained. The jury will disregard the remarks of counsel.

MR. LAURIE:

This man has a malignant heart -- part of the definition that the Court is going to give you in first-degree murder -- a heart filled with hatred.

I had anticipated to go over with you in detail all of the exhibits. You will probably be glad to hear I have canceled, I had it all outlined, but I am going to trust that you are going to remember what transpired, as far as exhibits were concerned.

For example, I was going to take Gun 1, I had it all lined up, Gun 1, right down the line, with the many guns we had, and tell you where they were bought, who bought them, who was with Mr. Evans, what type of ammunition they bought there.

For example, Gun 1 was bought in Forest City Material Company. Type of gun: sold to Evans and Smith and, with that, we had Detective Birt had found the weapon at 12312, and with that we had the seller Ranc, Mr. Ranc sold boxes of shells that fit that gun; and with that, we were going to say where we further had cartons that went with the gun.

I had anticipated, with my assistants, the Police Department here, to take each gun and each exhibit and tie it in for you, to show you how

this whole picture fits hand in glove at the direction of this defendant, and how these were distributed among the men, because they were found all over.

They were found in the headquarters.

They were found at 12314, when the three men were arrested there. One of those guns was purchased by Evans, obviously given to him. The weapons that were in the house - some purchased by Evans, left there by the snipers. Again, found behind 1395, I think the ugly one, the 30.06, which was sold to Mr. Evans, and found in the hands of one of the snipers.

I was going through each and every one.

My voice is hardly holding up, in addition to that, plus the fact the matter of expediency, because I am sure you will agree with me that all of these exhibits are tied in one way or the other with this defendant.

There is no question in our mind, I'm sure, when you start reviewing the exhibits, yourself, remember that, certainly, this defendant worked pretty hard spending the public's money, buying up all of these guns, all of these articles of ammunition, some with others, and pulling out the



money, as Mr. Heckman said, out of a bankroll of twenties and fifties, paying for most of this stuff.

Certainly, from the exhibit of the checks, he had bundles of money to do this with, and all preparing under the guise of black culture -- preparing for a war.

So I am sure you are happy to hear that I am going to discard the entire review on this and I will trust that you will keep in your minds all of the exhibits in this case.

Well, we come down now to some final words. This will be the last time I will be talking to you, as far as this case is concerned. I will not address you any further.

As we indicated to you, the defense takes the next step, and then, of course, we close up, in rebuttal.

I certainly again would want to thank you for the courteous attention you have given this case, your patience, your sacrifices, and I say this sincerely. Nobody in this room, I am sure, or all we do really know the extent of your sacrifices you have made, all of you, every one of you - all fifteen of you - but it was a needed sacrifice, because, as I told you earlier,

democracy doesn't come easy -- and please, let's not let it. We lose it easy.

You have taken a solemn oath that you will truly try this case and true deliberance make. If you do that, we are all satisfied, because you have been part of democracy, part of what these people were fighting, the law and order, our way of life. We must preserve it. We shall preserve it. And it shall never die, as long as we have you, the people, strong enough, with intestinal fortitude, to be fair but to be firm. To be firm.

Don't fear to deliberate and don't deliberate in fear. We gave you the truth. The truth is with you. It will go to you in your jury room, and it will be with you for the rest of your lives, the rest of your lives.

You have not got to be ashamed about returning a verdict in this case by just looking at the evidence, turning over in your mind, talking about what was said here, taking into consideration the law the Court is going to give you. The truth is on your side. Law and order is on your side.

Are we going to allow the likes of this defendant and his co-conspirators to take over?

MR. FLEMING:

Objection.

MR. TOLLIVER:

Objection.

THE COURT:

Overruled.

MR. LAURIE:

Are we going to have the likes of these people to say to us, in arrogancy, "You haven't seen anything yet"?

MR. FLEMING:

Objection, your Honor.

THE COURT:

Overruled.

MR. LAURIE:

Or are we going to say, we have had enough?

You, Mr. Defendant did wrong. You, Mr. Defendant, in leading this conspirators, to kill, you, Mr. Defendant, must stand up with the law, too, like we are, and face it and take the consequences.

You've got the tools. Use them. Use them. I trust that with the help of God you will return a verdict that is consistent with the evidence, and that is: Guilty of every count, without, without mercy.

Thank you.

- - -

THE COURT:

Mr. Tolliver.

- - -

ARGUMENT ON BEHALF OF THE DEFENDANT

MR. TOLLIVER:

Judge McMonagle,

Mr. Corrigan, Mr. Laurie, Mr. Fleming, ladies and gentlemen of the jury.

First may I take this opportunity to thank his Honor, Judge McMonagle, for the most fair and just manner in which he presided at this trial. This has been a most long and most difficult trial and, certainly, it was most trying upon any Judge to have to preside at a trial like this, with four lawyers who too often began to scream at each other. Sometimes I wondered whether the Judge was actually a Judge or whether he had to be a Referee.

But, Judge, your patience and your judicial temperament was most obvious in this particular case and we want the record to show that as far as we are concerned, you have done everything that is possible judicially and humanly possible to see to it that this defendant was afforded a fair and impartial trial and we appreciate it, Judge, not only from the standpoint of us as lawyers, as the defendant, but we appreciate it from the

standpoint that this is an example of what we mean in this country when we say that every defendant should be afforded a fair and impartial trial and that you did, Judge, and we are most grateful.

And we expected and got a most vigorous, a most -- oh, how should I say it, a most prepared prosecution of this case from Mr. Laurie and Prosecutor Corrigan and this is what we expected because, after all, persons were killed. And you would expect the Police Department and the Prosecutor to vigorously prosecute the case and this is what they did and we respect them for it.

And I want to also thank at this time, co-counsel, Mr. Fleming, a very capable, a very able lawyer and it was a warm and extended privilege that I had to work with him in this case.

I want to thank the Court for one other thing, too, that he appointed Mr. S. J. Young, who was the Investigator for the Legal Aid Society, as an Investigator in this case. For Mr. Young did the work of 25 men.

The Prosecutor has an advantage; they

have got 2200 policemen. We didn't have but one man to go and do the work for us. He worked like 25 men. He found witnesses. He interviewed people. He issued subpoenas. He did everything and then some things he wasn't even required to do. He did them anyway, unexpected of him, and I do appreciate the work that he has done. Thank you so much, S.J.

Let me say this to you, ladies and gentlemen of the jury. This has been a very long and tedious experience for you. And all during the time that you have been here, I have observed you. You were a very alert jury. Anytime anyone was speaking, you would always strain, if necessary, to hear what they were saying.

I have had cases in which some of the jurors went to sleep, but that wasn't so in this particular case and this is one time I agree with you, Charlie Laurie. We appreciate the fact that the jurors made this sacrifice because this is how our system propels itself, perpetuates itself is by dedication from such persons as you. You have been away from your homes, from your families, from your duties,

from your responsibilities in order to make the sacrifices to keep our system going and we appreciate it so very much.

And may I say this to the Court and to the jury and to counsel at the Prosecution's table. If at any time during this trial I said something or I did something which you don't feel, Judge, jury, Mr. Corrigan, Mr. Laurie, that is befitting a lawyer and a gentleman, I ask you for your forgiveness.

For in defending this defendant, whom we feel is not guilty of these charges, perhaps in my zeal to properly represent him, I overstepped my bounds and did something or said something that I shouldn't have said, or shouldn't have done and if that be the case, I extend to you my most humble and sincere apologies and let you know that it was a mistake of the head rather than of the heart.

Now, let me review briefly the evidence with you. I'd like to start with the testimony that began with Dr. Hoffman.

Now, Mr. Laurie made much of the fact that we were going to castigate and talk about drunken policemen and you know, to me, that is

a very fallacious argument. For Dr. Hoffman, Dr. Adelson, who were the ones who alerted that there was alcohol in their system. We didn't find it, Mr. Fleming and I, for we are not doctors. We are lawyers. We are not pathologists. We are lawyers.

So when the subject of alcohol came up in the systems of these two men, it was brought up by the prosecution on their examination of Dr. Hoffman and Dr. Adelson.

Now, they are saying we are going to kick a man while he is down. And I agree with Mr. Laurie in one respect. We are not playing games here.

This man's life is at stake here and after all, what is a jury for, except to hear the facts and the facts are that at the time Patrolman GOLONKA was killed and at the time Patrolman Wolff was killed, they had alcohol in their system.

Now, we are not responsible for that. We didn't put the alcohol in them. They did that themselves, so when we get ready to comment on it, they are saying that we are kicking a man after he's dead.



Well, you see, let me say this to you, Captain Dregalla and Sergeant Ungvary told you that the rules and regulations of the Police Department forbid drinking while working. Isn't that what they said?

Now, if they are in violation of that rule and that regulation, then whose fault is that? It's theirs, not ours.

Now, what did Dr. Hoffman say in respect to this?

On Page 104 he says, "All right, so then, if a person is .20, what stage is that, Doctor?

".20 in the blood or the urine?

".20 per cent in the urine and .19 alcohol in the blood."

The blood is what carries the alcohol to the brain. This was explained.

"That would put him in the second stage of the five stages," of alcoholism.

"And in your opinion would this person be intoxicated?

"Answer: He is under the influence of alcohol at this stage.

"Well, by 'under the influence of alcohol,' you mean intoxicated, don't you?"

He said, "I don't mean that. I think the word intoxicated always implies drunk, and I would prefer to put that in the third stage.

"Well, a person at .25 would be drunk?

"At .25 and over?

"Question: Yes."

Now, this is what Dr. Hoffman said. Now why is it that this is just a damnable thing that we are talking about when we say that a man was drunk? Because in our society, we have this opinion about policemen. This is the man whose trust -- this is the man whom we trust to protect ourselves, families and our homes and our lives.

He has a public trust. He has a public image. And that public image, that public trust is violated if he is intoxicated, under the influence, drunk, or whatever you call it, because a person with that much alcohol in him, as Dr. Adelson testified, it is impossible for him to perform his duties as he normally would if he didn't have any alcohol in him. This is what he said.

First of all, let's understand this. We are a government of laws, not of men. You're right, Mr. Laurie, but you see the law is a two-way street.

Simply because a man has a badge and a gun, he has no right to break the law, either, no more than the rest of us have.

Now, now, as I understand it, Patrolman Torok testified that he was the partner of Patrolman Golonka, and that Patrolman Golonka, with .19 in his blood and .20 in his urine, was driving a car about the streets of Cleveland and, if I remember correctly, he also said that on their way or during the time that they were working together, they arrested a man, out on Carnegie, at Sears and Roebuck, for being intoxicated.

Now, Dr. Adelson told you that any person that is operating a vehicle with .15 in his system, or more, is operating an automobile under the influence of intoxicating beverages, and that is against the law.

So, when Patrolman Golonka was driving his police car through the city streets of Cleveland, he was operating that car under the

influence of intoxicating beverages, which was against the law.

Yet, Patrolman Torok would have you to think that he was with him all the time, that he never saw him take a drink, that he didn't drink, that he was perfectly normal, and perfectly sober.

Now, that is just degrading to our intelligence. He didn't notice anything abnormal about it. Well, you know, that reminds me of something, and I wanted to say this, too.

One advantage that Mr. Corrigan will have that I won't have or Mr. Fleming won't have, he will have the last word, just like my wife. And there are questions that Mr. Corrigan will ask that we can't answer. So you will have to answer these things for us, and I am sure you will.

But it reminds me of something my grandmother told me once, when I was a kid. Being raised in the Baptist church, you know, I was always so crazy about the reverend, the preacher, and to us, you know, the preacher was a saint, he couldn't do anything wrong.

And one day, you know, Reverend said something, and my little inquisitive mind, I went to check out what Reverend said, and I found that

Reverend wasn't telling the truth, and I went to my grandmother. I said, "Grandma, you know Reverend said such-and-such a thing. I checked it out and it wasn't the truth."

You know what she told me? She says, "Son, I want you to understand one thing," she said, "Reverend's mouth ain't no prayerbook simply because it opens and shuts."

And I say the same thing about a police officer. That's why the Judge instructed you, in the beginning, simply because a man is a police officer, would you give his testimony more credibility than you would anybody else's?

Because we understand that a police officer is human and his mouth "ain't no prayerbook because it opens and shuts."

Now, here is this officer, Torok, driving around with his partner Golonka, who has all this alcohol in him, and he said, "I didn't smell a thing, I couldn't tell anything unusual about him."

And these are the men who we trust to protect us. These are the men whose salaries our taxpayers pay, and they come here and sit on that witness stand and tell that kind of a story and expect for you to believe him.

Then we have Patrolman Wolff, who had .25 in him, and if I remember correctly, Dr. Adelson and Dr. Hoffman testified that for .19 to .20, it would take from ten to twelve shots of liquor to get that much liquor in you.

For the .25, it would take from twelve to fifteen shots of liquor to get that much alcohol in you. That's a lot of drinking when you stop to think they went to work at approximately 3:00 o'clock and were killed at around 8:30 or 9:00 o'clock.

Your common sense tells you what period of time they were doing the drinking, if that was in them at the time they died.

But Patrolman Gibbons said that he was with Officer Wolff and he didn't notice anything unusual about him - and these are the men who arrest people for being drunk.

And do you know that it is illegal to be drunk in the streets of Cleveland? And here was Officer Wolff with .25 in him, sitting next to a policeman who didn't arrest him.

And here was Officer Colonka, with .20 in him, sitting next to a policeman who didn't arrest him.

Let me carry it one step further:

Patrolman Golonka and Patrolman Wolff are dead.

Let me say this to you, Mr. Laurie: No decent citizen who resides in this city, lawyer, doctor, indian chief, nurse, whatever you want to call it, can be happy about what took place on July the 23rd.

Yes, my heart grieved when they wheeled these men in here on wheelchairs and on crutches. My heart bleeds for them, too. God, I didn't want to see a sight like that.

And, you see, I'm not talking like someone who lives out of town. When you talk about Wade Park, that's where I live, on Wade Park, I live right in the area where this took place, so you know I am concerned about it, and I certainly didn't want to see anything like this happen - these men shot up, messed up, the way they are.

But you see, I am also concerned about another thing, Mr. Prosecutor, that when we talk about law and order, we also want justice, not revenge. And revenge and justice are not the same thing.

Now, let me go a little further. It must have been obvious to some police officers, in had to be, that Patrolman Colorka and Patrolman Wolff were intoxicated. And I say to you very sincerely that any policeman who saw these men intoxicated and didn't try to stop them from serving that evening, didn't try to snatch them and tell them, "You can't go out because you're under the influence," who didn't report to their superiors that these men were under the influence of alcohol, that they were drunk, contributed to the death of these two men.

So had they been stopped, they might have been alive today. But when the officers saw these men drinking and they wink at what they were doing, they contributed to their death just as much as the man who pulled the trigger on the gun.

By violating their own rules and regu-



lations, they contributed to the death of these two men.

Let's go a little bit further. Their star witness, if you want to call him that, was a young boy by the name of Walter Washington and I'm going to spend some time with you talking about him. Walter Lee Washington.

He testified about how he went to Ahmed's home to find out when the pop-off was going to happen and that Ahmed told him that they were getting ready to have a revolution, to engage in a shoot-out with police officers; that's what he told you.

Now, let's talk about this Walter Lee Washington.

First of all, he told you that he lived at 11113 Superior Avenue. That's what he told you and he told you that he started living there at about May or June. He told you that he lived in that building until December when he was arrested and convicted of carrying a concealed weapon and went to the Workhouse --

MR. CORRIGAN:

Objection.

Page 300 of the testimony of Washington will reveal that is not the evidence.

THE COURT:

Just a minute.

The objection is overruled.

MR. TOLLIVER:

Thank you.

Well, let me make it more clear, Mr. Corrigan. Superintendent Speights came here from the Workhouse and he brought with him --- you know, there's nothing in the world that speaks louder than records. You have those records because they are in the evidence and in those records, what did Walter Washington say? And this was in December when he went to the Workhouse.

He said, "My address is ---"it's right in that record, Mr. Corrigan, "is 11113 Superior."

That's what he said. And let's go a bit further. We had a stipulation about what was said to the Sheriff when he came over from the Police Station over to the County Jail when he was being held for murder, and he gave it at that time, his name as Walter Brown, and that was in January of this year and you have that record and you will recall it, and he said at that time, Mr. Corrigan, "My address is 11113 Superior."

That was in January of this year and

lo and behold, that address was completely destroyed by fire July the 24th, 1968. It didn't even exist after July 24th and in August, they completely razed what was left.

You heard Mr. Singer from the City come and tell you that. So where was he living at then? What address did he have?

Mr. Laurie knew I was going to hit on that. That's why he prepared by saying he was running from the law, and, therefore, he had no address, so that's just a lie he told you. He wasn't living at 11113 Superior because the place didn't exist after July 24th, although in the Workhouse he said that's where he lived and he also said in the County Jail in December of '68 and January of '69. That's the first lie he told.

Now, we are going to get to some more lies he told. I asked him -- I said, "Well now, Mr. Washington, are you employed?"

"Yes.

"Where are you employed?"

"At Royal Paper Company.

"Where is that?"

I think he said, "Between 14th and 19th

on St. Clair Avenue."

"When did you begin working there?"

"Oh, around May or June."

That's what he said. And then I asked him -- I said, "Well now, you're so positive that you were at Ahmed's house on the 23rd of July and you can't remember when you started working?"

"No, I can't, but I'm positive about being in Ahmed's house on July 23rd."

So I asked him, I said, "Well now, since you're so positive you were there, what day was it? What day of the week?"

He couldn't remember.

I said, "Well, did you work that day?"

"No, I didn't."

"Did you work the day before?"

"No, I didn't."

"Did you work on the 21st?"

"Yes, I worked on the 21st."

Now, the 21st of July was on a Sunday.

So I asked him, I said, "Well, how many days a week do you work?"

He said, "From Monday to Friday."

I said, "You don't work on Sunday?"

"No, I don't."

But July the 21st was on a Sunday, so that's a lie he told. Let's get to some more lies he told.

He said he worked at the Royal Paper Company and lo and behold, when we get Miss Lottie Polinsky, the bookkeeper there, who said he worked two weeks in November. I think she said from about the 14th to the 25th or somewhere in that area.

So then what was he doing? How was he living? He wasn't living on air. He had to have a place to stay. He had to have food to eat. He had to have clothes to wear. What was he doing? He wasn't working.

Let's take it a little further. Then I asked him, I said, "Well now, is your mother alive?"

"Yes."

"Where does she live?"

"At 9909 St. Clair."

You remember he said that?

I said, "Do you have any brothers or sisters?"

He said, "Yes."

I said, "How many?"

He said, "One brother and two sisters."

I said, "Are they older than you or younger than you?"

He says, "I'm the oldest. All the rest of them are younger than me."

Now, you will see in the record that was brought over here by Superintendent Speights, they asked him what was his mother's name and he gave it and where is she? She's dead, that's what he said.

Then they asked him, they said, "Well, where do you live?"

He said, "11113 Superior.

"With whom do you live?"

He said, "My older brother," but on the witness stand he said he didn't have any older brother, that he was the oldest. This is what he said. These are some more lies he told.

Now, this is their witness they want you to believe, as Mr. Laurie said, disregard every lie he told except the one that he told on Ahmed. Believe that.

But everything else he said, you can discard that. So that's another lie he told. He

lived with an older brother. He didn't have one, that's what he said on the witness stand. His mother was dead. That's what he said on the witness stand, that his mother was alive, but in the report from Mr. Speights, he said his mother was dead.

Now, you know, this is what upsets me. You remember I told you that and the Court also instructed you that at a Grand Jury hearing, the defendant never appears. He has no witnesses there. He has no lawyers there. Nobody speaks for the defendant. You remember, I told you that.

Then it puzzles me how in August or September -- August, I believe when this defendant was indicted for this crime and the indictment you will have in your jury room, when they charged him with conspiracy, that at the time that this defendant was indicted, the only persons who could have talked to the police about a conspiracy were Walter Washington, Lanier and the other one that testified, Martin.

But they weren't even known to the police at that time. For Washington told you the first contact he had with the police was in December when he was in the Workhouse.

This is what he said.

Lanier said the first time he talked to the police was about the same time, and Martin said he wrote to Mr. Corrigan when he was in, from the Reformatory in November, and yet the Grand Jury came back with an indictment against this man for conspiracy, when the so-called conspirator or the one who talks about the conspiracy, Washington, wasn't even known to the police or the prosecution at the particular time.

So then it puzzles me this -- this way, Washington had a charge against him of first degree murder. He was bound over to the Grand Jury and the case was no billed in January. Now, remember the police contacted Washington in the Workhouse in December and they talked about him at that time and his relationship with Ahmed Evans.

Then in January, with no lawyer and nobody to speak for him in the Grand Jury, the case was no billed. Somebody must have spoken for him. The case was dismissed. The police thought they had enough on him, otherwise they wouldn't have charged him, yet the case was no billed.



Then this man Washington admits to three  
arsons, one on one hundred -- two on 105th Street  
and one to the St. Mark's Presbyterian Church --  
three of them he admitted. He sat up there and,  
"Yes, I did it. I pled guilty. Yes, I did it."

He also admitted to auto stealing.

Then I asked him, I said, "Well, did you have a  
lawyer?"

"Yes."

"Who got the lawyer for you?"

"My mother."

But in the Workhouse, he said his mother  
was dead. Now, then, after he testifies here  
against Ahmed, all of the charges that are pending  
against him in Juvenile Court are dismissed and  
he goes to the service.

Now, that, to me, stinks.

MR. LAURIE:  
vulgarity.

Objection to the

THE COURT:

Overruled.

MR. TOLLIVER:

You take a man  
who is an admitted arsonist. You take a man  
who is an admitted thief. You take a man who  
is an admitted criminal. Do miss all of his  
charges against him as a reward for giving perjured

testimony against Ahmed. And there is no question that we proved that this man committed this perjury, this Walter Washington. But he will never be charged with it, because that is his reward for telling a lie on Ahmed.

Then Mr. Laurie said something about, well, he's in the service --

MR. CORRIGAN: I object to this last statement, and ask the jury be instructed to disregard his statement, because perjury was not proven in any sense of the word, for the simple reason that the matters about which he said to the man out at the Workhouse and the sheriff's office was not under oath.

THE COURT: The objection is sustained. The jury will disregard the remarks.

Continue on with your argument, Mr. Tolliver.

MR. TOLLIVER: Let me be more specific. He lied about where he lived. 11113 - that was a lie. He said that on the witness stand. He lied about where he worked. He said that on the witness stand. He lied when he said he worked at the place that he didn't work at on the 21st, which was on a Sunday. He said that on the witness stand. That is perjury.

MR. CORRIGAN:  
Honor. That is not perjury.

Objection, your

THE COURT:  
Continue with your argument.

Overruled.

MR. TOLLIVER:  
under oath. I'll put it that way.

That is lying

THE COURT:  
argument.

Continue with your

MR. TOLLIVER:  
little further. As an army or ex-army person,  
I wonder, do they know that the boy that they  
inducted is a possible pyromaniac, you know, one  
who gets his kicks out of setting fires?

Now, let's go a

Because he set three of them and, of all  
things, set fire to a church. And you see, to me,  
this smells -- I won't use the other word,  
Mr. Laurie -- it smells because of the fact  
you're taking one man who is an admitted criminal,  
giving him a clean bill of health as long as he  
testifies, another man who says "I am not guilty."

Now, that is not justice. That is not  
justice. Why should he escape punishment for  
what he did simply because he's agreeable to be a  
witness against this defendant?

I wonder how the people at St. Mark's feel,

that the person that burned up their church got  
a clean bill of health?

THE COURT:

Mr. Tolliver,

we will have our morning recess at this time.

It will be about fifteen minutes, folks.

Observe the admonitions I gave you.

(Thereupon a recess was had.)

- - -

THE COURT:

Be seated, please.

Mr. Tolliver.

MR. TOLLIVER:

Also, ladies and

gentlemen, in perusing the record, I noticed that this witness of the State has used four other names besides his own, Walter Brown, Walter Ginals, Walter Banks, Joseph Train, and Billy Stewart - these are the names that he used.

And in further perusing the record, which you will find in your jury room, this is Defendant's Quadruple G, you remember --

Before I get to that, you recall that when Miss Lottie Polinski was on the stand, that she inquired of the defendant, you remember -- pardon me -- of Walter Banks -- I'm sorry -- that he looked so young, and he said, "No, I am in my twenties and I am married." Remember that?

He told her he was married, and then quit and got his money, because he said that he had to go to Detroit because his mother or grandmother was dying.

He is just a habitual liar. He is just a liar and will lie at the drop of a hat, especially if there is something in it for him.

Now, at the Workhouse, he said here,

and this is part of the exhibit, "Subject states he belonged to Ahmed's group of Black Nationalists, but he states he does not now."

Then, on the witness stand, he said the first time he ever heard of Ahmed was on the 22nd of July, and the first time he said he had ever seen Ahmed was on the 23rd of July.

But in the Workhouse report, when he is talking to the social worker, he said he belonged to Ahmed's group.

Now, on the witness stand, didn't he say he was a Black Panther, or that he belonged to the Panthers? But in the Workhouse report, he said he belonged to Ahmed's group, which is the Black Nationalists.

And why does this boy lie so much? Because he is trying to get out of jail, that's why he was lying for, because he knew, it was pretty obvious that if he didn't testify -- "lie," as far as we are concerned -- he was going to jail.

And if he did lie, he could go to the service. And the service was where he went. This boy, who is an admitted arsonist, a thief, a glue-sniffer, a liar, is the one that the State

wants you to believe so that you will send this man to the electric chair, behind that perjured testimony.

Now, let's go a little bit further.

The State has an advantage that certainly the Defense lawyers don't have. If I was to come in here with a witness and it could be shown that I had paid that witness or influenced that witness, they would charge me right away with "witness tampering."

But, now, what is the difference between my tampering with the witness and the State paying a witness? And you might as well say it is paid, because, if he is in jail and he knows if he does what the State wants him to do he can get out of jail, isn't that the same as paying him?

So, that's what you call "tainted" testimony. The Judge will instruct you, when you talk about a witness or any witness that takes the witness stand, or you talk about his candor, that is, how he appears on the stand, and his interest in the case, is he testifying because he wants to testify, he wants to tell the truth, or is it because he has got something to gain?

And if it is shown that he has got something

to gain, then you have to measure that and determine whether or not he is telling the truth or he is testifying to get something for himself.

Now, Walter Washington is now in the United States Army, because the Juvenile Court dismissed all the charges against him. And isn't it a strange coincidence that it was dismissed after he testified in this case?

I just don't believe that the State can cause an intelligent jury such as you to say the fact that when he said something about Ahmed wanting to shoot police and start a revolution, he was telling the truth; and that everything else he told was a lie.

Everything he said was a lie, because he was trying to save himself, and he found out, if he told this lie on Ahmed, he could get out of jail - and that's exactly what happened to him.

Oh, Mr. Laurie talks about juvenile delinquents and the charge against a juvenile is delinquency. Well, two of these defendants, as we told you, are minors - John Hardrick and Leslie Jackson. We told you they were minors.

They were indicted by the Grand Jury, even though they were minors --- and here is



Walter Washington, who has admitted to three arsons, auto stealing, glue-sniffing, but he was never indicted by the Grand Jury, he never got to the Grand Jury on those charges. And the one he did get to the Grand Jury on, it was conveniently no-billed.

Now, if this boy committed a crime, why should he get a clean bill of health when other people, when they commit a crime, they have to pay, they have to be prosecuted?

The answer is obvious. This was part of the deal. "Put a rope around this defendant's neck and you will go free," and that's exactly what happened.

Now, let's go a little bit further. They had another witness by the name of Thomas Lanier. Now, this was their witness, and what did Thomas Lanier say? Now, remember, Washington said that he left at noon and, when he came back to Ahmed's place, it was a day or two later, after Ahmed was in jail.

Now, Lanier was there until about 4:00 o'clock in the afternoon, he testified, and Mr. Laurie asked -- or pardon me, Mr. Corrigan, I believe, asked him to tell what happened.

And he said, "All we talked about was black history. There was some guns there and Ahmed showed us how to operate the guns, and we listened to records and talked."

And Mr. Corrigan asked him specifically, was there any conversation about money?

And Thomas Lanier said: No, there wasn't. Now, this was their witness, who is contradicting Washington. So now you have got an inconsistency between State's witnesses.

And when you resolve inconsistencies, they have to be resolved in favor of the defendant. For Thomas Lanier made a liar out of Washington, and remember both of these boys were State's witnesses.

Lanier said, that's all they talked about, was black history, about black people wanting their land, that "we listened to records, there were some guns there," but he said there was no conversation about money.

And Thomas Lanier did not testify that Ahmed said anything about there was going to be a pop-off or jump-off or they were going to shoot any policemen. That was what Thomas Lanier said. He never testified to that.

So you have got this inconsistency, do you not, between State's witnesses?

Then another witness testified -- well, many other witnesses testified, showing where certain things were bought and from where they were bought. And let me say this while I am thinking about that: Mr. Laurie says, whether or not we are going to deny that Ahmed bought the guns.

Of course, we are not going to deny it. We wouldn't insult your intelligence to stand up here and say he didn't buy these guns. Yes, he bought them. And a strange thing about it is this. Here is a man that they would tell you that is buying guns for the purpose of killing policemen - this is what they would have you believe.

Yes, this man, in his dashiki, with the beard, goes to all these places himself, personally, and buys these guns. He signs his name; in fact, Mr. Adams, I think his name was, who was from the store that is out in Mayfield Heights, you remember, he said that in order to buy a gun it is an ordinance in the Mayfield Heights district that you have to sign a statement to the police

department, giving your name and your address.

Now, can you imagine a man that is going to kill policemen, who is buying guns for that purpose, is going to go some place and sign a statement for a police department?

Now, that just doesn't make any sense.

If he is going to do it, there are other ways he could buy these guns. He could have sent somebody else or sent through the mail, and I asked each one of these persons, I said, now, is there anything illegal about buying guns?

No, that's what you are in business for, aren't you? Yes. To sell things and make money. Isn't that right? Yes.

And when he came in, you asked him to identify himself. Did you have any trouble with him?

No.

Did you have any difficulty with him?

No.

Did he readily give you his name and address?

Yes, he did.

How did you ascertain what his name and address was?

He showed us his driver's license.

And on every one of these exhibits that they are required to ask where he lived and who he was, you will find he gave his right address, he gave his right name.

Now, yes, they are going to tell you that he is buying these guns to kill policemen, and he is going out there making himself that conspicuous. That just doesn't make any sense.

Now, another witness they had was Miss Schepperd. Let me get to McMillin, and I will come back to Miss Schepperd, and if I jump back and forth, you forgive me, because that's the way my mind works sometimes.

Now, Mr. McMillin is a tow truck driver, who claims and states in this Court that Ahmed Evans shot him. Now, let's examine his testimony.

First of all, I asked him when did he identify Ahmed as to the day, who shot him, and he said two or three days later, the police came and brought some pictures, and you remember he said he picked Ahmed out of those pictures; and I asked him how many other people in the other pictures had beards, and he said he didn't remember how many of the other people had beards, but he said as soon as he saw Ahmed's picture, he recognized him.

Remember, he is not charged with shooting McMillin, and as far as this case is concerned, he is charged with murder; McMillin is not one of those; but let's discuss it for the sake of discussion, because it was relevant to what happened, and that is why the Court permitted

McMillin to testify. McMillin said he couldn't tell, first of all, he said, well, he was six feet tall, and you remember when I read the deposition to him, he said he couldn't tell how tall the man was that shot him. Remember that?

He said, well, he was six feet tall. I said, did you make a statement to the police and you have the statement as part as the evidence. He said yes, I made a statement, and in that statement, did you tell them he was six feet tall? Yes.

I said are you positive and he said yes, I am positive. So we got the statement from the Prosecutor. Lo and behold, in the statement he didn't say anything about the defendant or the person that shot him being six feet tall -- didn't say anything about it -- but he remembers he said he was six feet tall; but at his deposition at which Mr. Laurie was present in this court building, I asked him under oath, I said, how tall was the man?

He said, I don't know. But on the witness stand, he said he was six feet tall; and I asked him, I said -- well, now the fact that the

defendant is six feet four, would that make any difference to you? Oh, just four inches, that's all, he said. That's a whole lot, and I asked him, I said, was the man that shot you as tall as you?

He said, a little taller. Well there is a big difference between a man six foot four and a man five foot eleven. That's a big difference, not a little difference. He said the man that shot him had a beard, and had a pointed chin.

Has Ahmed got a pointed chin? You look at him. He didn't put that in his statement, that the man had a pointed chin, but he did say that it was the defendant; and then I said, well, how close were you to this man?

Remember now, he said he was close enough to the man that he could talk to him, that they were having a conversation at the time that the man came up to the truck where he was. They were having a conversation.

You remember there was some vulgarities used -- you are one of the so-and-soes putting away the car -- he said, I am not armed, why are you shooting me? He said the man was from



five to fifteen feet away, and I measured off fifteen feet, which is about here (indicating). It was broad, open daylight, you remember that, he said it was daylight, you remember that, he said it was daylight, and I asked him, I said, you mean to tell me that the man was fifteen feet from you and you can't tell us what he had on? And he said no.

I said, well, did he have a hat on? I don't remember. Well, was he bald-headed? Well, he couldn't even remember if the man had hair on his head. This is what he said.

Well now, I asked him -- I said, well, now you can't tell us how he was dressed, what he had on, and he said no.

Now why did I ask him that? Because this defendant had on a dashiki, which is the same kind of a garment he has got on now. Well, you see, that's unusual, that's not a typical kind of clothing. That's unusual, and being fifteen feet away, and talking to a person over a period of a couple of minutes, as he testified, so he should have been able to tell what kind of dress the person had on that shot on, especially when you're dressed

like this. He had a dashiki on and a tiki around his neck.

Now, these things are pretty obvious. You can't miss a thing like that, and yet McMillin said he couldn't remember what he had on; and then you remember we went into the State's evidence and we got to the dashiki that the defendant had on, and I walked over and showed it to him; and I had the tiki and I showed it to him.

I said have you ever seen these before? And he said I have never seen them before in my life. Well, that's what the defendant had on. Yet, he said he had never seen them; but yet, that's a positive identification, the State would have you believe, of the defendant.

Then, through Mr. Young, we were able to get the people from the hospital who waited on him. Now let me explain a little something to you.

We have the rule called the res gestae rule which is a simple thing, let me see if I can illustrate it to you.

I had a case where a man was shot by

his wife, and it was what you call a triangle. There was a divorce pending, and she had a boyfriend and the husband walked up on them one day, and they got in a fight.

The husband pulled a gun and the wife, when the gun fell, the husband was shaking the boyfriend, and the wife shot him; so when the people gathered around to talk to him, he said, "My wife shot me; my wife shot me; my wife shot me."

Then, a little later on, when he had a chance to reflect, he figured, well, now, I can get my wife back and get rid of my competition by saying John Jones, the boyfriend, shot me; so by the time he became conscious and the police talked to him, he had changed his story, you see, to say that John Jones shot him; so when the matter came up to Court, the wife, for some reason, couldn't or didn't testify. I don't remember now, and it came up in front of Judge Hoover.

The witnesses that heard him make the statement that, "My wife shot me," testified. Well, you see the res gestae rule is very simple. That while this particular incident is still

fresh in your memory and still fresh in your mind, you tell the truth; you tell what happened to you, before time has passed for you to think of some other story.

So what happened when this particular case came to trial, these witnesses told what they heard this man say, "My wife shot me," and the Judge dismissed the case against this defendant.

Now, how does this compare with McMillin, when he is in that hospital, after this thing has first happened to him? What does he say?

First, the nurse asked him, well, Mr. McMillin, who shot you? I couldn't tell, there was so many of them; I couldn't see anything. And they asked him this three, four or five times, and each time he said I couldn't tell who shot me. There were so many of them, I couldn't see. That's what he said.

Then the orderly was in there and he heard him say it. He testified to the same thing. He said he couldn't tell who shot me, I couldn't see -- there were so many of them. That's what he said.

Then the X-ray technician got up and he said to the X-ray technician the same thing: It was a bunch of them, I couldn't see who shot me. And the strange thing is, he kept jumping off the table -- and this is what she testified to -- wanting to use the phone to call the police? No. To call his wife? No.

But to call Paul Sciria so he can get his name and picture on TV. Isn't that what she testified to? And she must have been telling the truth, because they didn't ask her any questions, the X-ray technician, on cross-examination, they didn't ask her one question.

When she got through testifying, she got out of here, because they were scared to ask her any questions. She was telling the truth.

"Call Paul Sciria so I can get my picture on TV."

Here is a man that is supposed to be so scared and shocked, he is thinking about getting on television, so he was -- so when he testified here that he is now positive that this defendant shot him, he just wasn't telling the truth. That's all there is to it.

He told the truth in that hospital, and do you notice one other thing that was so strange?

You know, we have what we call "rebuttal," after the witnesses have testified the State has the right to call people back to rebut whatever our witnesses say. You notice they didn't do it?

I thought they were going to call McMillin or somebody back and rebut, what these people said at the hospital, but they didn't do it, because the people from the hospital are telling the truth.

Oh, much will be made about the nurse who read the report, and she read the report and she said from the report that the only wounds she could see that McMillin had were shotgun wounds.

And the doctor came in and said: no, there were other wounds, other than shotgun wounds.

Well, she is a nurse, she is not a doctor. That's an honest mistake. But they didn't rebut the other part of her testimony when she told what McMillin told her about he didn't know who shot him, he couldn't see.

And another thing that is awfully strange to me, didn't McMillin have a partner by the name of Roy Bensley? Didn't he have a partner? He never testified in this case, though, did he? He is conspicuous by his absence.

Why didn't Roy Bensley testify in this case?

Because he couldn't support McMillin, that's why. Your common sense will tell you that, because you know, as bad as they want to hang this man, if Roy Bensley would have had anything to say that would have supported this conspiracy against this defendant, that's what the conspiracy is, he would have been here.

But he didn't testify, did he?

Then, another thing, let's talk about Mr. McMillin some more. Another policeman by the name of Horrigan, you remember he testified, that he heard the calling out that the tow truck was in trouble in this area right here (indicating), you remember, and he came up with his partner right up around here somewhere (indicating), and he got out and they were shooting at him. Remember that?

And he said he saw a man chasing McMillin, this is a policeman now, he saw a man chasing McMillin, who was dressed in a black robe and had sunglasses on - that's what Horrigan said.

But McMillin said that the man who shot him, and he identified him as the defendant, didn't have glasses on. That's what McMillin said.

Now, Horrigan, if you recall, was a part

of this special task force that had been surveilling in this area, and he testified that he had seen Ahmed Evans at this address, 12312, about an hour or so before.

Now, surely Ahmed Evans was fresh in his memory, and yet, when he got over here (indicating), the man that he saw chasing McMillin down here (indicating), he said he couldn't identify him.

And you know, if that had been Ahmed Evans he saw chasing McMillin, he would have told you.

Now, the other lady, the person, the witness they brought in, was Miss Schepperd, and they would have you believe she was scared to identify the defendant. And if I ever saw a strong woman in my life, she was it.

Remember what she said? She said, "I was reading my Bible and, when all this was happening, my tenants got upset, and I told them, don't worry, the Lord will protect us," and she said, "I am not going to let it bother me; let them fight it out themselves." And she went to bed.

Does that sound like a scared woman, to you?

What did she say? She said she saw four men chasing McMillin. She said, two were across



the street -- not chasing -- let me rephrase that.

She saw two men across the street.

She lives at this house right here (indicating).

She saw one at the corner of the house, and she saw one up on a garage, I think, here (indicating), and they were all shooting at McMillin.

Isn't that what she told you? And she described the man that she saw at the corner of the gate, she said, "He was from 20 to 25 years of age, he was about 5 feet 8 inches tall," remember that?

"He had a black robe on and a black head," and she said he was a very handsome black man. You remember she said that?

And what else did she say? She said that "that man's face is in my memory."

And when asked by the prosecution, "Was he in this courtroom," she said, "No, he isn't in this courtroom."

MR. LAURIE: Objection.

THE COURT: Overruled.

MR. TOLLIVER: That's what she said.

Now, you will see the protocols of Leroy Williams, and Sidney Taylor. Now, those two

protocols correspond with the description she gave of the men she saw. Now, remember, Leroy Williams' body was found over here (indicating), in this area somewhere, and surely the man she saw could not have been the defendant, because he is not from 20 to 25 years of age; he is about thirty-eight. He is not 5 foot eight; he is 6 foot four.

MR. LAURIE: Objection.

There is no evidence as to how tall he is.

THE COURT: Overruled.

MR. LAURIE: Not a bit.

MR. TOLLIVER: Stand up.

MR. LAURIE: Objection.

THE COURT: Objection over-

ruled.

MR. LAURIE: At this time?

MR. TOLLIVER: I am 6 feet tall.

MR. CORRIGAN: Objection.

MR. TOLLIVER: The jury can see

that I am 6 feet tall.

MR. CORRIGAN: Objection.

THE COURT: Overruled.

MR. TOLLIVER: You see how much

taller this man is than I am?

Have a seat.

When they say there is no evidence as to how tall he is, that insults your intelligence.

MR. LAURIE:

Objection.

THE COURT:

Overruled.

MR. TOLLIVER:

You can see this man, you can tell how tall he is. I have got to prove he is 6 foot four? You can't see? You don't have eyes? You judge if he is 6 foot four or not.

And the man that Miss Scheppard saw can't be this defendant. He is not 5 feet eight. He is not from 20 to 25 years of age. And whether he is handsome or not, I will leave that up to you.

MR. LAURIE:

Objection.

THE COURT:

Overruled.

MR. TOLLIVER:

So that man was not the defendant.

And when she said that he wasn't in this courtroom, the man that she saw, she was telling the truth, because the man she saw isn't in this courtroom, and they would have you believe that she was scared to tell it was the defendant.

And something else comes to mind, now that I think of it -- I am getting ahead of myself.

but I have to tell it as I think of it.

When Jean Grisby was on the stand, wasn't there some mention made by Mr. Laurie about "did a white woman come in your bar, with a wooden leg" - was he talking about Miss Schepperd? Simply because she wouldn't tell a lie on this defendant?

MR. LAURIE:

Objection, your

Honor.

THE COURT:

Sustained.

The jury will disregard that last remark.

MR. TOLLIVER:

Now, the next

witness --- oh, let me get into something else, about the identification.

In the face of all that discrepancy, in the identification of the defendant, as the person who shot McMillin, you are the jury, and if you still believe that he shot McMillin, in spite of what we feel or a lot of discrepancies, then I say to you this, remember he is not on trial for that. He is on trial for murder; but we are showing you discrepancies because we want you to see how desperate the State is to convict this man.

Then we have the testimony of the police officers who arrested the defendant, Detective Stoiker and Detective Shankland; and the evidence showed that the defendant came out and surrendered and that he was bare-chested and that the officers who arrested him were all white officers.

Now Patrolman Starr said this, he saw the defendant when he was arrested and I will just let you know that the officers -- he said he saw the defendant when he was arrested, that he surrendered to two colored officers, that's what he said, and that he had a robe on.

MR. CORRIGAN:

Objection.

THE COURT

Overruled.

MR. TOLLIVER:

That's what

he said, and if you remember correctly, I asked Detective Stoiker and Shankland, one of the two, about Patrolman Starr's testimony, and they reiterated that he had nothing on his body. He had his pants and sandals on, but had nothing up here and no white officers in the area -- I'm sorry -- there were no black officers in the area at the time Ahmed surrendered, and what did they say Ahmed told him?

He said they gave him his Constitutional rights, and what have you, and he asked them, how many of my men are dead? And they said three or four; and he said, "That's too bad; they died for a good cause."

And when that was mentioned by Mr. Laurie, he said something very curious. He said, "Whatever that meant."

Now if he was talking so freely, as they say he was, if he was talking so openly, as they say he was, why didn't they ask him, "What do you mean? What is the cause?" But they want you to speculate that he meant by the cause

to shoot policemen; as a result of the conspiracy on July 23rd; but they didn't ask him what he meant.

Now, if I may get ahead of myself, he claims as he talked to -- what was his name -- Dick Feagler from the Press, he claimed that he told his brothers to arm themselves, because the beast -- and that's what they called the police -- and I may digress for a moment and say, you know Sergeant Ungvary and some others would say when they use the term beast, they meant white people, and this was to arouse prejudice in them; but when he said he used the term beast to the news reporter, Dick Feagler, he was talking about the police, and because they have got both black and white police, it is still a derogatory term that I don't agree with, but I will get to that later; but anyway, he said, arm yourselves.

Then what happened after that was chaos.

Now, Evans, if you take everything that they said he said literally, does this show that there was a conspiracy to kill police? Let me see if I can develop that a little further.

Now he had the impression, as he told

Mr. Feagler, that because of an experience that they had down in Akron, where people were gassed and brutalized by the police, the same thing was going to happen to them, and Mr. Laurie says that was just an imagination -- the police weren't going to do anything to them.

Let's take that statement by Mr. Laurie and let's say for the sake of discussion, that he was absolutely wrong at the time that he gave the order to his brothers or his followers to arm themselves; that the police weren't going to bother them.

Let's say he was absolutely wrong in that. That still isn't a conspiracy. If, in fact, he gave an order for them to arm themselves and he said he ran out in the street and there was shooting at each other, that is not a conspiracy. That's a spontaneous eruption, and every person that shot somebody would have to be responsible for what he did. That's not a conspiracy.

So then, another question was asked of him by Amos Floyd. He said, what did you accomplish; and he said this is only the beginning. Not that, "You haven't seen



anything yet," Mr. Laurie, but, "This is only the beginning."

What did he mean by that? Nobody asked him. And you are left to speculate what he meant; and if you have to speculate, that means it hasn't been proven. Now he was there in their custody. Why didn't they ask him, "What do you mean, this is only the beginning? What do you mean, they died for a good cause?"

They didn't ask him; but they want you to say that those words prove a conspiracy; and they did not, because nobody asked him what he meant. Was the fact, when he told them to arm themselves, was this a defensive thing as far as he was concerned, that he thought they were being attacked?

Even if he was wrong, did he think they were being attacked? If so, then that is not a conspiracy. The people then who did the shooting or did the killing, each person has to stand for himself; or, as my grandmother said, "Each tub has to rest on its own bottom."

Let's go one step further. This police officer, I forget his name, who was driving the car escorting the defendant downtown, he says

that he heard two policemen give him this Constitutional rights, two patrolmen. He couldn't remember who they were, because he knew he wasn't supposed to talk to the defendant unless he was aware of his Constitutional rights, the defendant, that is. And he said he couldn't remember who they were.

And I asked him if one of them was black, and he couldn't remember whether one was black or white; but Floyd was with the defendant prior to the time that this officer took him downtown, and you remember Officer Floyd said he did not give him his Constitutional rights, neither he nor the other patrolman that he was with.

He heard one of the detectives, presumably Stoiker or Shankland give him his Constitutional rights, but this other officer who brought them downtown said he heard him give him his Constitutional rights; so let's take everything the defendant said, because I doubt that -- I don't see how he took it upon himself to question the defendant, he is driving the car and the other two officers are sitting in the back and didn't ask him

anything. That's tainted to me, but let's take it for what it is worth.

He told the officers, according to this officer, that he was smoking reefers and he said, "I am not yellow; I stopped shooting because my gun jammed." And he is supposed to have also said that if my gun hadn't jammed, I would still be killing police officers.

The Judge will tell you in his charge that there is no evidence that he killed anybody.

MR. LAURIE:                      Objection.

THE COURT:                      Counsel, come up.

(Whereupon a discussion was held between Court and counsel, outside the hearing of the jury and off the record.)

THE COURT:                      Proceed, proceed with your argument. Rephrase the statement, Mr. Tolliver.

MR. TOLLIVER:                  All right, Judge.

There is no evidence that you ladies and gentlemen have heard in this case that this defendant killed anybody; and in fact, Mr. Laurie said it when he was arguing, that there was no evidence that he directly killed anybody.

That was the term he used; and let's go

a little bit further. Let me see if I can illustrate that, Mr. Laurie.

MR. LAURIE:

Do that.

MR. TOLLIVER:

I shall.

MR. LAURIE:

Thy.

THE COURT:

All right, boys,

go ahead with your argument.

MR. TOLLIVER:

They have Mr.

Kovacic, who is one of the finest ballistics experts in this country, a very fine officer.

They test-fired State's Exhibit 190, which is the rifle that Ahmed Evans had on that night. Now you search your memory. Did they bring in one bullet that came from any dead policeman that they found was shot from that weapon?

The answer is no.

Did they find one bullet that came from any person that was shot and wasn't killed that came from that weapon?

The answer is no.

So there is no direct evidence that this defendant killed anybody. Now this is important, so if, when he gave this command that they are saying, that he told Mr. Feagler that he did,

"Arm yourselves, and what followed after that was chaos," that is not a conspiracy. That is a spontaneous eruption of violence; and every person that shoots or kills somebody has to stand trial individually for that.

"Conspiracy" is when you prove that there was an agreement beforehand to kill people, and that people were killed as a result of a conspiracy. Well, they haven't proven by evidence, this is my opinion.

You ladies and gentlemen, of course, are judges of the facts. They haven't proven by evidence beyond a reasonable doubt that this defendant conspired to kill anybody, and I told you, in the beginning, yes, he is a Black Nationalist; yes, he associates with Black Nationalists, and it might well be that some of the persons that he is associated with and whose names are on that exhibit, on the payroll, as Mr. Laurie called it, might have killed somebody, but that doesn't mean he did it.

There has been no showing of a conspiracy. Now, let's go a little bit further.

Mr. Laurie talks about "being fair." Here was Mr. Turpin, a man who, himself, is a special policeman. The defendant took refuge in Turpin's home, up in the attic.

Two days later, Mr. Turpin gave a statement to the police as to what happened.

He went to the morgue and identified the man

that he saw shooting down Lakeview as the tow truck. He said he went to the police four or five times and gave them statements.

Mr. Corrigan called him, and he gave him a statement. Now, he didn't have to, he wasn't subpoenaed. Mr. Corrigan called him and said, "I want you to come down," and he came down and he gave a statement.

You talk about being fair. They wouldn't even call him as a witness. If we hadn't found him, you wouldn't even have heard from him -- and this is important -- this is the man whose house the defendant was in, yet the State didn't call him as a witness. Why?

Because his testimony might have helped the defendant, that's why they wouldn't call him. But we called him. And yet they will talk about, yes, their own witness said they saw him coming over the fence with a gun.

Well, he really should have been their witness, because they know about him before we did; but we subpoenaed him. Anyhow, we are not trying to hide anything from you.

But Turpin said, definitely, the persons that were shooting at the tow truck, none of them

was Ahmed. And what else did Turpin testify to that is so important?

Now, Mr. Laurie said this man was a coward, that he ran and was trying to get out of the way, that's why he was doing this.

What was the reason that Turpin said that Ahmed gave him for wanting to surrender? He says, "I want to surrender because I want to stop the shooting and burning."

Now, if he was a coward, all he had to do was go up in that attic and hide. But Mr. Turpin said he came down at least three or four times and told him, "Call the police, I want to surrender to two black officers; call the police, I want to surrender to two black officers, to stop the shooting and burning."

He was of the opinion that if he gave up everything would stop, which would mean the shooting at policemen and the police shooting at other people, and the burning and whatever else was happening - that's why he wanted to surrender.

He could have stayed up in that attic; he didn't have to tell them he wanted to surrender, three or four times.



In fact, all he had to have done, if he wanted to reflect, he was up there several hours, he could have sneaked out of there and got away; but he stayed in that attic, and he kept telling them, "call the police; I want to surrender, because I want to stop what is going on."

Now how is that corroborated? Superintendent Speights came here and told you that he had had these conversations with Turpin, and how Turpin told him that Ahmed was up in the attic and he wanted to stop what was going on; he wanted to surrender; and they both called the police several times, come over here and get this man.

And for that, you know what they say, that Mr. Turpin is trying to hide something; he is trying to protect the defendant; and what else could the man do? He has done everything a decent citizen is supposed to do.

He called the police; he gave them statements; he went to the Morgue; he even gave Mr. Corrigan a statement, and they would have you believe that Turpin isn't telling the truth.

Now another question that arises is  
who and when and where --

THE COURT: Mr. Tolliver,  
probably this would be a good time to recess  
for lunch.

MR. TOLLIVER: Yes, certainly.

THE COURT: We will recess  
until 1:15.

When you are out of the court room,  
observe the admonitions that I gave you before.

(Whereupon the noon recess was taken.)

FRIDAY AFTERNOON SESSION, MAY 9, 1969

THE COURT:

Mr. Tolliver.

MR. TOLLIVER:

Ladies and gentlemen,

another witness that testified, if you recall, was Sergeant Ungvary. And Sergeant Ungvary testified that he had had several conversations with the defendant, back in '67, '68, and he had admitted that he hadn't made a report on what Ahmed had told him but he was recalling it from memory.

And, as Mr. Laurie said, that Sergeant Ungvary said that Ahmed had made certain predictions about blood flowing in the streets of Cleveland.

On cross-examination, Sergeant Ungvary admitted that Ahmed was an astrologer and that he talked a lot about stars, and that he wasn't intelligent about astrology and he wouldn't talk to him about it, about the stars.

Then, if you can recall, I asked him, I said, "Well, then, isn't it a fact that the things that Ahmed predicted was his conception of what the stars revealed?"

And he said, yes, he admitted that Ahmed's predictions about blood flowing in the streets, and revolution, and what-have-you, was a prediction

that he based on the stars, himself. This was one prediction that was asked about that Ahmed had made that denoted some kind of violence.

And then Sergeant Ungvary admitted this particular prediction didn't come true.

And then I asked him about, what did he mean by "the beasts," and I said, "Now, in the book of Revelation, in the Bible," I said, "they speak of a beast." I said, "Is this the beast that Ahmed was talking about?"

He said, "No, that's not the beast that we're talking about."

I said, "Well, then, Sergeant, can you say that when he referred to the beast that he wasn't talking from a biblical translation?"

And he honestly admitted, he said, "No, I cannot." Because, he said, "I don't know anything about the Bible and I can't talk about it."

So these predictions that the prosecutor talks about were predictions that Sergeant Ungvary admitted were based on Ahmed's study of the stars, for he is an astrologer. He deals in astrology, and these predictions are made by him as an astrologer.

I will say this. There is a lot of people

who have made predictions about racial conflict in this country, and God knows, I hope it never comes true, but there are a lot of people who make the prediction and, you know, I guess, what is it -- Voltaire, the French philosopher, who said, "Sir, I may not agree but," you know, "with what you're saying, but I will fight to the death for your right to say it."

So these predictions that Ahmed made, he had a right to make the prediction.

The question is, that Mr. Laurie has raised, did he try to carry out this prediction? And, of course, the State says he did, and we say he did not.

Now, may I digress just a moment.

Mr. Laurie advanced a very interesting theory, with Dr. Cyril Wecht. It's pretty obvious, when Dr. Wecht made an impression on Mr. Laurie and he tried to advance the theory that James Chapman, the wound that was in his head that caused his death was made by a tracer bullet.

And, of course, it sort of caught me off guard, I must admit, that he would come up with that theory, with a pathologist, when he never developed that theory with Dr. Adelson, the State's pathologist, the one who examined Chapman and who

made the autopsy.

Dr. Adelson was never asked anything about a tracer bullet, whether a tracer bullet caused the wound. They didn't ask him that. For, Dr. Adelson admitted that the only thing that he could say was that, in his opinion, the wound was made by a bullet from a high-powered weapon, and he couldn't give any estimate as to how far away the weapon was at the time that it was fired.

Well, the fact that Dr. Wecht had some disagreement with Dr. Adelson doesn't mean that there is any disrespect. Lawyers disagree. There are times when Judge McConagie might have made a ruling and I disagreed with him. But it's a disrespectful agreement. We can disagree and still respect each other.

And I'm confident that Dr. Wecht and Dr. Adelson may have some disagreement, as doctors, and yet they are respectful.

Now, this neutron activation test, it seemed that there was some question as to whether or not it was testified to by the State that these particles from the bullet were in the brain and I read to you from Page 204, when I was cross-examining Dr. Adelson.

"Question: Now, it was my understanding, Doctor, that there were some X-rays taken, is that correct, sir?

"About whom are we referring?

"Question: James Chapman.

"Yes, we X-rayed Mr. Chapman's head.

"And were there some fragments found?

"In the X-ray, the radiologist -- X-ray specialist -- reported fragments of bullets going through. I have his report here. Would you like to see it?

"Yes.

"(Document handed to counsel.)

"Answer: When the bullet passes through tissue, little pieces of bullet -- this is signed by Dr. Gene Kaufman, X-ray specialist, and on the staff of the Lakeview --" parlor me, "Lakeside Hospital. He said, 'The AP, anterior-posterior view of the skull' -- that

means shooting X-rays front to back up --  
'shows extensive fractures of the calvaria,'  
that means the rest of the skull was broken.

"Multiple small (millimeters), which  
means they are less than 1/25 of an inch in  
size, many densities representing fragments  
of bullets."

This is what he said.

"He can't say one or more. Conclusion:  
Fracture of calvaria with bullet fragments."

So that the doctor said that there  
were fragments of the bullet in the brain of  
Chapman. Now, this is what Dr. Adelson  
said.

Now, then I asked him -- I said, "Well,  
now, Doctor, is there such an examination or  
test called the neutron activation analysis?"

I asked Dr. Adelson that.

"Answer: I believe that is some type  
of chemical analytical test, physical chemical  
test.

"Question: What would be the purpose  
of that test?

"I don't know too much about it. It's  
really a test that is done by chemists and



physicists. I've never done it or had it done. I'm not sufficiently familiar with it to discuss it really intelligently," this is what Dr. Adelson said.

Now, this makes me respect Dr. Adelson even more because he said I heard of it but I'm not familiar with it. This is an intelligent man that admits what he doesn't know. Then he goes on and I asked him:

"Well then, could you tell us whether or not this test was conducted on the fragments found in the brain of James Chapman?

"Answer: There was no test done of fragments. In fact, I recovered no fragments. The fragments are dust-sized, really. They are so tiny you couldn't recover them.

"As I felt through the brain and examined it, I couldn't see anything that I could grasp and recover comparable at all to what I found in Mr. Wolff. These are tiny things, almost like flour, little tiny things, pinpoint size."

"This particular test, that neutron activation analysis, wasn't made?

"Correct."

Now, it is the opinion of Dr. Cyril Wecht, our pathologist, who is familiar with this test -- now, this doesn't make Lester Adelson, as I always call him, Dr. Adelson, less of a doctor because this is something he is not familiar with.

There are some facets that the Judge knows and I don't know. There might be some phases of the law that I know and he is not familiar with, but that doesn't make him less a lawyer. We are both still lawyers.

The fact that Dr. Wecht knew about this test and Dr. Adelson doesn't -- then why downgrade Dr. Wecht? He didn't say that this was a guaranteed thing that you'd find the killer. He didn't say that. He said that this test was available; that if you took all of the fragments and all of the tests from the weapons that you have here, in other words, you test-fire every one of these weapons and you take those test-firing pellets, along with these fragments from the brain of Chapman and send them to this laboratory in California, they would be able to tell you whether or not

in fact, this bullet or these fragments came from any of these guns. That's what he told you.

And he said that the Coroner's office of Cuyahoga County never sent it. That's what Dr. Adolson admitted. It doesn't mean that they were going to find out who killed Chapman because, perhaps, these fragments and this test shot from the rifles that they would send out there wouldn't match these fragments at all, you see.

But what he is saying is that the test was available.

Then, why did he say this? Because it is the prosecution's responsibility to get the truth and, if these tests are available, he felt that they should have availed themselves of it.

Now, there was no malice necessary on the part of Dr. Adelson not to submit it, because he didn't know about it. He's not familiar with it. But why downgrade Dr. Wecht because he suggested something that we don't know anything about? This is what you call progress.

I'm glad he mentioned it, and I hope in the future, if this test is available, that our pathologist from our coroner's office will make it available to them. For, you see, in any criminal trial, you want the facts. You want the truth.

And if, in fact, one of these pellets came from one of these guns and this test can reveal it, you are entitled to know this. And if, in fact, all the guns are tested and it is found that no pellet from the gun killed James Chapman, then you are entitled to know that, too.

And this is all Dr. Cyril Wecht was trying to say. It may have helped and it may not have helped, but one thing you would have either cleared these weapons or it wouldn't have cleared them -

which is a thing we have a right to know.

And so they go into all of this big dissertation about how long it took the doctor to make his analysis. Well, remember, he didn't perform the autopsies. The autopsies were already performed. The X-rays were already taken. These things were already done.

All he had to do was to come in and review what the other doctors had done and, on this X-ray slide, he could see the particles that were taken from the brain of Chapman and, in his opinion, they were sufficient in number to be subjected to this neutron activation test. That's all there is to it. And they make a big thing out of that, that that is some kind of wonder, coming in, telling us how to run this county.

Any person, and I am sure, knowing Dr. Adelson as I do, is open to suggestion, and any time I find a lawyer, I don't care who it is, that knows something that I don't know and I need to know, I want him to tell me, because this is how we improve ourselves, by talking to people who know things that we don't know.

And for that, Dr. Wecht is criticized, simply because he is familiar with the process that

Dr. Adelson isn't familiar with.

Then he went on to testify about the alcohol in the blood of the police officers, and how he said that no police officer with that much alcohol in him could perform as an officer.

Well, how does that differ from what the other two doctors said? It doesn't differ that much. One said that, as far as Golonka was concerned, with the .19, that was Dr. Hoffman, he said that he could perform but his reaction and his performance would be diminished - that's what he said.

And, of course, Dr. Hoffman agreed - .25, you're drunk.

Dr. Adelson said, no human being with .19 or .25 in their system could do a job that they were supposed to. No human being could function with that much alcohol in them.

So where is the big disagreement? Basically, they all agree.

Now, another problem we had is: When was the first shot fired, and who fired it, where was it fired?

Now, you recall Mr. Boone, who lived over here in this area (indicating), testified that while he was watching television, around 8:00 o'clock,

he heard some shooting. At first he thought it was coming from his TV -- remember he said that? And then, after a while, when he kept hearing it, he went out to see what was happening and he saw two negro youths with rifles jump over the fence and they were running from something.

And then he said he saw police with rifles. Now, this is around 8:00 o'clock, between 8:15, and he said, up in here (indicating), he said he saw police with rifles, because Mr. Fleming asked him, he said, "How do you know it was a rifle?"

Then he went into the fact that he was a serviceman; that he said, "How do you know that it wasn't a shotgun?" He said, "I was in the service and I know the difference between a shotgun and a rifle."

So, in this area (indicating) he saw police with rifles.

And then he was asked by Mr. Fleming:

"Well, did you see any civilians doing any shooting?"

He said: "No, the only person I saw doing the shooting were police officers who had rifles and shotguns." That's what he said.

Now, you remember it was always testified to that the only persons who had high-velocity weapons,

at least in the beginning, was the Black Nationalists.

And going back to Patrolman Starr, you remember he said about 7:45 or 7:50, there was a broadcast on the radio that all persons with high -- policemen, that is, with high-powered rifles, to get to this particular scene. You remember he said that?

And he said he had a carbine and he came over. Sergeant Kovacic, a very fine officer, testified, when he arrived on the scene, he saw at least four or five police officers with high-velocity weapons, and he also saw police officers with submachine guns.

So, we know that the police had high-powered rifles. Two of them testified here. One said -- well, we know there were three, because Lieutenant Jones had one. Then there was testified to by another officer, Wood, that he brought his rifle. And then Starr said he brought his. And then Kovacic said there were other officers there with high-powered rifles.

So then the question comes down to this:

Who killed James Chapman? Nobody knows.



Now, our doctor, the one that they disagree so much with said that whoever killed him, held the muzzle of the gun no less than two inches and no more than six inches from his head when the weapon -- when the bullet struck him. Now, that's what he testified to.

Now, we know that Patrolman Gibbons, when he arrived on the scene with Patrolman Wolff, you remember he said a detective was beckoning for him and on the ground there was a Negro man and that this detective was holding him down with a gun.

Then Patrolman Gibbons said that this detective told him to keep this man down here, and then he left. And this was right in front of -- right in this area here (indicating), by the fence. This is what Gibbons testified to.

Now, who was that man that was lying down on the ground, that was being held by that detective with a gun? Was that Chapman? Chapman was later found in that area.

Gibbons said that he got shot and he doesn't remember what happened after that, but who was that?

Now, they're saying that this defendant,

his cohorts, to use Mr. Laurie's terminology, are the ones that killed Chapman.

Now, we don't know where Chapman got killed. We don't know when he got killed. They know when his body was found, but nobody saw Chapman get killed. Now, when they found his body, there's no testimony how long he had been dead. There's no testimony by anybody that they saw him fall, in there?

So now who killed him? In a scene like this, where there is a lot of shooting going on between the Nationalists and the police, it's hard to tell who did what killing with all of these bullets flying around like they were.

When you talk about James Chapman, there's no evidence that this man even knew who James Chapman was. There's no evidence that he ever had been to Chapman's house or had any contact with Chapman.

Now, there is some conflicting testimony about Chapman, too. You remember Mr. Boone said that he saw a police officer get into Chapman's car; that he got in Chapman's car.

handed his gun to another young Negro civilian, and that the three of them got in the car and started down the street.

You remember he said the police officer who got in the back of Chapman's car pulled off his shirt. This was also corroborated by Sergeant Gentile. He said that he saw Santa Maria in the back of this man's car because he couldn't identify him as Chapman because he couldn't say who that was driving the car. He couldn't say whether it was Chapman or who it was, but he did see him in the car and he said that Santa Maria had his shirt off, but when Santa Maria testified, he didn't testify that he pulled his shirt off, but that he had it on. That's what he said. But all of them said that they saw Santa Maria when he got out of the car, but they don't know what happened to the other man.

The last they saw him, they was getting out of the car.

Now, what happened after that, nobody knows. So Chapman was killed. Who killed him? How was he killed, nobody knows.

They're saying that this man (indicating)

you have to have broken into a place in the night season.

Now, that's just how technical the law is.

Now, if in fact, these two men that we talked about, Golonka and Wolff, were so intoxicated or under the influence of alcohol, were they then police officers performing their duties if they were in violation of police regulations? If they, in fact, were so intoxicated they couldn't perform their duties, were they then police officers?

You see, a man isn't a policeman just simply because he has a uniform on. He has to function as a policeman.

k. If, in fact, they were in violation of the law of intoxication, then were they policemen in fact, simply because they had a uniform on? The Judge will explain to you these elements and you will have to decide whether or not these men, because of the condition that they were in, whether they fall into that category.

Another curious thing, the prosecution keeps talking about the brass; why they would send these policemen to their deaths with these

persons, with these high-powered rifles, with BB guns, to use his illustration --

MR. LAURIE: Water pistols.

MR. TOLLIVER: Or water pistols.

Thank you. I never knew a shotgun to be a water pistol.

MR. LAURIE: They were that night.

MR. TOLLIVER: Or a .38 to be a water pistol either, but that's all right.

Sergeant Ungvary testified, and this is very curious to me, that while they had this high-level meeting, as Mr. Laurie would call it, at City Hall, I asked him -- I said, "Well, Sergeant, you had all this information about guns and so forth at Ahmed's house. You had all this information about an informant.

"Did you ask or did Inspector Coffee," that's who he said was there, and Captain Sperber. I said, "Did any of you ask about getting a search warrant?"

He said, "No."

Now, you read in the paper every day how police officers get search warrants. Now, you don't have to have any permission from City Hall

to get a search warrant. Any Judge in this County can give you a search warrant. Judge McMonagle, or any Judge at Muni. Court can give police officers search warrants.

Now, if they suspected all this contraband, as they want to call it, why didn't he get a search warrant and go there and take it out at Ahmed's house? Is there any testimony that they attempted to get one and that they were refused?

You know, there is an old saying, "If you don't look out for yourself, who will?" They had all this information about a shoot-out with the police and all of the ammunition was supposed to have been in Ahmed's house.

Then commonsense dictates that they should have gone in and taken these weapons out, but they didn't. Was it neglect on their part, or was it because of the fact that there really was no such information?

The police were there. They kept surveilling the place. And another curious thing, you remember Boone, the fellow that lives up here (indicating), he testified, he said, "I used to come through here all the time and I saw crates and boxes that, in my opinion, looked like guns and ammunition going into that house."

So Mr. Fleming asked him, "Well, now, as a good citizen, did you bring that to the attention of the police?"

He said, "Yes, I brought it to the attention of the police." He said, "What happened?"

A desk sergeant, I don't know his name, but "When I told him what was happening at the house, he said, 'We know all about it,' and hung up on him."

killed him.

So then you've got another problem. One of the charges in the indictment is that the police officers were killed, Lieutenant Jones, Patrolman Wolff and Patrolman Colonka, while they were in the performance of their duties.

And when a policeman is killed while in the performance of his duties, this is first degree murder. No question about it. But now, the question is this: One thing that we have in the State of Ohio, that all criminal statutes are strictly construed.

Let me see if I can explain that. I will give you this illustration:

If I am in a building, in this building at high noon, suppose I had broken in here and the police catch me in here and I confess and they charge me then with burglary. When I come before the Court and I am charged with burglary for breaking into this building at high noon, they'd have to dismiss the case because under Ohio law, you can't break into a place in the daytime and be charged with burglary. That is housebreaking.

In other words, to be guilty of burglary,



Now, that's what Mr. Boone said.

So, if this information was available to them, why didn't they do something about it?

Now, you can't talk about City Hall for that.

City Hall doesn't get search warrants. Police do.

And they get it from the judge and not from City Hall.

And I asked Sergeant Ungvary, you recall I said, "Did anybody ask for a search warrant," or, "Did you talk at all about getting a search warrant?"

He said, "No." Now, are you going to blame that on City Hall?

Now, another thing, when all of this broke out, you remember what Ahmed said to Dick Feagler? He said, at that point there was no leader; it was every man for himself.

How are you going to have "every man for himself" in a conspiracy? Because, in a conspiracy, everybody is working together.

He said that when that broke out and I went downstairs, he said, "I was the leader; but at that point there was no leader, it was every man for himself." That's no conspiracy. It's just what he said, it was every man for himself.

Let's go a little bit further. They asked, why did we bring in all these people from the bar? The answer is very simple. Every police officer that we asked, that arrested these people from the bar, we asked them, "Why did you arrest them?"

Most of them didn't know.

I said, "Have they done anything? What did you see them do?"

None of them could give me an answer.

They were just following orders. They arrested them.

Was anybody shot in there? No.

Was anybody beaten in there? No.

Well, why did you arrest these people? Nobody would say.

So then they said we are throwing up a smoke-screen by bringing all these people in.

The veracity, the truthfulness of any witness is always at issue in a criminal case. No smoke-screen. And these people testified as to what happened to them.

You remember Louise Brown was the first one. She testified that while in the tavern, and she came there all the time to see Jean Grisby, who was the barmaid, she came in there to talk, and

then sometimes she would go into this house over here (indicating) because her father lived downstairs.

Mr. Laurie talks about being fair. Let me tell you the underhanded thing he did, as far as I was concerned, he asked that girl what was her name, and she said "Brown," and he asked her what was her mother's name, and she said "Brown."

And then he asked, "What is your father's name?" And she said, "Reese," or -- pardon me -- "Reed."

And then he said, "Well, if that's your father, why didn't you take your father's name?"

And she said, "I don't know about that. All I know is, "I have my mother's name." And he walks up and said, "Well, I don't understand that."

Now, he understood. The girl's father and mother weren't married. As a lawyer, he knows that; or, as an adult, he knew that. That's obvious. He knew that. Now, what did that have to do with whether or not she was telling the truth?

You know, any person that picks out his father and mother before he is born? That is biologically impossible. She's not responsible for who her father and mother are. What's that got

to do with whether or not she is telling the truth?  
Just a way to try to embarrass the woman.

Now, she told you she had no criminal record. And you know that Sergeant Joyce here is a very fine, a very efficient officer. I've known him for years. I have a great deal of respect for him. And if that woman would have had a criminal record, he would have been back here with some record to show she had a criminal record.

So you can bet your sweet life, as we say, she doesn't have one. She also stated that she worked at the Job Corps, that she learned in Job Corps this trade, I think it had something to do with food -- what do you call it?

MR. FLEMING:                      Dietician.

MR. TOLLIVER:                     Dietician.

Thank you.

And that she worked at the State Hospital as a dietician. Now, you know if she hadn't worked there or she hadn't gone to Job Corps, they would have had some people from Job Corps, they would have had some people from the State Hospital to tell you that she didn't work there or she didn't go there.

The reason they didn't bring them was

because she told you the truth. She said she lived on a certain address on Superior, I forget, and she lives there with her mother. If that wasn't so, they would have brought somebody here, the land-lord or somebody, just like we did with 11113 Superior, to show that she didn't live there.

So then she begins to relate what happened to her, and they got an amusement out of the fact that she said that Lieutenant Jones was the one who was telling her what to do. And you could tell she is not a Ph. D., but she is telling it as best as she could remember it.

She knew it was a police lieutenant, and somehow she thought it was Jones. Now, if we were going to concoct a story or have these people tell a lie, as they would have you think, don't you think we would have said, "Don't say Lieutenant Jones; say lieutenant somebody else." But she was telling it as she remembered it, and she knew it was a lieutenant.

And she said -- let me show you that the people who are decent aren't prejudiced, as Mr. Laurie would have you think. She said that Lieutenant Jones, or whoever the lieutenant was, was a white lieutenant and that he was decent to her, he treated her all right, and she didn't have any complaints against him.

And let me say something further. No intelligent person condemns a whole for a few. And I am not going to stand up here and say that out of 2200 policemen or approximately in the City of Cleveland that I am going to classify them all with the ones who were drunk that day or the ones who were committing these atrocious acts on these people that day, because that is a small minority.

I can sit here and tell you and stand here and tell you that I come in contact with police every day because of my work as a criminal lawyer and the 99 per cent of them that I come in contact with are the finest people that you ever want to meet, but there were a few out there that weren't and those are the ones I am talking about.

Just that small minority.

Now, she told you how John Peques was shot, how Brown and some of the other ones were beaten, and they would have you think that she doesn't know what she's talking about; that she must have dreamed all this. It must have been something that she imagined.

And how when they went down in that place

and Pegues was bleeding and some of the other people were bleeding that were struck by the rifles, how the women would take their personal garments, bathing their faces with it, trying to stop the blood from running.

Imagine that, too? And they are trying to say that these persons were shot by the militants, the Black Nationalists. These people aren't stupid. They are not dumb. You mean to tell me they don't know or they don't have sense enough to know who shot them, who beat them? They are looking at the people shooting them. They are looking at the people beating them, but the prosecution says, "No, that didn't happen that way. It happened some other way."

And they told this woman -- she told how when she got outside, how her breasts were ravished by the greedy fingers of some of these policemen. She told you about that. She told you how they reported this to the NAACP. She couldn't get the initials right. It shows you that she is telling it as it is; that she wasn't prompted, and then she said, "I also made a report to the FBI."

And then Mr. Laurie asked her, he said,  
"Well, how do you know it was the FBI?"

She said, "Because he showed me his badge  
and stuff." And then she said, "And also, he  
was your color."

MR. LAURIE: Objection.

MR. TOLLIVER: Well, that's  
what she said.

MR. LAURIE: Objection. I  
didn't say that.

MR. TOLLIVER: Well, that's what  
she said. She said to Mr. Laurie, in answer to  
his question.

THE COURT: It wasn't the  
FBI that she was talking about. It was the  
policeman.

MR. TOLLIVER: No, she was  
talking about the FBI.

THE COURT: Well, the jury  
will remember the conversation. Proceed.

MR. TOLLIVER: She identified  
the fact that she knew it was the FBI by the  
fact that he had the badge and stuff, as she  
put it, and she looked at Mr. Laurie and she  
said, "He was your color," meaning that he was



white. I guess I'll have to read it. Give me a moment, Judge.

This is the excerpt. We will get the exact page.

"Question: And when you talked to Mr. Young, was the question brought up of being a witness in this case?

"Answer: No.

"It wasn't?

"No, no.

"I see. And --

"But the other man I had talked to, he told me I might have to come to court.

"Question: I see. The other man, you mean -- what other man?

"Answer: The FBI.

"Pardon?

"The FBI.

"What was his name, incidentally?

"I don't know.

"How do you know he was an FBI agent?

"Because he said he was when he showed the badge when he came over to my house.

"You looked at his badge, a policeman's badge?

"Not a policeman's badge. I don't know what he was. He said he was an FBI."

"You just took his word?"

"He had papers and stuff."

I knew the word "stuff" came in there somewhere.

"He was your color, anyway."

This is what she said.

"Question: Pardon?"

"He was your color."

And Mr. Laurie went into this tirade --

MR. LAURIE: Objection.

MR. TOLLIVER: "What do you mean by that?"

THE COURT: Overruled.

MR. TOLLIVER: "He was your color."

"What do you mean, my color, ma'am?"

"Well, you said why did I believe it."

"No, no. Just tell me what do you mean by you said he was my color?"

"Just your color. That's all."

"What do you mean by that?"

"Nothing. You said -- you asked me --"

"What is my color?"

"What? What is your color?"

"Yes."

"Well, I actually don't read up on it."

I just know my color. That's all.

"You hate white people, don't you?"

Now, there wasn't any need for that.

And the answer was, "No."

"Mr. Fleming: Objection, your Honor."

"The Court: Overruled."

"You hate white people, don't you?"

"No, I don't hate white people."

"You don't?"

"No."

"But there is a distinction between my color and your color, is that what you are saying?"

"No."

"There isn't?"

"Uh-uh."

"Were you born in this country?"

"Yes."

"Go to school in this country?"

"Yes."

"This country was good to you, wasn't it?"

There was an objection and the Court sustained it.

"You received training from the Government, didn't you, in various fields of your endeavors, didn't you?"

"Yes."

"Wasn't my color there training you people?"

Objection was sustained.

MR. LAURIE: What's he reading it for if it was sustained, Judge?

THE COURT: Proceed with your argument.

MR. TOLLIVER: Thank you, Judge.

"I told you it don't make no difference to me in no way.

"Wasn't my color the people that put up the money for these programs?"

Objection. Objection.

"You don't need to holler at me."

That's what she told you.

"Mr. Laurie: At this time I'd like to take a recess."

Then a recess was taken. And he talks about being fair.

When I had the privilege of being a lawyer for the Lawyers Constitutional Defense

Committee --

MR. LAURIE:

Objection on

this stuff, Judge.

THE COURT:  
argument.

Proceed with the

MR. TOLLIVER:  
Mississippi and Louisiana --

And I went to

MR. LAURIE:

Objection.

THE COURT:

Overruled.

MR. LAURIE:  
this county.

It happened outside

THE COURT:

Overruled.

Proceed.

I assume this is to demonstrate something  
as part of his argument.

MR. TOLLIVER:

Yes, sir.

THE COURT:

Well, proceed.

MR. TOLLIVER:

While I was down  
in those states that they call "the South," I never  
heard a lawyer conduct himself in that fashion, even  
down there, as I heard Mr. Laurie do in this court-  
room. It was most degrading. It was racism in  
its worst.

Then this girl went on to tell what she  
had happen to her, and he would have you to believe  
that all these people are just telling a lie on  
the police.

Then the other woman told what happened to

her, I won't go through all of it, Jean Grisby, how the police pulled up her dress, as she put it. Then the other girl testified, the third one -- what was her name? -- that's all right, it will come to me. Mrs. Peggy Finley.

And you remember when she was getting ready to tell you what the police did to her, how they were feeling her, it was such an emotional thing with her, she couldn't talk, she almost broke down and cried, that's how embarrassing it was to her. And they are going to tell you these people are making this up, it didn't happen to them.

And then they did another little cute thing when they got to talking about the man that got shot, they took out his picture and began to show it around to let you know the man that got shot had a police record - that's what that was for.

And we took the picture and, with no objection, we had it entered in the evidence as an exhibit. We don't have anything to hide.

And then along comes this man, John Pegues, a great big fellow, you remember him, and he told you, he said, "Yes, I got a criminal record. I went to jail in 1953 for thirteen months for burglary." You remember that.

"And when I got out of jail, I haven't been convicted of anything since." You remember that? He said he was working as a cook for some restaurant, if I remember, on the west side, for eleven years.

And then this man began to tell what happened to him, how he was shot, how he was beaten, called all kinds of filthy racist names. Then, how they took him to Mount Sinai and they couldn't do anything with him, they threw him in jail. He was bleeding all over the cell. He was bleeding all over, in the basement, down at Lakeview.

How tear gas was thrown on them, knowing that they were down there, and then another thing he told you, as to how honest this man is, you remember he said that Sergeant Kovacic called to find out if there was people in the tavern. You remember that?

And he told him, "Yes, there are people here. They are patrons. They don't have anything to do with this shooting."

He said, "Well, we're sending police there." He said, "When you come in, please don't come in shooting." You remember that? "Because there's



nobody here connected with the shooting."

Now, knowing Sergeant Kovacic as I do, a very honest man, if in fact he hadn't had the conversation with John Pegues, they would have put him on the witness stand to rebut it, but they didn't because he was telling the truth.

Then this man bled all over the basement, he bled at the police station. Now they were begging the police to take this man to the hospital, and they wouldn't do it.

So, finally, they took him to the hospital, after he had been outside, he said, in the wagon for about an hour outside, still bleeding, he was hollering and screaming because he's scared he's going to die with all these bullet holes in him.

They finally took him to the hospital and, when they took him to the hospital, what did they do? Put him in the prison ward and said he was going to be charged with first-degree murder.

Then, when they checked it out, they found out that he hadn't done anything, they put him in the general ward. He was off from work five months. He's lucky to be alive.

And what does the prosecution say,

Mr. Laurie? He says, "Well, we're not interested in that, about these people being beaten, being shot, these women, these decent women being molested, we're not interested in that." That's what he said.

Well, let me explain something to you.

There are three times when a policeman can use his gun: When he's trying to effectuate an arrest and the people don't want to be arrested and they are resisting and he has to use it in order to subdue them.

He can use it to save his own life.

Or he can use it to save somebody else's life.

Now, if a police officer shoots somebody and none of these three conditions are present, then he has illegally shot a person and he can be charged with shooting to wound or kill, just like anybody else.

So, Mr. Laurie, the prosecutor, if what these people said is true -- and it must be some truth in it, because John Fegus was never charged with anything -- then he was illegally shot, and, as a prosecutor, you should be interested in who shot him. But you said you're not interested.

I just hope that he's not speaking for

Mr. Corrigan.