NO. 174

THE STATE OF ALABAMA	X	IN THE 2ND JUDICIAL COURT
VS	X	OF
TOM L. COLEMAN	X	LOWNDES COUNTY, ALABAMA

STATEMENT OF FACTS

(COPY)

C. R. Higgins
Official Court Reporter

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NO. 174

THE STATE OF ALABAMA	)	IN THE 2ND JUDICIAL COURT
VS	)	OF
TOM L. COLEMAN	)	LOWNDES COUNTY, ALABAMA

STATEMENT OF FACTS

A P P E A R A N C E S:

FOR THE PLAINTIFF: HON. ARTHUR E. GAMBLE, JR.
Circuit Solicitor
Greenville, Alabama

HON. CARLTON L. PERDUE
County Solicitor
Hayneville, Alabama

FOR THE DEFENDANT: HILL, ROBINSON & BELSAR
34 South Perry St.
Montgomery, Alabama

By: Hon. Vaughan H. Robison
Hon. Joe Phelps
Hon. Bobby Black

[illegible] in open Court, so prejudice the [illegible] at this time that we object [illegible] we will make a motion at this time for a continuance of this case.

THE COURT: All right. The motion [illegible] you want to examine the witness, [illegible] the witness for cause -- I mean [illegible]

BE IT REMEMBERED that on this the 28th day of September, A. D. 1965, the above and foregoing entitled and numbered cause came on for trial before said Honorable Court, Hon. T. Werth Thagard, Judge presiding, and a jury, Whereupon the following proceedings were had, to-wit:

- - - - - - - -

(Upon the Courts qualifying
(of the jury, the following
(proceedings took place.

THE COURT: (To the jury, in part) Do you have a fixed opinion as to the guilt, or innocence, of the accused or vice versa?

A JUROR: I have.

THE COURT: And, your name is what?

A JUROR: Walter J. Genard.

THE COURT: All right. What do you say for the State?

MR. JOE BRECK GANTT: Judge, the statement of this juror, in open Court, so prejudices the States case at this time that we ask - - we repeat our request and make a motion at this time for a continuance of this case.

THE COURT: All right. The motion is denied. Do you want to strike the witness, or challenge the witness for cause -- I mean juror for cause?

MR. GANTT: I will do it at another time. What is this jurors name?

THE COURT: Genard. You mean you don't challenge him for cause at this time?

MR. GANTT: I do intend to challenge him for cause, I don't plan to do it right now, Judge.

THE COURT: All right. What do you say for the defendant?

MR. ROBISON: If the Court please, we challenge him for cause.

THE COURT: All right. then. Mr. Genard's name comes off. Does anybody else have a fixed opinion as to the guilt or innocence of the accused? Has any of you made any promise, or gave any assurance to anybody that you will convict or acquit the accused? Do any of you know any reason why you can't try the case fair and impartially, both for the State and for the defendant, if so hold up your hand. Any questions on the part of the State, Mr. Gantt?

MR. GANTT: Not at this time.

THE COURT: Mr. Robison?

MR. ROBISON: We are satisfied.

THE COURT: Very well. Give them a revised list, please ma'am, and let the striking begin.

MR. GANTT: Your Honor, before we start striking the jury, may I make another motion?

THE COURT: Yes, sir.

MR. GANTT: Your Honor, I think that it should be known to the court, and I believe if its not known to the Court, its known to the prosecution, to the defence, and probably to everybody in this Courtroom, that because of this Liuzzo Case that was tried here last Spring, and because of this action of the recent Lowndes County Grand Jury in indicting Mr. Coleman for manslaughter rather than murder, that its impossible for the State to obtain a fair trial before this jury, and accordingly, and I am acting under orders and direction from the Attorney General of the State of Alabama, and I am speaking in good conscious on my own part. We ask that this trial be continued until a later date. We don't believe its possible to obtain a fair trial from this jury at this time.

THE COURT: Mr. Gantt, can you enlighten the Court as to why you think you could get any fairer trial at a later time in the Court?

MR. GANTT: I think the climate is so bad in Hayneville right now, in Lowndes County, that its impossible for the State to get a fair trial. I think the citizens of Lowndes County are so prejudiced against my employer, that its impossible, because of my being ordered to direct this proscecution --

THE COURT: What makes you think that

climate will change?

MR. GANTT: Sir?

THE COURT: What makes you think that climate will change?

MR. GANTT: I certaintly don't think it can get any worse. Let's just hope that it can't get any worse, your Honor.

THE COURT: The motion is denied.

MR. GANTT: I also renew my motion for continuance, and ah -- I don't know whether I explained this yesterday sufficiently or adequately, Your Honor, that the witness Morrisroe, is the State's key witness, if not its only witness. Its the only witness that I can travel with, in good conscious, to prosecute this case. Morrisroe is the Catholic Priest who was shot in the back, and he --

MR. BLACK: We object to that, Your Honor.

MR. ROBISON: If the Court please, this was brought out here yesterday, without the presence of the jury, at Mr. Gantt's request--

THE COURT: Yes, that's--

MR. ROBISON: --his purpose now is to prejudice this jury in his own behalf and we take exception to the mutterances that it should be a murder charge here, that he can't get a fair trial before Lowndes County Jurors. He is just trying at this time to prejudice this jury

and we object to it under the rules of Law.

MR. GANTT: If I am prejudicing the jury, I am prejudicing them in his favor, I'm sure, and not in the favor of the State of Alabama.

MR. ROBISON: That's not your intent, and you know it.

THE COURT: Well, anyway, I think that your remark, in the presence of this jury, Mr. Gantt, that the man was shot in the back, was improper.

MR. GANTT: Sir?

THE COURT: I say I think your statement, in the presence of this jury venire, that the man was shot in the back, is improper.

MR. GANTT: Well, that's an unrelated case to this case, ah-- I will retract it.

THE COURT: All right. Very well then.

MR. GANTT: The witness, Morrisroe, will be available to this case, will be available to testify before the Lowndes County jury, but he is medically and physically unable to testify at this time, and I can't, in good conscious, prosecute this case, judge, without that witness being here. I mean that sincerely, and with all my heart. I can't prosecute this case without Morrisroe.

THE COURT: I don't question your sincerity, Mr. Gantt, but ah -- for one thing you say he will be here, but the Court can't have any

assurances of that. He is beyond the jurisdiction of this Court, and in perfect position to ignore any summons on the part of this Court, Mr. Gantt. As a matter of fact its impossible to legally summons him, with him living outside the State of Alabama, and you know, you have been in the practive of Law--prosecutor long enough to know, that the absence of a witness who is beyond the jurisdiction of the Court is never a grounds for a continuance, so the motion is denied.

MR. GANTT: Well, he has assured me personally, he has assured the State Investigator, the Department of Public Safety, that he would come back at any time the Doctor tells him he can testify. Of Course, this witness--the only reason he is not here now is because he is in danger of losing his life.

MR. ROBISON: If the Court pleas. that is highly prejudicial for him to make the statement that that witness is afraid for his life. He has no authority to speak for that witness, and we doubt that. In the first place, only yesterday, we were told that the witness couldn't talk, that he was whispering. I don't know how the Attorney General's office has talked to him since yesterday, his voice maybe considerably improved. We were also told only yesterday, that there was a possibility that the man might not live.

I understand now that he is well to the extent that he will be back to talk to the Attorney Generals office. We respectfully submit that all this was gone into yesterday, not in the presence of this venire, and ask that the remarks of counsel for the Attorney General be excluded from the minds of this jury as being prejudice.

THE COURT: Yes. The members of the venire are instructed to disregard the remarks of counsel, his statement.

MR. GANTT: Your Honor, then, ah -- in view of the foregoing, in view of my personal feelings, and in view of the directions that I have, ah, the State has no alternative than to ask that this case be Nolle Prosequi.

MR. ROBISON: If the Court please, we would like to be heard on that outside the presence of the jury venire, if we may.

THE COURT: All right. Well, lets go into the room then. It might be better to get all the venire out, because the reporter will have to move his recording equipment.

(Thereupon the jury venire
(were retired from the
(Courtroom and the following
(proceedings were had
(before the court out of the
(presence and hearing of
(said jury venire:

MR. PHELPS: May it please the Court, this latest motion by the Attorney General in keeping with the motions of dilatory practices, that he has evicenced in this Court all along, is the same motion for continuance he had here this morning. We had a lengthy hearing yesterday afternoon in the Federal Court in Montgomery, and now he comes in here and asks that the case be Nolle Prosequi right in line with his dilatory practices. Now we have done some research on this, Judge, and find that the Law in Alabama on Nolle Prosequi, in a case like this is clear. In the case of Lacy vs. State, 13 Ala. App. 267 says specifically, that no Nolle Prosequi can be taken without the consent of the Trial Court and as to whether it should or should not be given is a matter resting within the sound discretion of the Trial Court, and cannot be reviewed. And that case, Judge, sights Title 15, section 257, code of Alabama, 1940, which holds that an indictment must not be quashed, dismissed, discontinued, or abandoned without the permission of the Court, and such permission must be entered of record, and that is the code section, Lacy vs. the State, that sights in the opinion by the Court of Appeals and the Law of Alabama recognizes that a defendant in a criminal trial is entitled to go to Court. And Mr. Coleman is ready for trial as we stated

to this Court yesterday and as was stated in the hearing in Montgomery yesterday. We respectfully say that what the Attorney General can not achieve directly, this Court should not give him indirectly, and the dilatory plea that he has made this morning should be denied.

THE COURT: All right. Mr. Gantt.

MR. GANTT: Your Honor, I think that its in every jurisdiction in Alabama, that its been the practice, the custom, of every Court, and I am certain your own, that if the State asks for a Nolle Prosqui, that is the State is saying it can not go to trial, its impossible for the State to go to trial and I am stating that to Your Honor today. Ah, it is certain that we should be granted a Nolle Prosqui. Secondly, the defence, as far as this continuance-- he brings up this continuance we asked for and of course we felt like we deserved it and your Honor ruled that we do not deserve it and we are not arguing that point anymore. However, the defence has insisted, from the beginning, that they wanted a speedy trial. I can't see where the defendant can squawk very much, we are not only offering them a speedy trial, we are offering to do away with the trial alltogether. No trial at all, we are saying--we won't prosecute, we don't want to prosecute, we can't prosecute,

and that should make the defence very happy. I can't understand why they want to go to trial now. We say we don't have the evidence to go to trial, we can't go to trial, so we will just throw the case out, and that's--

THE COURT: I understood, Mr. Gantt, that the Attorney General intervened with the expressed purpose of prosecuting or directing the prosecution, rather than for the purpose of Nolle Prosquing.

MR. GANTT: Well, sir, I will add this to what I have just said. I have talked to several witnesses in this case, I have examined the States--the Department of Public Safety's report, the investigator's report, and I don't want to be a part of saying that I have a case when I'm going to have to--even make out a case, when I'm going to have to take the perjured testimony of witnesses up there which are--

MR. ROBISON: If the Court please, we object to that, Your Honor. There is no evidence--

MR. GANTT: My case will make out a defence for them. I don't have a case, that's what I'm telling the Court.

MR. ROBISON: We want the opportunity to prove, in this Court now, he said that--

THE COURT: Motion for a Nolle Prossqui is denied.

MR. GANTT: Well, the State in good conscious cannot proceed any further.

THE COURT: well, Mr. Gantt, that's going to be trifling with this court.

MR. GANTT: Sir?

The COURT: I say, if you are telling the Court, that you are not going to participate in the prosecution, that's going to be trifling with this Court and I am instructing you here and now to proceed with the prosecution of this case. The Attorney General was not invited into it. He did it of his own free will and accord and he put you here as his own representative. The request of a continuance and a Nolle Prosequi is something that is always left to the sound discretion of the Court. I don't think the Court has abused that discretion, and I am not going to be trifled with by having the Attorney General come in and take over prosecution and muscle the regular solicitor out, so to speak, and then say that because the Court denies a couple of motions that you've made, you are not going to participate in it.

MR. GANTT: Your Honor, I'm not saying that I won't participate, I'm just saying that I don't want to be a part of putting perjured testimony on that witness stand.

MR. ROBISON: We object to that. We've had

that just about enough now.

MR. BLACK: Your Honor, there are numerous witnesses subpoenaed, and are we going to assume that they are going to perjure themselves, everybody that the State has subpoenaed are going to perjure themselves? I don't think so.

THE COURT: That will be for the jury to determine as to who has told the truth and who hasn't, so lets get on with the striking of the jury.

BAILIFF: Shall we call the jury back?

THE COURT: Well, we can strike them, and then call them back.

MR. GANTT: Your Honor, may we have a list so that we might correct it?

THE COURT: Yes, give Mr. Gantt a list.

MR. GANTT: Your Honor, I don't mean any disrespect to the Court, I hope you know that, but I can't proceed any further. I cannot prosecute this case. I have no case whatsoever.

THE COURT: Well, are you willing to surrender the management--or the direction of it to the Circuit Solicitor?

MR. GANTT: No, sir.

THE COURT: Mr. Gantt, I regret to do this, but if you won't proceed with the trial of this case, or turn it back over to the regular Circuit Solicitor, one or the other, I am going

to have to hold you for contempt.

MR. GANTT: I hope Your Honor does not do that. I don't see how I can make my position any stronger, that I don't have a case to put on the witness stand.

THE COURT: Mr. Gamble, will you come around here, please?

MR. GAMBLE: Yes, sir.

THE COURT: You are the regular Circuit Solicitor of this Circuit.

MR. GAMBLE: That is right.

THE COURT: Immediately after this alleged homicide, did you come to Lowndes County and investigate it?

MR. GAMBLE: Yes, sir. I did.

THE COURT: And Mr. Gantt was here part of the time?

MR. GAMBLE: Yes, sir. He was.

THE COURT: Did you appear--well, you were with the Grand Jury when the Grand Jury heard the testimony in this case?

MR. GAMBLE: Yes, sir.

THE COURT: Did you put forth to the Grand Jury, all the available testimony that would shed light on the issue, as far as you knew?

MR. GAMBLE: All the testimony that was available, Your Honor. The reverend Richard Morrisroe was confined to a hospital at that time.

THE COURT: Was the Attorney General reported in the public press, immediately after the homicide, as saying that he, the Attorney General, was going to press for a first degree indictment.

MR. GAMBLE: Your Honor, I believe I did read that in the newspaper.

THE COURT: Did the Attorney General, or any of his assistants, cooperate with you or come here during the investigation?

MR. GAMBLE: None of them appeared before the Grand Jury.

THE COURT: Did any of them indicate that they would like to be with you, or like to sit in on the Grand Jury at the hearing of the testimony?

MR. GAMBLE: No. No request was made, Your Honor.

THE COURT: Did you have any assistance, of any kind, from the Attorney General's department until after the Grand Jury reported an indictment of first degree manslaughter?

MR. GAMBLE: I talked with Mr. Gantt, maybe on two occasions, in Hayneville before the Grand Jury met.

THE COURT: But, Mr. Gantt did not appear when the Grand Jury met?

MR. GAMBLE: No, sir. He didn't.

THE COURT: Did not participate in the Grand Jury investigation in any way?

MR. GAMBLE: No, sir.

THE COURT: And no other agent, or assistant of the Attorney General did?

MR. GAMBLE: No, sir.

THE COURT: And the Attorney General took over--when did he give you notice that he was going to direct the prosecution?

MR. GAMBLE: Your Honor, I have a letter in my file from the Attorney General. I don't recall the date, but probably--well I was informed before I got the letters that the Attorney General was going to take over direction and supervision of the case. Then, at my request, the Attorney General wrote me a letter. I don't recall the date on that letter.

THE COURT: Had you, prior to that time, spent many many hours preparing for this prosecution?

MR. GAMBLE: Well, Your Honor, I had spent some time here in Lowndes County, and I had gone over the testimony of the witnesses with the State Investigators, and I had talked to some of the witnesses myself.

THE COURT: Did you have in your files any statements of some of the eye witnesses?

MR. GAMBLE: Yes, sir.

THE COURT: And further witnesses who were able to give testimony bearing on the case, relative to the case?

MR. GAMBLE: Yes, sir.

THE COURT: After you were notified that the Attorney General had taken over the prosecution, did you turn over to Mr. Gantt your files on the case?

MR. GAMBLE: I delivered to Mr. Gantt everything I had on the case, in his office in Montgomery.

THE COURT: How long have you been Circuit Solicitor, Mr. Gamble?

MR. GAMBLE: Your Honor, I believe since 1960, I think. Maybe November 29.

THE COURT: During that time, have you had occasion to prosecute a good many cases?

MR. GAMBLE: Yes, sir. I have prosecuted some.

THE COURT: Is it your judgement--or, what was your judgement before this case was taken away from you? Was it that the state had a good case, and that you could make out a good case at the hands of a jury with the available witnesses?

MR. GAMBLE: Your Honor, I was prepared to go to trial.

THE COURT: Well, what is your judgement

that you could at least make a good Prima Facie case?

MR. GAMBLE: Yes, sir. It was.

THE COURT: Is it your judgement, or what is your judgement that the state--the prosecution of the State--or the prosecution by the State would have any better chances of success at a later date?

MR. GAMBLE: No, sir. I did not feel that--the Attorney General has said that he felt the atmosphere was bad. Under the existing circumstances, I don't feel that the atmosphere is going to get any better, and I don't see anything wrong with the atmosphere now, as far as the trial of this case, or any other criminal case.

THE COURT: If the Attorney General withdraws from the prosecution of this case, and places it back in your hands, are you willing to proceed with it?

MR. GAMBLE: If that is what the Court desires, I will do whatever the Court directs me to do.

THE COURT: Ah,--

MR. GANTT: May I ask him some questions?

THE COURT: Certainly.

MR. GANTT: Mr. Gamble, you said that you don't think the atmosphere here will get any

better, by that do you mean that the atmosphere in Lowndes County is pretty bad?

MR. GAMBLE: Mr. Gantt, I went on to state that I thought the atmosphere here was all right for the trial of this case and any other criminal case.

MR. GANTT: Did you not make a statement to me, that it was impossible for us to get a jury conviction in this case?

MR. GAMBLE: I don't know that I made that statement, no, sir.

MR. GANTT: Going back to the assistance rendered by the Attorney General's office, immediately after this killing took place, did I not come to you personally and offer every assistance to this case?

MR. GAMBLE: That's right. You did.

MR. GANTT: Are you personally aware that the head of the Department of Public Safety refuses to give to the Attorney General's office, the names, or any information concerning this case?

MR. GAMBLE: Yes, I am aware of that. I am also aware of the fact, Mr. Gantt, that at that particular time, I offered to pass on to you whatever information I got from the Department of Public Safety.

MR. GANTT: This was some 24, or 30 hours

after the killing took place and you did not receive any information from the Department of Public Safety or their investigators, yourself, had you Mr. Gamble?

Mr. Gamble: No written information.

MR. GANTT: And you are the chief prosecutor and investigator for this district?

MR. GAMBLE: That's right

MR. GANTT: And yet, these people did not cooperate with you, did they?

MR. GAMBLE: Yes, sir. They have cooperated with me.

MR. GANTT: Did you not assure to me, or state to me, that you felt the Grand Jury of Lowndes County would return a first degree murder indictment?

MR. GAMBLE: State to you that they would?

MR. GANTT: That you felt that they would.

MR. GAMBLE: No, I did not state that.

MR. GANTT: Did you state to me, Mr. Gamble, that you would try--that you would make an effort to get a first degree murder indictment--

MR. GAMBLE: I did not do that.

MR. GANTT: In my office?

MR. GAMBLE: In your office, or anywhere else. Mr. Gantt, its not my position, or my duty, to tell a Grand Jury what sort of indictment to bring in.

MR. GANTT: I am not saying you told them, I ask you what you thought the chances were of getting a first degree murder indictment, and you stated to me in my office in Montgomery--

MR. GAMBLE: I did not. I have never stated that.

MR. GANTT: That we would probably get no indictment, or get a first degree murder indictment?

MR. GAMBLE: No, sir. I did not make that statement.

MR. GAMBLE: Is that all, your Honor?

THE COURT: Is that all, Mr. Gantt?

MR. GANTT: Now, Mr. Gamble, as far as the witnesses which were subpoenaed before that Grand Jury, ah--are concerned, except for these civil rights workers or whatever they are--were--except for them, are not the witnesses subpoenaed by the State, the eye witnesses I am talking about, Mr. Coker, Mr. Crocket, Mr. Bevis, and Mr. Mims. Are not all of those actually witnesses that you would categorize as witnesses for the defence, rather than for the State?

MR. GAMBLE: Mr. Gantt, I feel like it's the duty of the prosecution to put on whatever witnesses that are available, not just witnesses that are prejudiced in favor of the State or the defence.

MR. GANTT: But, are not these witnesses actually defence witnesses?

MR. GAMBLE: They were eye witnesses to-- I think if the State is going to make out a prosecution, they have got to use witnesses that are available.

MR. GANTT: I am not accusing you of any wrong doing, I'm just asking if they are not defence witnesses?

MR. GAMBLE: No, sir. They are State's witnesses. They were subpoenaed by the State, they are eye witnesses--

MR. GANTT: Don't they make out a complete defence to the charge?

MR. GAMBLE: No, sir. They do not make out a complete defence to the charge.

MR. GANTT: Do they not make out a defence to the charge that this--do not make the statement that this was--this Catholic Priest was armed with a pistol, for instance?

MR. GAMBLE: Your Honor, do you think its proper to go into this?

THE COURT: No, I don't

MR. GANTT: Your Honor, I'm trying to prove by this witness what I've been saying all along, that this witness--

MR. GAMBLE: I didn't understand that I was on the witness stand, Your Honor.

MR. GANTT: --these witnesses are not State's witnesses. We don't have any evidence.

THE COURT: Mr. Gamble is not appearing as a witness in this case, Mr. Gantt, he is appearing as an officer of this Court and he is not under oath, but simply in possession of certain information that I think the record in this case ought to show.

Mr. Gamble, let me ask you another question. After this question of continuance came up, after the Attorney General made the public statement that he was going to ask for a continuance because of the absence, the inability to have the witness Morrisroe in Court, did you not have some negotiations with the Attorney for the defendant, Mr. Robison, and did not Mr. Robison agree to admit a showing as to what the witness, Morrisroe--

MR. GAMBLE: Yes, sir. I did have negotiations with Mr. Robison to admit a showing for Father Morrisroe.

THE COURT: And, isn't that the customary proceeding in criminal cases when the witness is absence, and not by the procurement of the party whose witness he is?

MR. GAMBLE: It has been used, yes, sir.

THE COURT: To get the other side to admit it?

MR. GAMBLE: Yes, sir.

MR. GANTT: Your Honor, of course, we have submitted the showing, and--I mean, it will be of no benefit in this case. We don't want to show it. We want the witness.

THE COURT: Mr. Gantt, do you still refuse to go further in this case?

MR. GANTT: Yes, sir.

THE COURT: All right, then. I am going to remove you, and the Attorney General, from the prosecution of this case, and instruct the Circuit Solicitor and the County Solicitor to proceed with it, and then at a later date I will take up the question of continuance.

MR. GANTT: We object to this proceeding.

THE COURT: I understand that.

MR. GAMBLE: Your Honor, I wonder if the Court would indulge the State in a recess, at this time, in view of the unexpected change in events.

THE COURT: Yes, Mr. Gamble, but I think it might be well, at this time, to put the case to the jury, and then let the defendant plea, and then we will give you all the time you want.

(Thereupon annoucements of
(ready made, Jury panel
(examined, peremptory
(challenges duly made, and
(twelve jurors were there-
(upon impaneled to try said
(cause, and sworn by the
(Court.

(Mr. Gamble opens to the
(Jury.

MR. BLACK: May it please your Honor, and gentlemen of the jury. Mr. Reporter, we would like our plea of Not Guilty entered.

(Mr. Black opens to the
(Jury.

(Whereupon the Court
(instructed the jurors,
(as follows.

THE COURT: Gentlemen, it's going to be necessary that you remain together until this trial is disposed of, and let me caution you now, once and for all, and let this cautionary remark go with you throughout this trial. I am going to let you go to lunch as guests of the County, and tonight I hope you have a comfortable place to stay, as guests of the County. Don't let anybody talk to you about the case, don't let anybody approach you about it, don't let anybody discuss it in your presence, even though they may not be directing their remarks to you. Do not make up your minds about it, gentlemen, until you have heard all the testimony on both

sides, and have heard the arguments of the summing up of the Attorneys in the case, and the law in the case, which the Court will give you, after the lawyers have finished with their discussions. So bear that in mind so that we do not have to repeat it each time that we have a recess. You gentlemen may now go with the bailiff and get some fresh air and exercise and lunch. Be back in your box at 1:00 o'clock.

(recess.)

THE COURT: Is there any request as to the rule? If there is any character witnesses here they will be excused from the rule, if they are not witnesses to the facts.

MR. GAMBLE: Your Honor, I would like to request that the officers of the Court be excused.

THE COURT: Yes, all the officers of the Court are excused, too, of course. All right. Let all the witnesses of the facts, except the Highway Patrolman, the members of the Sheriff's Force, and so on, all of the officers of the Court are excused, and all who are just here as character witnesses, are excused as to the rule. Let all the other State's witnesses go into this room, and all of the defendant's witnesses,

who are not character witnesses, or who are not officers of the Court, go into the room on the right.

MR. ROBISON: If the Court please, the defence and the State both have subpoenaed many of the same witnesses. In so far as the defendant is concerned, we ask for the rule, as does the the State, but we have no objections as to the witnesses, if they are available outside the Courtroom, or out of the confinement of this room, we would raise no question about that if they wanted to be outside, or downstairs.

THE COURT: I thank that is a very good idea, Mr. Robison, thank you. Does that meet with the approval with the State, too? Can you tell us who you think you will use this afternoon, Mr. Gamble?

MR. GAMBLE: Your Honor, I plan to start off with deputy sheriff Joe Jackson, County Coroner Jack Goldson, Dr. C. J. Rehling, Dr. Charles L. Cox, Mrs. Virginia Varner, Abell Hardy, Joe Bell Coker, and Leon Crocket in that order.

THE COURT: Well, that's practically a room full. Let them whose names Mr. Gamble just called go into this room, and all the rest of you go downstairs, or somewhere away from the Courtroom so that you will not hear the testimony.

THE COURT: Call the first witness:

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STATE'S EVIDENCE

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Whereupon,

JOE JACKSON

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q Your name is Joe Jackson?

A Yes, sir.

Q Joe, you are the deputy sheriff of Lowndes County?

A Yes, sir.

Q How long have you been deputy sheriff?

A Oh, about 25, or 27, something like that.

Q You was the deputy sheriff, then, in August of last year?

A Yes, sir.

Q Joe, do you remember the occasion when it's said

that Jonathan Daniels was killed in Lowndes County?

A Yes, sir.

Q Were you deputy sheriff, at that time?

A Yes, sir.

Q Did you visit the scene where this took place?

A I did.

Q Do you remember when it was?

A I don't remember. I believe it was on Friday.

Q Do you know what month it was?

A It was August, wasn't it.

Q Do you remember what day of the week it was?

A No, I don't

Q Where did this take place?

A Down at the Cash Store.

Q Was that here in Hayneville?

A Yes, sir.

Q That is in Lowndes County?

A Yes, sir.

Q Did that take place before you came down here and testified before the Grand Jury?

A Yes, sir.

Q All right.

MR. GAMBLE: Would you mark this as State's Exhibit number one, for identification, this, No. 2, and this one No. 3, please

(Thereupon the instruments
(hereinabove described was
(identified as State's
(Exhibit No. 1, 2, &3.

Q Now, Joe. I show you a photograph, marked State's Exhibit No. 1 for identification, and ask you to examine that photograph.

A Yes, sir.

Q Do you recognize that as being the store that you testified about?

A Yes, sir.

Q Now, does this photograph substantially, and correctly, depict the condition of that store at the time of the accident?

A That's right.

MR. GAMBLE: We offer that as State's Exhibit No. one.

MR. ROBISON: We have no objections, if the Court please.

(Thereupon the instrument
(above referred to was re-
(ceived in evidence as
(State's Exhibit No. 1, and
(and is in the possession
(of the Court Reporter,
(Greenville, Alabama.

Q Now, Joe, I show you another photograph, marked State's Exhibit No. 2, and ask you to examine that.

A Yes, sir.

Q Do you recognize that as a picture of the store where this incident took place?

A Yes, sir.

Q And, does that picture exactly, and correctly, depict the condition of that store?

A Yes, sir.

Q And, was it in exactly that condition at the time of this incident?

A Yes, sir.

MR. GAMBLE: We offer that as State's Exhibit No. 2, Your Honor.

MR. ROBISON: We have no objections.

(Thereupon the instrument (above referred to was re- (ceived in evidence as (State's Exhibit No. 2, and (is in the possession of the (Court Reporter, Greenville, (Alabama.

Q Now, Joe. I show you another photograph, marked State's Exhibit No. 3 for identification, and ask you to examine that photograph.

A Yes, sir. That's the old seed house.

Q Can you recognize that as a photograph taken, from the store, the Cash Store, which you have just testified about, looking back towards the town of Hayneville?

A Yes, sir.

Q Now, does that photograph correctly depict the scene?

A Yes, sir.

Q And was it exactly in that condition at the time of this accident?

A Yes, sir.

MR. GAMBLE: We offer this as State's Exhicit No. 3.

Mr. Robison: We have no objections.

(Thereupon the instrument (above referred to was re- (ceived in evidence as (State's Exhibit No. 3, and (is in the possession of the (Court Reporter, Greenville, (Alabama.

Q Now, Joe, when did you first go to the Cash Store, on that day?

A Well, it was a few minutes after the shooting, I imagine, because we didn't know anything about it and sombody told us.

Q In your best judgement, what time would you say it was?

A I imagine it was around -- ah, I expect, 3:00 o'clock.

Q Three o'clock in the afternoon?

A (indicating)

Q All right. Now, who went with you, Joe?

A It was patrolman Bozeman, Luck Jackson, and Ira B. Sullivan.

Q All right. When you got to the store, did you get out of the car?

A I did.

Q All right. Now, Joe, did you find any person there injured?

A Yes, sir. Two of them.

Q All right. Now, just tell the jury what you found when you got there, and what you saw.

A Well, this Daniels, he was lying right in front of the door, with his feet right on the steps, and his head hanging off a little platform. He was dead, and the other boy was between the store and that old seedhouse.

Q Now, I refer here to State's Exhibit no. 1, Joe, and ask you to point out on that photograph where Daniels was lying.

A Right in front of the store, with his feet right against the steps, there, and his head hanging off.

Q Did you know that man?

A Yes. I had seen him.

Q And, what was his name?

A Daniels.

Q All right. Do you know his first name?

A (indicating)

Q Now, I show you State's Exhibit No. 3, and ask you if you can point on that photograph where the other boy was?

A He was lying just about half way between this door and the seedhouse, right in there (indicating on photograph).

Q All right. Now, Joe, when you got down there, did you examine the body of Daniels?

A Well, I looked at the wound.

Q Was there a wound on his body?

A Yes, sir.

Q And, where was that wound?

A Right along in there (indicating).

Q Was one, or more than one wound, on him?

A I didn't see but one.

Q Didn't see but one?

A No.

Q Now, Joe, you have been deputy sheriff a good many years. Have you had occasion during that period of time to observe wound marks on a human body?

A Yes, sir.

Q Have you had occasion to form an opinion as to what caused that wound mark?

A That was a shotgun.

Q In your opinion the wound mark on Daniels body was the result of a shotgun?

A Yes, sir.

Q All right. Now, in your -- did you-- I don't know whether I asked you, did you make any determination as to whether Daniels was dead or alive when you got there?

A Yes, I could tell, he was.

Q In your opinion, he was dead?

A (indicating)

Q All right. Now, was there another injured party there?

A Yes, sir.

Q And, that was the one that was --

A Out by the seedhouse.

Q Did you make an examination of that person?

A No, sir. I didn't. Dr. Staggard saw the one wound, and he was down there dressing it.

Q Did you know the name of that person?

A No, sir. I didn't.

Q Did not. All right. Did you examine that person?

A No, sir.

Q You didn't notice any wound mark on him at all?

A Yes, I noticed him when Dr. Staggard was down there dressing him.

Q And, where was the wound mark on that person?

A Right in the side.

Q Stand up and show the jury where that wound mark was.

A (Standing and indicating)

Q Now, Joe, were you the first law enforcement officer on the scene?

A Yes, sir.

Q And, do you know Mr. Jack Goldson?

A Yes.

Q Where you there, at the time he came there?

A Yes, sir. I was there.

Q Did Mr. Goldson -- Mr. Goldson was in the County car, is that right?

A Yes, sir.

Q Did he pick up this Daniels, and this other person there?

A Yes, sir.

Q The person lying on the steps of the store there, which you said, in your opinion was dead, was named Daniels.

A Yes, sir.

Q This was the same person Jack Goldson picked up in his ambulance?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q And the other person, that was shot, and you don't know his name, did he pick up that person also?

A Yes, sir.

Q Now, Joe, do you know Tom Coleman?

A Yes, sir.

Q Did you see him there at the store when you got there?

A I don't remember seeing Tom there, if he was there. I didn't see him, because a few minutes after I got there I expect there was 12 or 13 cars there.

Q But, you don't recall seeing Tom Coleman?

A No, sir.

Q Now, did you see Tom shortly after this shooting?

A Well, not right after. It was a while after. When I seen him, he was in the sheriff's office.

Q Here in the Courthouse?

A Yes, sir.

Q All right. Did you talk to him?

A (Indicating)

Q Did not talk to him?

A (Indicating)

Q Did Tom make any statement to you, or in your presence, at that time?

A No.

Q Did not. Now, Joe, had you seen Daniels before you found him there at the store?

A Yes, sir. I saw him when he was let out of jail.

Q He was in jail, here in Hayneville?

A Yes, sir.

Q When did you let him out of jail?

A Oh, I imagine it was 1:00 o'clock.

Q The same day?

A Yes, sir.

Q Were you present when he was put in jail?

A Yes, sir.

Q At the time he was put in jail, did you or anybody in your presence, search him?

A I didn't search him. Lancaster searched him when he put him in the truck.

Q Now, when you say "Lancaster", you mean the A. B. C. Agent?

A Yes, sir.

Q Was that done in your presence?

A No, sir. I wasn't there.

Q You wasn't there. Now, when he was released from the jail, Joe, did you turn over his personal belongings to him?

A He didn't have any personal belongings.

Q Didn't turn over anything to him?

A (Indicating)

Q Joe, when you got down there, ah -- Do you know Joe Bell Coker?

A Yes, sir.

Q Was he there?

A Bub, I just don't know who was there, to tell you the honest truth. He was there, I imagine he was, but I just --

Q How about Mr. Leon Crocket?

A I didn't see either one of them.

Q I believe you said that this happened before you testified before the Grand Jury?

A Yes, sir.

Q And it was in Lowndes County?

A Yes, sir.

MR. GAMBLE: I believe that's all.

CROSS EXAMINATION

By Mr. Black:

Q Mr. Jackson, you are deputy sheriff in Lowndes County?

A Yes, sir.

Q How many deputies do you have here in Lowndes County?

A Two of them.

Q Just two? Who is that?

A Luck and myself.

Q And you have Mr. Ryals, who is sheriff?

A Yes, sir.

Q Is that the law enforcement for Lowndes County, now?

A Yes, sir.

Q How many square miles in Lowndes County, Do you know?

A I have no idea.

Q You have a lot of territory to cover with those three, though, don't you?

A Yes, sir.

Q All right, sir. Now, have you had occasion, with the sheriff's department, to call on some of the local citizens to assist you in enforcing the law in Lowndes County?

A Yes, sir. The sheriff and I have.

Q All right. Had Tom Coleman been called on, on those occasions?

A I think he had.

Q Had you all, in Lowndes County, had any special problem during the week of August 16th?

MR. GAMBLE: We object to that, Your Honor. I think that is irrelvant to this case.

MR. BLACK: Your Honor, we would like to show the events leading up to this shooting. We think that, ah -- the climate in the County -- the state of mind of the people in the County, is certaintly important to Mr. Coleman's motives.

MR. GAMBLE: We object to that.

THE COURT: Yes, I sustain the objection.

Q All right, sir. Being more specific, then, on the day of August 20th, had you expected any trouble in the County?

MR. GAMBLE: We object to "had you expected".

THE COURT: Sustained.

MR. BLACK: Judge, we would like to be able to show this-- to show, that we think that certaintly on the day this happened, Mr. Colman's activities, during that day, are important on what motive he might have. Ah, one of the elements they have, I believe, is the intentional accident, and we would like to show the surrounding things that lead up to the shooting. Of course, we --

THE COURT: I don't think it is irrelvant, Mr. Black.

MR. BLACK: We have, if the Court would like to see it --

MR. GAMBLE: Your Honor, if we are going to argue this point, we are going to ask that the jury be excused.

THE COURT: Do you have a book on this, Mr. Black?

MR. BLACK: Ah, we might have a book downstairs.

THE COURT: Well, do you have a quotation written from the book, I'll be glad to hear it, if you have. I don't think that it will hurt for the jury to hear that.

MR. BLACK: Yes, sir. We have it.

THE COURT: All right. Just read me what

you have and tell me where you got it.

MR. BLACK: All right. Joe, this is your writing.

MR. PHELPS: In a homicide prosecution it is competent to show all that transpired at the time of the shooting, and that which occurred prior to that, leading up to the explanatory homicide. That's Chancy Vs. State, under 56 section 385. Then, in Henry Vs. State, Judge, 96 under 371, 19 Ala. app. 218, in describing a homicide a witness should as nearly as possible convey the description of everything, relating to the prime choice, tending even in a remote degree, to share light on the killing. Now, Judge, it's in opposition that the nature of the condition in Lowndes County, particularly in Haynéville, the nature of that condition, at that time, is certaintly irrelvant.

THE COURT: All right. I will let him answer the last question. I won't let him go into what happened during the week.

By Mr. Black, resuming:

Q All right. Specifically on August 20th, Mr. Jackson, had you been expecting any trouble here in the County?

A No, sir.

Q Were these people -- you say there was no trouble expected in the County on August 20th, on Friday?

MR. GAMBLE: Your Honor, we object to what he expected.

THE COURT: Actually, I didn't understand the question that time.

MR. BLACK: I asked him if there was expectation of danger in the County on August 20th.

THE COURT: Well, he said "No", Mr. Gamble.

Q Do you know whether or not Mr. Coleman went up to Montgomery to get some riot equipment, that day?

A Yes, sir.

MR. GAMBLE: We object to that.

THE COURT: Overruled.

Q Do you know the purpose of that?

A He was helping the sheriff get some.

Q Well, was he just there to get that equipment to maintain peace and order, and to keep down violence.

A Yes, to maintain peace and order.

Q And, to keep down violence?

A Yes, sir.

Q All right. You mentioned that you had seen

Jonathan Daniels, prior to this time, where had you seen him?

A He was in jail, and I saw him when he came out. I didn't see him while he was in jail.

Q All right, sir. How long was he in jail?

A About five days.

Q While these people were in jail, did you have any disturbances there?

MR. PERDUE: We object.

MR. GAMBLE: Yes, we object to that, your Honor.

THE COURT: Yes, sustained.

Q All right. After they were discharged from jail, did you have to repair any of the jailhouse?

MR. GAMBLE: We object to that.

THE COURT: Sustained.

Q What was the condition of the jailhouse, at the time these people were there?

MR. GAMBLE: We object to that.

THE COURT: Sustained.

Q How about when they were released on Friday, what was the condition of the jailhouse?

MR. GAMBLE: We object to that.

THE COURT: Sustained.

MR. BLACK: Judge, we think this is again important, along the same lines of the case we just gave Your Honor.

THE COURT: I can't see the irrelevancy, ah, to that, Mr. Black. I'm sorry, but I don't believe your case will support that relevancy of that line of questioning.

Q Did you say, ah -- some one searched these people when they went in jail?

A Yes, sir.

Q And, they were in jail a week?

A That's right.

Q Did they have any visitors during that week?

A Yes, sir.

Q Ah, how many, do you know?

A Well, it was some, might near every day.

Q Did you search those visitors when they went in there?

MR. GAMBLE: We object to that, Your Honor.

THE COURT: Yes, I -- I --

MR. ROBISON: If the Court please. I think that the jury needs to recognize as to whether or not Daniels, at the time, was searched when he went into the jail, of course, we realize

the inference to that is, that he had nothing. Now, I think by his opening that up, we certainly have a right to show that someone did go in there and visit, who was not searched, who could very well have something --

THE COURT: Okay, I see the point, Mr. Robison.

MR. ROBISON: All right. We think that, ah --

THE COURT: Let him answer.

Q All right. You say there was several visitors, and they had visitors about every day?

A Yes, sir.

Q Now, these visitors that came to see Jonathan Daniels, were they searched?

A No, sir.

Q Do you know what they might have brought in with them?

MR. GAMBLE: We object to that, "What they might have brought".

THE COURT: Yes. Sustained.

MR. BLACK: We withdraw it.

Q All right, sir. You say they were not searched when they left?

A No.

Q Do you know what they had in their possession

when they left?

A No, sir.

Q And, they had been out of jail about how long, Mr. Jackson?

A I would say at least two hours.

Q Do you know where they had been during the two hours, previous to the shooting?

A The last time I seen them, they were down there on the jail grounds.

Q All right. Did you ask the people to leave the jailhouse premises?

A I didn't. My brother did.

Q What was their reply?

MR. GAMBLE: Now, we object to that.

A I don't know what happened, here.

MR. BLACK: We with --

Q All right, sir. Did you see Jonathan Daniels, when he was released from the jail?

A Yes, sir.

Q What, if anything, did he do that attracted your attention, Mr. Jackson?

A One thing, he kissed that nigger girl.

Q Did he kiss her on the cheek, or did he kiss her in the mouth?

MR. GAMBLE: Now, we object to this, your Honor --

A He kissed her right in the mouth.

Mr. GAMBLE: -- that's --

THE COURT: He has already answered. I think the objection to that comes too late.

MR. GAMBLE: All right, sir.

Q They had been separated about a week, is that true?

A (Indicating)

Q When you got to the Cash Store, I believe you testified that there were two injured people there, Jonathan Daniels and the other man, Morrisroe.

A Yes, sir.

Q Had you seen Mr. Morrisroe, prior to this time?

A I saw him when he came out of jail.

Q He had been in jail, also?

A Yes, sir.

Q What, if anything, did you find in there possession, -- well, in the vicinity, of where Mr. Morrisroe fell?

A Some books.

Q Are these -- could you identify these as the books?

A I would say they would resemble them.

Q All right, In your best judgement, these three books are the books that were in the vicinity where Morrisroe fell?

A That's right.

MR. BLACK: I offer these in evidence, Your Honor.

MR. GAMBLE: We object to them, Your Honor.

MR. ROBISON: On what grounds?

MR. GAMBLE: We object to them on any grounds.

MR. ROBISON: If the Court please, now that was found in the vicinity of Morrisroe's body, and I think that --

THE COURT: Objection overruled.

(Thereupon, the instruments above referred to were received in evidence as defendant's exhibits, Nos. A, B, &C, and are in the possession of the Court Reporter, Greenvile, Ala.

Q What did you do with these, Mr. Jackson, when you picked them up from the vicinity where Morrisroe fell?

A Put them under the edge of the seat.

Q All right, sir. Have you seen them since that time, other than when we had you to identify them?

A No.

Q When you arrived on the scene there, where -- were there any automobiles parked in the vicinity?

A Well, I wouldn't say whether there was or not. I just got right out of the car and went over to where he was.

Q You couldn't identify specifically where they were parked?

A No, sir.

Q Were there some cars parked around the area there?

A Well, yes, sir.

Q Would you say there were five, or six, or how many?

A Oh, I don't know, but I think there were several of them.

Q Before this last shooting, did you see Tom Coleman at the Courthouse?

A Yes, sir.

Q What was he doing up there, Mr. Jackson?

A Well, I think he played one game of dominoes.

Q I am sure he did.

A Then he walked out and I didn't see him again.

Q Did you see him talk to Mr. Crocket?

A No, sir. I don't believe I seen him talking to Crocket.

MR. BLACK: I believe that's all. Thank

you, Mr. Jackson.

MR. GAMBLE: Just a minute, Joe.

REDIRECT EXAMINATION

By Mr. Gamble:

Q I believe you said you found these books there-- where -- down by the store there?

A Right by the man's side.

Q Did you find anything else there by the wounded man, or by the dead man?

A No, sir.

Q Didn't find any knife, no pistol, nothing but these books, is that right?

A That's right.

MR. GAMBLE: That's all.

MR. BLACK: Wait a minute, Joe

RECROSS EXAMINATION

By Mr. Black:

Q How long had they been laying there, at the time you got up there?

A Well, I don't know how long they had been laying there, now, because --

Q Well, there were several people there, in the area there, were they not?

A Yes, sir.

Q Some of the Civil Rights workers had been in and out ot that area before you got there?

A I didn't --

MR. GAMBLE: We object to that. There is no testimony to that effect.

MR. BLACK: Well, I'm just asking him if he knows, if he doesn't know, he can just say he doesn't know.

THE COURT: Yes, I will let him answer if he knows.

A They had been there prior to that time, yes.

MR. BLACK: I have no further questions. That's all.

MR. GAMBLE: That's all.

(Witness excused.)

- - - - -

THE COURT: Call your nest witness for the State.

Mr. GAMBLE: We will call Mr. Jack Goldston.

Whereupon,

JACK GOLDSON

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q Your name is Jack Goldson?

A Yes, sir.

Q Where do you live, Jack?

A Fort Deposit.

Q Jack, are you the County Coroner?

A Yes, sir.

Q How long have you been Coroner?

A Five years.

Q You were coroner then, in August of this year?

A Yes, sir.

Q Jack, do you remember the occasion when it's said that Jonathan Daniels was killed here in Hayneville?

A Yes, sir.

Q Did you, as coroner, visit the scene of that incident?

A Yes, sir.

Q Do you remember when it was?

A August the 20th.

Q Of this year?

A Yes, sir.

Q And, was that before you came down here to testify before the Grand Jury?

A Yes, sir.

Q And, that was in Lowndes County?

A Yes, sir.

Q All right. Now, Jack, about what time did you get to the Cash store?

A I would say around 3:30, or 15 minutes until 4:00, I'm not sure about the time.

Q Was anybody with you?

A I came over by myself.

Q Came in your ambulance?

A Yes, sir.

Q All right. Now, Jack, when you got to the Cash Store, did you see any injured person there?

A Yes, sir. I saw one injured, and one dead.

Q One injured, and one dead?

A Yes, sir.

Q Where was the dead person lying, when you got there?

A In the, ah -- well, ah -- where the rain sheds off the house -- he wasn't in front of it. He was lying on the side of the building with his head facing back towards the road.

Q Now, was he dead, or alive?

A He was dead.

Q Did you recognize that person?

A Yes, sir.

Q Ah, who was it?

A Daniels.

Q Daniels. Do you know what his first name was?

A Jonathan.

Q Jonathan Daniels. All right. Now, where was the other person -- injured person?

A He was laying next to that warehouse looking building, over there -- seedbarn, or whatever it is, I don't know what it is usually called.

Q All right. Now, did you examine the body of Jonathan Daniels?

A Very briefly.

Q Did you see any wound marks on that body?

A Yes, sir.

Q Can you describe them to the jury?

A There was a puncture wound right along right in here. (indicating)

Q Jack, as coroner, did you form any opinion as to the cause of that wound mark?

A Later, not at that particular time.

Q Not at that particular time. All right. Now, what about the other person, was there a wound mark on his body?

A Yes, sir.

Q And, where was that wound -- did you examine him

to see where that was?

A No, sir. I didn't. The doctor was there, over him, and he was giving him something, I don't know.

Q Was that done in your presence?

A He was working on him just when I drove up there.

Q Where was the wound mark on that person?

A To the best I can see, right about in --

Q Stand up, and show the jury where it was.

A Right about in there. (indicating)

THE COURT: Describe it for the record, please, what part of the body you are pointing at.

A The right hand side, just about along in here. (indicating). Just above the small of the side.

Q Now, Jack, did you pick up this Daniel's body, and this other wounded person?

A Yes, sir.

Q Did you know the wounded person?

A No, sir. I didn't know him by name.

Q Did not know him by name?

A No, sir.

Q Well, now, after you picked him up, what did you do with him?

A Well, we ran an emergency to the Baptist Hospital.

Q All right. Did you leave both of them there?

A No, sir.

Q Who did you leave there?

A I left the wounded man.

Q All right. What did you do with Jonathan Daniels?

A We carried him to Whiteshop Funeral Home, in Montgomery.

Q All right. Now, who went with you on that trip?

A Harvy Lancaster, the A. B. C. Agent.

Q Is he stationed here in Lowndes County?

A Yes, sir.

Q All right. Now, Jack, do you knowDr. C. J. Rehling, The State's Toxicologist?

A Yes, sir.

Q Did you see him there, at the Funeral Home, after you had taken Jonathan Daniels there?

A Yes, sir.

Q Did you identify the body of Jonathan Daniels to Dr. Rehling?

A Yes, sir.

Q Do you know, whether or not, Dr. Rehling did a Post Mortem, or autopsy?

A Yes, sir.

Q Were you present when that was done?

A I was not present when he did the autopsy. When he started it I was present, but I was not there when he completed it. I came back to Hayneville.

Q And, the body he started on was the body of Jonathan Daniels?

A Yes, sir.

Q And, you stated that you didn't stay for the full treatment?

A (laughing and indicating)

Q Jack, you say when you picked up Jonathan Daniels, he was dead?

A Yes, sir.

MR. GAMBLE: I believe that's all

MR. BLACK: We have no questions, Mr. Goldson.

THE COURT: All right. You may stand aside.

(witness excused.)

MR. GAMBLE: Call Dr. C. J. Rehling.

- - - - -

Whereupon,

DR. C. J. REHLING

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name, please, sir?

A C. J. Rehling.

Q You are Dr. C. J. Rehling, is that right?

A That's right.

Q Doctor, what is your business?

A I am State's Toxicologist, which is a director of the State's Crime Laboratory.

Q How long have you been State's Toxicologist?

A Twenty years.

Q All of that time here in Alabama?

A Yes, sir.

Q All right. Now, docotr, during the time that you have -- as a part of your duties, as State's Toxicologist, do you do Post Mortem examinations of dead bodys?

A Yes, we do.

Q And, do you also do criminal investigations?

A Yes. We handle the physical evidence in cases, doing scientific examinations.

Q Doctor, will you tell the Court and Jury what educational background you have had?

MR. ROBISON: If the Court please, we will be glad to admit Dr. Rehling's qualifications, to save the Court and Jury the time.

THE COURT: Does that satisfy the State?

MR. GAMBLE: That will satisfy the State, yes, sir.

Q Now, doctor, did you have occasion, back in August, around August 20th, to do a Post Mortem examination on the body of Jonathan Daniels?

A Yes, I did.

Q Do you recall when that examination was made?

A It was on August 20th. It was in the afternoon.

Q And, where was it --

A About 6:00 o"clock.

Q Where was it made?

A White Chapel Funeral Home, in Montgomery.

Q All right. Do you know Mr. Jack Goldson?

A Yes, sir.

Q Did he identify the body to you at the White Chapel?

A He did. He came there, at that time.

Q Now, did you perform a Post Mortem examination of that body?

A Yes, I did.

Q Would you explain to the jury, and to the Court, what you did in the process of that examination?

A I photographed the body, as it was, before anything was done, then removed the clothing and again photographed the body. Ah, secured the clothing, then preceeded to make the section of body to determine the nature of the wound.

Q All right, sir. Now, in the course of your examination, Dr. Rehling, did you determine what the cause of the wound -- Well, just --

--you found the wound mark on the body?

A I did.

Q Describe that wound mark for us.

A It was a ragged hole, one and one-eight inch in diameter. It was one and one half inches to the right of the median line, that is the middle line of the body, and it was one and a quarter inches below the common nipple line, and its range was acutely downward, and slightly to the left. It had been bleeding considerably and the shirt was bloodsoaked around there.

Q All right. Now, as a result of your examination, Doctor, did you determine the cause of that wound mark?

A Yes. I had dissected it and found lead pellets and wadding deep in the body that determines that it was at the far end of that wound.

Q All right, sir. Now, as a result of your Post Mortem examination, Dr. Rehling, did you come to any opinion as to the cause of death of this Jonathan Daniels?

A Yes, sir.

Q What was that -- what is your opinion as to the cause of death?

A The obstruction and Copious Hemorrhage, from the destruction of major vessels, due to a shotgun wound of the chest that ranged downward through the liver, and destroyed the great vessels of the

Spine.

Q All right, sir. Now, were you able to recover any of the lead pellets from that body?

A Yes. I recovered nine lead pellets, and two waddings.

Q Nine lead pellets and two waddings?

A Yes, sir.

Q Ah, were you able to -- did you make any examination of those lead pellets, and those waddings, to determine what kind of ammunition they came from?

A Yes.

Q From your examination were you able to determine what kind of ammunition they came from?

A Yes. I did.

Q And, what was your opinion, as to the kind of ammunition it came from?

A The wadding is from twelve gauge ammunition, the shot, number one and one-half buck weighing 35 grains each, that is the undamaged ones, and there was also some white grainy material, which was plastic, found on the clothing -- in the wound.

Q All right. Now, Doctor, in the course of your examination and investigation of this case; was a shotgun turned over to you by Captain R. W. Godwin, of the State Troopers?

A Yes. He did.

Q Did you run any tests with that shotgun, to

determine, whether or not, that gun was the -- well, let me ask you this. Were there any empty hulls turned over to you?

A He also submitted two fired cartridges, twelve guage, together with that gun.

Q Now, Doctor, can you run tests on shotguns and shells, to determine whether or not a particular shell was fired from a particular shotgun?

A Yes. We can and do so regularly.

Q Were you able to run such a test on the shotgun that was turned over to you, along with the two empty shells?

A Yes, I was.

Q Did you come to a conclusion as to whether those two empty hulls had been fired from that shotgun?

A Yes. I came to such a conclusion. There was ample evidence to identify the markings on the two fired cartridges as having been fired in that particular gun.

Q Now, Doctor, can you also perform tests with a shotgun to determine the distance at which a particular gun was fired, from the object that it hits?

A Yes.

Q Did you run any tests on this particular shotgun to determine how far this gun was from the wound mark on Jonathan Daniels?

A Yes. I made such tests to determine muzzle distance.

Q Would you explain to the jury just what tests you ran, and how you did them.

A I fired this shotgun into a target, with an accurately measured distance from the muzzle to the target, using the same kind of ammunition as was indicated here by the fired hull, or cartridges themselves, and then measuring the pattern, or studing the pattern, and making comparisons with the wound in the body, as I have described.

Q All right. Now, did you form an opinion as to how far the muzzle of this gun was from Jonathan Daniels?

A Yes.

Q And, in your opinion, how far was it?

A It was approximately six feet, with the polly choke set at modified, which is the setting I received the gun.

Q That was the way the gun was set when you received it?

A Yes.

Q All right. Now, Doctor, do you have that gun, and the pellets and wadding, that you have testified about, in your possession?

A Yes. I do.

Q Will you get them for us, please, sir. Just a

minute doctor. Did you remove the clothing from the body of Jonathan Daniels?

A I did.

Q And, do you have that clothing with you?

A I have that, also.

Q And, is that clothing in substantially the same condition now, as it was when you removed it from the body?

A It is, except the blood has dried on the clothing.

Q Will you bring that also?

(whereupon the Doctor left the stand and went to get the items mentioned above, and returned.

Q Now, Doctor, is this the gun that was furned over to you by Capt. R. W. Godwin?

A Yes, sir.

Q Now, is that gun in the same, or substantially the same condition as it was when it was turned over to you?

A Yes, it is.

Q And is that the gun you used in running the tests that you testified about?

A Yes, it is.

MR. GAMBLE: (to the reporter) Mark that please.

MR. GAMBLE: Now, Your Honor, we would like to offer that as State's Exhibit No. 4.

MR. ROBISON: We have no objections.

(Thereupon the instrument (above referred to was marked (for identification as (State's Exhibit No. 4, and (received in evidence, and is (in the possession of the (Court Reporter, Greenville, (Alabama.

Q Dr. Rehling, what make gun is that?

A Savage.

Q What guage?

A Twelve gauge.

Q All right. Do you have the pellets, and the wadding, that you removed from the body of Jonathan Daniels?

A Yes. I do. These are the nine pellets.

Q These are the pellets that you removed from the body of Jonathan Baniels?

A Yes. They are.

Q

MR. GAMBLE: (To the reporter) Will you mark those for identification.

MR. ROBISON: We have no objections to those.

MR. GAMBLE: Will you mark those as State's exhibit No. 5.

(Thereupon the instrument
(above referred to was marked
(for identification as State's
(Exhibit No. 5, and received
(in evidence, and is in the
(Possession of the Court
(Reporter, Greenville, Alabama.

Q Now, I believe you testified that you removed some wadding from the body?

A Yes.

Q Do you have that wadding?

A Yes. I have it here.

Q Now, is that wadding in substantially the same condition as it was when you received it?

A It is.

MR. GAMBLE: (To the reporter) Mark that please. (To the Court) We would like to offer that as State's Exhibit No. 6.

Mr. Robison: We have no objections.

(Thereupon the instrument
(above referred to was marked
(for identification as State's
(Exhibit No. 6, and received
(in evidence, and is in the
(possession of the Court
(Reporter, Greenville, Alabama.

Q Now, Dr. Rehling, did you remove the clothes from the body of Jonathan Daniels?

A Yes. I did.

Q Do you have those clothes with you?

A Yes. I do. Here is the black clerical shirt, with the whole in the right chest.

Q Doctor, this hole in this shirt here, does it correspond with the wound mark on the body of Jonathan Daniels?

A It does.

Q And, how -- does it cover the wound mark on the body?

A It centers a little above the wound in the body, due to the fact that the range, or direction, of the charge was downward.

Q Now, ah --

A Essentially, it is over the wound.

Q Did you remove these?

A I did.

Q And, are they now in the same, or substantially the same, condition as they were when you removed them?

A They are.

MR. GAMBLE: We offer this as State's Exhibit No. 7.

(Thereupon the instrument (above referred to was re- (ceived in evidence as (State's Exhibit No. 7, and (is in the possession of the (Court Reporter, Greenville, (Alabama.

Q Now, did you remove this item of clothing?

A Yes. This clerical collar was attached to that shirt.

Q And, is it in the same, or substantially the same condition, as it was when you received it?

A Yes, it is.

MR. GAMBLE: We offer that as State's Exhibit No. 8.

MR. ROBISON: No objections.

(Thereupon the instrument (above referred to was re- (ceived in evidence as State's (Exhibit No. 8, and is in the (possession of the Court (Reporter, Greenville, Alabama.

Q Is that another item of clothing?

A This pair of trousers I also removed from the body. It has a soiled hankerchief in the rear pocket.

Q And, are these trousers in the same, or substantially the same condition, as they were when you received them?

A Yes, sir.

MR. GAMBLE: We offer this as State's Exhibit No. 9.

(Whereupon the instrument
(above referred to was re-
(ceived in evidence as State's
(Exhibit No. 9, and is in the
(possession of the Court
(Reporter, Greenville, Alabama.

Q All right. Now, what is that peace of clothing you have there?

A It's a pair of oxford under shorts that I took off the body.

Q And, you removed those yourself?

A Yes, sir.

Q They are in the same, or substantially the same condition, as they were at the time you removed them?

A They are.

MR. GAMBLE: We offer that as State's Exhibit no. 10.

(Whereupon the instrument
(above refered to was re-
(ceived in evidence as State's
(Exhibit No. 10, and is in the
(possession of the Court
(Reporter, Greenville, Alabama.

Q And, did you remove the belt that you have in your hand?

A Yes. That was in the trousers.

Q With the initial J. M. D. on the belt?

A That's correct.

Q All right, sir. Now, is this belt in the same, or substantially the same condition, as it was when you removed it from the body?

A It is.

MR. GAMBLE: We offer that as State's Exhibit No. 11.

(Whereupon the instrument (above referred to was re- (ceived in evidence as State's (Exhibit No. 11, and is in the (possession of the Court (Reporter, Greenville, Alabama.

Q And, Dr. Rehling, I believe that you testified that Capt. Godwin also turned over to you, two empty shotgun shells.

A Yes.

Q Do you have those in your possession?

A Yes.

Q Are they now in the same, or substantially the same, condition as they were at the time they were turned over to you?

A That's right.

Q And, are these the hulls that you testified about as having run a test on to see whether they were fired from this particular gun?

A That's correct.

Mr. Gamble: We offer them as State's

Exhibit No. 12.

(Whereupon the instrument above referred to was received as State's Exhibit No. 12, in evidence, and is in the possession of the Court Reporter, Greenville, Alabama.

MR. GAMBLE: Your Honor, I hate to ask the Court to do this, but would,would the Court give me just a minute to go over this with Dr. Rehling, to see what other evidence I have?

THE COURT: Do you mean in the witness room?

MR. GAMBLE: Yes.

THE COURT: I think the jury might like to have about a five minute recess anyway. We will take a five minute recess.

(Recess.)

Q Now, doctor, I believe you testified that you removed the clothing from the body of Jonathan Daniels?

A Yes. I did.

Q Did you also remove a ring from the finger of Jonathan Daniels?

A Yes.

Q Do you have that ring in your possession?

A I do. I removed it from the ring finger of the left hand.

Q All right, sir. Is that ring now in the same, or substantially the same condition, as it was when you removed it from the finger?

A It is.

MR. GAMBLE: We offer this as State's Exhibit No. 13.

(Whereupon the instrument (above referred to was re- (ceived in evidence as State's (Exhibit No. 13, and is in the (possession of the Court (Reporter, Greenville, Alabama.

Q Now, Dr. Rehling, is there an inscription on the inside of that ring?

A Yes. There is.

Q What is that inscription?

A The inscription reads, "Jonathan Myrick Daniels, Keen, K, E, E, N, E, New Hampshire, N. H.".

MR. GAMBLE: I believe that's all.

CROSS EXAMINATION

By Mr. Robison:

Q Dr. Rehling, what kind of shoes did you ~~xxxx~~ take

off the body?

A The pair of shoes I have here.

Q All right, sir. Just show us those shoes.

A (Handing a pair of shoes to Mr. Robison.)

Q These were the shoes?

A That's right.

MR. ROBISON: We offer these for identification.

MR. GAMBLE: No objections.

(Thereupon the instruments hereinabove described was identified as Defendant's Exhibit "A".

Q Now, Dr. Rehling, what else did you take off Jonathan Daniels, did you take a book off of him, or out of his pocket?

A Some additional frieght.

Q All right. May I see the book, please?

A Yes, sir.

Q The "Fanatics" I believe it is?

A That's the title of it.

Q This was taken off him correct?

A Yes. It was in the pocket of his trousers.

MR. ROBISON: All right, sir. We would like to put that in.

(Thereupon the instrument
(hereinabove described was
(identified as Defendant's
(Exhibit "B".

Q What notes did you take off him, or what letters had been written while he was in the jail?

A I did not take anything off him in the way of writting. Another officer gave me a group of writtings.

Q Gave them to you at the same time that --

A At the same time he came there with the coroner.

Q All right, sir. May I see those?

A (Some unidentified papers handed to Mr. Robison)

Q These were turned over to you along with the books?

A Yes.

Q Now, I've got here a letter from Jonathan Daniels, correct?

A Yes.

Q From Lee, New York, Apartment 4.

MR. ROBISON: I would like -- do you have any objections?

MR. GAMBLE: Your Honor, I don't think personal letters are--

MR. ROBISON: It was turned over to him, at the same time his personal belongings was.

THE COURT: I don't see that they throw any

light on the issue. Do you object to it, Mr. Gamble?

MR. GAMBLE: Yes, I object to them.

THE COURT: Sustain the objection.

(Thereupon the instrument (hereinabove described was (identified as Defendant's (Exhibit"C".

Q All right, sir. I show you a note, here, which was delivered to you, "Love, Joyce," to "Jonathan Daniels", was that turned over to you? "Love, Joyce" to "Jonathan Daniels".

A Yes. It was.

MR. GAMBLE: We object to that.

THE COURT: Sustained

MR. ROBISON: Well, if the court please, these came off with his personal --

THE COURT: As I understand the law, Mr. Robison, anything found at the scene of the homicide, or on the decedent's body, or in his possession, is irrelvant if it throws any light on the issues in the case. I can't see any light this throws on this case. So I sustain the objection.

MR. ROBISON: All right, sir. The ring, if the Court please, has been introduced --

THE COURT: For identification, yes, sir.

MR. ROBISON: Does your Honor overrule, in connection with this note?

THE COURT: Sustain the objection.

MR. PHELPS: I think the notes, here, Judge, have some irrelvancy on the case. It shows the litigants had communication in the jail. We will connect this up.

MR. ROBISON: As to what was going on in the jail.

THE COURT: Well, I don't see that what was going on in the jail is irrelvant, unless it's going to throw some light on the content of it, on the decedent/ immediately before the homicide.

MR. PHELP: I believe, Judge, it will be connected up, and I believe it will.

MR. BLACK: Your Honor, these people, they were searched when they went in the jail, and were not searched when they went out, and we would like to show that --

THE COURT: Do you have anything here that shows that somebody brought them a weapon, or anything of that sort? If you have I'll let it in.

MR. ROBISON: We can't show that a weapon was brought to them.

MR. BLACK: We couldn't show that the weapon was there, they were passing these notes and

things around. You don't know what they were passing.

THE COURT: Well, do you want a little time to examine those things to see --

MR. ROBISON: I have examined them, if the Court please, and examined at, ah -- my request, and, ah -- I went with Dr. Rehling and examined them.

THE COURT: All right. Then, will you explain to the Court wherein they are irrelvant, Mr. Robison?

MR. ROBISON: If the Court Please, it shows that they were sending things back and forth. We are going to show that there was a weapon, there, by proper credit to the witnesses, and I think that this would be bearing -- to show what was exchanged between them.

THE COURT: Not unless it's the contents of the letters themselves. I sustain the objection.

MR. ROBISON: All right, sir. If the Court please, we would like to offer them, and of course, if they are objected --

THE COURT: You would reserve an exception.

MR. ROBISON: We reserve an exception.

(Thereupon the instrument hereinabove described was identified as Defendant's Exhibit "D".

Q I show you another letter, here, to John Daniels, "John" signed "Joyce "; and "Ruby Nell ("Pixie"), was that one of them that was delivered?

A Yes.

MR. GAMBLE: We object to that.

THE COURT: Do you offer it Mr. Robison?

MR. ROBISON : Yes, sir.

THE COURT: All right. Objection sustained.

(Thereupon the instrument (hereinabove described was (identified as Defendant's (Exhibit "E".

Q Another letter here to "John", signed "Ruby", is that another one of them? Ah, --"Geraldine".

A That is correct. That is one of them.

MR. GAMBLE: Object to that.

THE COURT: Sustained.

MR. ROBISON: Exception.

THE COURT: Wait a minute, Mr. Robison, it is understood that as you come to each of these, that you are offering them --

MR. ROBISON: Yes, sir.

THE COURT: -- and if he objects --

MR. ROBISON: Yes, sir.

THE COURT: -- I will sustain the objection,

and you will reserve an exception.

MR. ROBISON: Yes, sir.

THE COURT: All right.

(Thereupon the instrument (hereinabove described was (identified as Defendant's (Exhibit "F".

Q "Hi girls," "Love, Jimmie."

MR. GAMBLE: We object to him reading them.

MR. ROBISON: Well, I am trying to identify them.

A That is one of them, yes.

THE COURT: Sustained.

MR. ROBISON: We offer that.

(Thereupon the instrument (hereinabove described was (identified as Defendant's (Exhibit "G".

Q And, this credit card here, Shell Credit car, to John D. Upham?

A John D. Upham, and it's signed J. M. Daniels, that's one of them.

MR. ROBISON: All right, sir. We offer that.

THE COURT: I guess there is no objection to that?

MR. GAMBLE: Yes, sir. We object.

THE COURT: Well, then, objection sustained.

(Thereupon the instrument (hereinabove described was (identified as Defendant's (Exhibit "H".

Q All right, sir. How many buck shot are in a number one buck shell the size of this one buck special?

A That is a one buck, ah -- one special, which is a number one and a half.

Q Yes, sir.

A The normal load of that is 16 pellets.

Q All right, sir. Now, how many pellets did you say you got out of Jonathan Daniels?

A About nine.

Q Now, how many shots of buckshot are in a number one buck magnet?

A Twenty.

Q Twenty. This is a number one buck magnet?

A That's right.

Q And, how many shots did you get out of Daniels?

A I found nine in that body.

Q All right, sir. Now, there has been introduced here in evidence, I believe, in one instance

as swimming shorts, correct?

A Yes. They are locker shorts.

Q Been described by you, I believe it was, as a Defendant's witness.

A (No answer)

Q In your examination of that, did they smell of urine?

A Yes. It does.

Q All right, sir. Now, at the time that you made your autopsy on the body, Dr. Rehling, was the urine still in that body? There had not been any Post Mortem urination?

A No Post Mortem. The trunks were dry, and there wasn't urine in the bladder.

Q And, was urine in the Bladder?

A Yes, sir.

Q All right, sir. Now, Dr. Rehling, did you at my request, make an examination of some smears on this book here, "The Church in the New Latin American?"

A I did.

Q Show the jury, please, sir, if you will, where you made the tests from, for that.

A Two areas of dark stains, down here near the bottom, the one on the letter "A", first "A" of the word American, And the other stain over the "C", and "A" Down near the corner. They were stains about like the end of my thumb. There

were also some over on the edge and corner down here.

Q Doctor, after you made that test, I believe I delivered this book to you, did I not, at your office?

A You did, personally.

Q And, you have had it in your possession ever since, until you handed it to me this morning?

A Yes. That's correct.

Q Now, in the examination of -- what type -- I withdraw that question.

Was that human blood in your judgement?

A It was. Yes.

Q Dr. Rehling, you have given us here, some testimony here, with respect to the distance. I believe you said that that gun, mounted on modified, with a number one, or buck, or one and a half, as you called it, regular magnum. The distance would have been about eight, six to eight feet, is that correct?

A That's right.

Q Is it my understanding, Dr. Rehling, that would be -- that is based on the size of that pellet -- ah, at that distance, is that correct?

A That is correct.

Q So, it would be safe to say, it would be six eight feet -- would be the maximun distance that that pattern would be made?

A That's right.

Q All right, sir. Now, you'r not saying that that pattern couldn't be made at a closer distance, is that correct?

A Not at any substantially closer distance, that's right. It could not. It would be smaller.

Q One final question, Dr. Rehling, in your investigation, and in the report that you made, and in the testimony that you have given here, has it, in any way, been slanted, as has been alleged here earlier today, in favor of the defendant?

A No. These are the facts as I have found them, and I have presented them as I found them.

MR. ROBISON: I have no further questions.

REDIRECT EXAMINATION

By Mr. Gamble:

Q Doctor, did you also make other test patterns from that gun?

A Yes.

Q To determine what patterns it would make at other distances than the six or eight foot?

A Yes.

Q What other patterns, and what other distances

did you check?

A I checked the distance around ten feet, in one of the earlier firings, and also I made some tests up around 30, to 35 feet.

Q And, what sort of patter did that gun make at 30 to 35 feet?

A Approxiamtely 12 inches, set at modified.

Q Now, when you say 12 inches --

A That is the largest measurement across the pattern would be 12 inches.

Q All right. What was the pattern made by that gun, I believe you said at ten feet?

A At ten feet, we would get a pattern proximating two and a half, or three inches.

MR. GAMBLE: I believe that's all.

THE COURT: Anything from the --

MR. ROBISON: I have no further questions. as far as we are concerned, Dr. Rehling may be excused. I believe the Circuit Solicitor has suggested that also.

THE COURT: You may step down.

(Witness excused.)

MR. GAMBLE: We call Dr. Charles Cox.

Whereupon,

DR. CHARLES COX

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name, please, sir?

A Dr. Charles Cox.

Q Dr. Cox, are you a medical doctor?

A Yes, sir.

Q Where is your residency?

A In Montgomery.

Q And, how long have you been in Montgomery?

A I have been in Montgomery two years.

Q Do you have a specialty in the field of medicine?

A Yes, sir. I am a surgeon.

Q A surgeon?

A Yes, sir.

Q Will you state to this Court and to this jury your educational, and experience, you have had in this field?

MR. BLACK: We certainly admit Dr. Cox's qualifications as a fine surgeon.

MR. GAMBLE: We accept that.

Q Dr., do you know Richard Morrisroe?

A Yes, sir.

Q Had he been a patient of yours?

A yes, sir.

Q When did you first see him as a patient?

A I saw him, approximately 5:00, or 5:30, on the 20th of August.

Q And, where was it that you saw him?

A In the emergency room at the Babtist Hospital in Montgomery.

Q Now, Doctor, when you first saw Richard Morrisroe, what was his condition?

A He was in very poor condition, at that time.

Q Did he have any wound marks on his body?

A Yes, sir. He had been shot.

Q Would you describe for the jury that wound mark and its location?

A All right, sir. There was a -- he had obviously been shot with a shotgun. There was a pattern approximately -- oh, eight to ten inches maximum, located in his left -- correction, in his right flank. X-Rays made in the emergency room indicated these pellets passed through his body, from the right side to the left side, and there

a number of pellets scattered along this course.

Q Now, just for the benifit of the jury, doctor, would you stand up and show them where that was.

A Right here. (Indicating)

MR. BLACK: We would like for the record to show that the doctor is pointing just above his hip. Would that be correct, Mr. Gamble, right on his side?

THE COURT: Would you state, for the record, the exact description, where you pointed out?

A Yes, sir. This is the lumbar area, and the gluteal lumbar area, on the right side, the posterior lateral aspect of his trunk.

Q Now, Dr. Cox, did you perform any surgery on Richard Morrisroe?

A Yes, sir.

Q In the course of this surgery, did you recover any lead pellets from his body?

A Yes, sir.

Q Do you recall how many?

A There were about nine, or ten, as I recall.

Q Nine or ten?

A Yes, sir.

Q Doctor, do you do any hunting?

A Yes, sir.

Q Are you familiar with shotguns, and the use of shotguns?

A Yes, sir.

Q Did you form any judgement, as to what size pellets those were that you recovered?

A No, sir. They were a large buckshot, exact size, I don't know.

Q In your opinion, they were a large buckshot?

A Yes, sir.

Q And, how long did Richard Morrisroe remain in the Baptist Hospital as your patient?

A I think he was there, approximately, five weeks.

Q Five weeks?

A Yeah.

Q Now, doctor, I believe you said you personally saw him about 5:00, or 5:30, on Friday, August 20th?

A Yes, sir.

Q How soon, after you first saw him, was it that you began your surgery?

A Almost immediately. As soon as we were able to get blood transfusions for him, as soon as we could get X-ray and surgery ready for him, we started operating.

Q And, when did you complete your surgery?

A Approximately 4:30, or 5:00 o'clock in the morning.

Q 4:30, or 5:00 o'clock in the morning?

A Yes, sir.

Q Then, you operated on him for some 10, or 11 hours?

A yes, sir.

MR. GAMBLE: I believe that's all.

MR. BLACK: We have no questions for Dr. Cox, As far as we are concerned, he can be excused. I am sure he has business in Montgomery.

THE COURT: All right. You may be excused.

MR. GAMBLE: Your Honor, I again apologize to the Court, but I would appreciate it if the Court would give me a minute or two to get my other witnesses.

THE COURT: All right, Mr. Gamble.

(Witness excused.)

(Recess.)

MR. GAMBLE: We will call Mrs. Virginia Varner.

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Whereupon,

MRS. VIRGINIA VARNER

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name, please?

A Virginia Waller Varner.

Q Virginai Waller Varner?

A Yes.

Q Mrs. Varner, where do you live?

A I live in Hayneville.

Q How long have you lived in Hayneville?

A Oh, about 26, or '7 years.

Q And, do you operate a business in Hayneville?

A I did.

Q What is the name of your business?

A Cash Store.

Q Were you operating that store in August of this year?

A Yes, sir.

Q Mrs. Varner, do you remember the occasion when Jonathan Daniels was shot and killed here in Hayneville?

A Yes.

Q That happened just outside of your store, is that right?

A Yes.

Q Were you there, at that time, Mrs. Varner?

A I was.

Q Do you recall when that was?

A Well it was on the 26th -- I don't remember the date, but it was on Friday afternoon.

Q Do you know what month it was in?

A It was on Friday afternoon.

Q About what time of the afternoon, would you say?

A I wouldn't. No.

Q Mrs. Varner, do you know Tom Coleman?

A Yes. I do.

Q How long have you known him?

A For years.

Q Did he come to your store the afternoon that Jonathan Daniels was killed?

A Yes. He did.

Q Did you see him when he first came there?

A When he entered the store I saw him, yes.

Q He did come to your store?

A Yes.

Q Did he have anything with him?

A Well, I didn't notice at first, after I saw him lean a gun against the door.

Q He did have a gun with Him?

A Yes. He did.

Q Do you know what kind of gun it was, that is, whether it was a shotgun, pistol, or what?

A Shotgun.

Q A shotgun. Mrs. Varner, did he say anything to

you when he came in the store?

A I spoke to him about the middle of the store -- just spoke to him.

Q He just spoke to you and put the gun down? Did he go out of the store?

A He did.

Q Now, did he come back in after he left that time?

A Yes. He came back in.

Q Do you have any idea how long he was gone?

A I do not.

Q All right. Now, when he came back in the store this second time, Mrs. Varner, what did he do?

A He got his gun.

Q Did he say anything?

A Yes. He asked me if I had closed the store.

Q All right. What did he do with gun after he got it?

A I don't know what he did with the gun right at the time he got it -- picked it up.

Q Did he start toward the front door?

A Yes. He did.

Q Does your store have more than one door?

A No, it just has the front entrance.

Q So, he got his gun and started toward the front door, is that right?

A Yes.

Q All right. Now, after he got in the vicinity

of the front door, Mrs. Varner, did you hear a shot fired?

A Well, ah -- yes I heard a shot.

Q Did you see where the shot came from, and who fired it?

A I didn't look.

Q You didn't look?

A No.

Q But you did hear the shot fired?

A Yes. I did.

Q Was there anybody else in the store at that time?

A Yes, sir.

Q Who else was there?

A It was Adell Hardy and her two grand children, and two small children.

Q They were the only --

A And one of the small children, lets see -- I've forgotten the child's name. I don't know the child's name, but I know he was there.

Q And, those were the only people that were there? Other than Tom Coleman?

A Yes.

Q All right. Now, you say you did not see the shot fired?

A No. I did not.

Q What did you do when the shot was fired?

A I was actually making change when the shot was fired, and I continued -- I just went on with the business.

Q Did you know that someone had been shot at your front?

A Yes. I knew someone had been shot.

Q Did you go out and see what had happened?

A I did not.

Q Now, you don't -- do you know who it was that was shot?

A I didn't know.

Q Now, just before that shot was fired, Mrs. Varner, did you hear Tom Coleman make any statement?

A Yes. I did.

Q What did he say?

A He said the store was closed.

Q Did he say that one time, or more than one time?

A He said it more than once.

Q Now, was he there close to the front door when that statement was made?

A Yes.

Q Did you see anyone enter the door?

A I did not.

Q Did not. All right. Now, did you, after that first shot was fired, Mrs. Varner, did you hear any other shots fired?

A Well, actually I'm sure it was, but -- I just can't say how many shots were fired.

Q Did you hear Tom Coleman make any statement after that first shot was fired?

A No.

Q Now, Mrs. Varner, before Tom Coleman came down there, that afternoon, did you call him and request that he come?

A No. I did not.

Q Do you know Mr. Joe Bell Coker?

A Yes, I do.

Q Do you know Mr. Leon Crocket?

A Yes. I do.

Q Was they there, at your store, at the time of this shooting?

A Joe Bell had been there. Had been inside, and at the time of the shooting I didn't know they were out there — I didn't know if they were outside.

Q They were not in the store?

A No. They were not in the store.

Q But Mr. Coker had been in the store shortly before?

A Yes, sir.

Q How about Mr. Crocket?

A No. He had not.

Q

MR. GAMBLE: I believe that's all, Your Honor.

CROSS EXAMINATION

By Mr. Robison:

Q Mrs. Varner, I believe your husband is Robert Varner, is that right ma'am?

A Yes. That's right.

Q And, I believe you have a daughter attending Auburn, do you not?

A I do.

Q You all are educating that child. Mrs. Varner, you say you had known Tom Coleman for a long time, is that right?

A Yes, sir.

Q Some several months ago I believe there was a robber in your store, and you called Tom Coleman about that robber?

A That was last year, and I did.

Q You called Tom Coleman about that robbery?

A Yes.

Q Tom Coleman is your friend, and has been your friend, is that right?

A Yes.

Q Now, I believe, Mrs. Varner, in your store, in the rear of your store, there is a Beauty Parlor, isn't it?

A Yes, sir. It is.

Q And, I believe that beauty parlor -- the operators -- are women folk too, just like yourself?

A Yes.

Q At the time of this shooting, was there, ah -- Mr. Varner there, or anyone there in the store, besides you and your customers that you talked about?

A Not to my knowdledge.

Q Ma'am?

A No, my husband wasn't.

Q Your husband was not. There was no one in the store, is that correct?

A That is correct. No one in the store.

Q Now, Mrs. Varner, you knew that the civil rights workers had been released?

A I did.

Q Right. And, you had ordered all the customers out. MR. GAMBLE: We object to that. THE COURT: Overruled. A Well, Adell Hardy, and MR. ROBISON: If the Court please, It is part of the --

Q Now, you knew they had been released, is that right?

A That's correct.

Q And, you had called your daughter and made the fact known to her and told her to lock the

Q doors there, in the house, just shortly before this happened? Correct, is that correct?

A I did.

Q Now, there was, at one time, and I mean a period of a very few minutes, five or ten minutes before this shooting, other people, other customers, were in your store, wasn't there?

A Yes. I believe we have pictures of it, there is

Q You were in the process of waiting on those customers, and getting them out of there as fast as you could to close that store, were you not? Varner, right here.

A I was waiting on them as fast as I could, so that I could.

Q Close the store.

A Yes. There is another picture, I believe, there's

Q Right. And, you had gotten all the customers out of there to close your store, with the exception of, I believe you said, Adell Hardy, and her two grandchildren and two small children?

A That's correct. Understand it you don't know, who

Q Now, you had seen, I believe you said, Mr. Coker first? Ode, is that right?

A Yes, right.

Q He had been in and was not in the store at the time this happened, is that correct?

A That's correct. People had been outside.

Q Tom Coleman, you say, came in there shortly before this happened, is that correct?

A Yes.

Q And, put a gun, or shotgun, there against the wall and went outside, is that correct?

A That's correct.

Q Now, on the outside of your store somewhere, and I believe we have picture of it, there is a bench, isn't there?

A Yes.

Q I show you State's Exhibit one, and point to this bench, Mrs. Varner, right here, and then

A That's right.

Q Is that the bench there in front of your store?

A Yes. It is.

Q And, here is another picture, I believe, State's Exhibit number two showing that same bench there, is that correct?

A Yes.

Q All right. Now, you don't tell this jury, because as I understand it you don't know, who was outside there on the bench, or actually who was outside, is that right?

A That's right.

Q You did know that there was crowd of people out there, did you not, Mrs. Varner?

A I knew that people had been outside.

Q= All right. Are you kin to Mr. Leon Crocket?

A Well, he is in my family, not actually blood kin.

Q You have been very close to Mr. Crocket?

A Always.

Q Always been close to Mr. Crocket, and you don't know -- you know he was not inside the store, but you don't tell this jury that he wasn't there sitting on that bench?

A I didn't know he was out there.

Q All right. Now, when you say Tom Coleman went out, and he was there for a while, and then he came back in, is that correct?

A That's correct.

Q And, you were trying -- already testified that you were trying to close that store?

A (No answer)

Q Ah, Tom Coleman say anything to you, do you have a closing sign?

A That's what he said.

Q And, you told him that you did not?

A Yes, sir.

Q That you were in the process of trying to close the store, and he then went to the door, is that correct -- I mean went to the front of your store, is that correct, to the best you know?

A Yes.

Q All right. Do you recall hearing Tom Coleman say, "The store is closed," I believe you said on two occasions?

A Yes.

Q Do you recall hearing anything said to Him?

A I didn't hear anything said to him.

Q Do you recall hearing Tom Coleman saying anything other than the store is closed, on two separate occasions?

A That is all.

MR. ROBISON: I thank you, Mrs. Varner. That's all.

MR. GAMBLE: That is all

(Witness excused.)

MR. GAMBLE: Call Abell Hardy.

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Whereupon,

ABELL HARDY

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name, please?

A Sir?

Q What is your name?

A Abell Hardy.

Q Abell, where do you live?

A Live down by the racetrack.

Q Here in Lowndes County?

A Sir?

Q Here in Lowndes County?

A Yes, sir.

Q How long have you lived in Lowndes County?

A All my life.

Q All your life?

A Yes, sir.

Q Do you know where the Cash Store, Mrs. Varners' store, is here in Hayneville?

A Yes.

Q Do you trade there?

A Yes, sir.

Q Do you remember last August, Abell, when a man was shot down there?

A Yes, sir.

Q Were you down at Mrs. Varners' store, at that time?

A Yes, sir. I was in that store, at that time?

Q Where were you? Of, I didn't pay any attention

A I was in the store ing in.

Q In the store? on the first shot was fired,

A Yes, sir. Standing to the counter. he?

Q You were in the store at the time of the shooting?

A Yes, sir. ng —

Q All right. Now, Abell, do you know Mr. Tom Coleman? time that when the shot was fired.

A No, sir. Personally, I don't know him. en before

Q Do you know him when you see him?

A No, sir. I shore don't. I stays home all the time, and I don't know very many of the white people, just the store keeper down there.

Q All right. When the shooting took place, Abell, let me ask you, was there one or more than one shot fired? out, get out. Don't you know the

A It was two loud." That's all I heard.

Q Two shots fired? t, don't you know that there is

A Yes, sir.

Q All right. Now, at the time the first shot was fired, Abell, who else, besides you, was inside the store? t did not.

A Mrs. Varner, myself, and my grands.

Q How many grands did you have.

A I had two there. Abell, after that first shot

Q Just two? What did you do?

A Yes, sir.

Q Was anybody else in that store, at that time?

A Not that I know of, I didn't pay any attention to anybody else going in.

Q All right. When the first shot was fired, Abell, did you see who fired that shot?

A No, sir. I didn't.

Q Did you see --

A No, sir. I was laying with my face over the counter, like that, when the shot was fired.

Q All right. Did you hear any conversation before that shot was fired?

A No, I did not.

Q Didn't hear anything said before that shot was fired?

A No, sir. I did not. Only I heard this.

Q What did you hear?

A Said, "Get out, get out. Don't you know the place is closed." That's all I heard.

Q "Get out, get out, don't you know this place is closed?"

A Yes, sir.

Q And, you didn't hear any other conversation?

A No, sir. I did not.

Q Before that first shot was fired?

A No, sir.

Q All right. Now, Abell, after that first shot was fired, what did you do?

A When the first shot was fired I was laying over
the counter, like that. I looked around, when
they said get out, and I seen the black trouble
that was going to take place and I just layed
my head right over the counter, like that.

Q Did you see whether anybody was hit with that
first shot?

A No, sir. I did not.

Q How long did you stay in the store after the
shooting?

A Well, I was so upset I couldn't tell exactly
how long I stayed in there, but when I got up
off the counter I went around to the end of the
counter and Mrs. Varner gave me a chair, and a
nerve tablet; And, I sat right there until they
opened the doors, and I came out.

Q When you came out, did you see anybody outside
who had been shot?

A Yes, sir. After I got in the car I cast my eyes
up 'side the house, and I seen a person laying
dead.

Q Did you see any other person who had been shot?

A No, sir. I did not.

Q That was the only one you saw?

A Yes, sir.

Q And, you say you do not know Mr. Tom Coleman?

A No, sir. I shore don't. I don't know him in

here now., to get your groceries, didn't you?

Q At the time the first shot was fired, in the store was you, Mrs. Varner, and your grandchildren, is that right?

A Yes, sir.

Q All right. Now, nobody else was in the store?

A I didn't pay any attention to anybody else being in there. My back -- ah, face was to the counter.

Q Did you see a man come in the store, and pick up a shotgun?

A No, sir. I did not.

Q Did you see a man in the store, with a shotgun?

A No, sir. I shore didn't.

MR. GAMBLE: All right. I believe that's all.

CROSS EXAMINATION

By Mr. Phelps:

Q Abell, your husband is Will Hardy?

A William Hardy.

Q William Hardy?

A Yes, sir.

Q And, you had gone up to the Cash Store, that

afternoon, to get your grocerys, hadn't you?

A Sir?

Q You all had gone up to the Cash Store, that afternoon, to get your grocerys, hadn't you?

A Yes, sir.

Q And, you and your grandchildren went into the store?

A Went inside.

Q Do you remember whether you drove up there in your automobile?

A Yes, sir.

Q You've got a black Chevrolet automobile?

A Yes, sir.

Q 1958?

A Yes, sir.

Q About where did you park that automobile, Abell?

A Well, it was nearly right in front of the store.

Q About right in front of the store?

A Yes, sir. Nearly about in front of the store. Wasn't exactly, but near 'bout.

Q Now, how long was that, Abell, when you pulled up there and parked your car, before the time you told the Court and Jury that you heard these shots, how long didyou stay in the store?

A How long had I been in there?

Q Yes, sir, there, from the, Yours?

A I would say, about 25 minutes.

Q About 25 minutes?

A Yes, sir.

Q All right. Now, your two grandchildren --
is one of your grandchildren named Barbara
Edwards?

A Yes, sir.

Q And, what is your other grandchild named?

A Stanly Edwards.

Q Where is he now?

A He is in Chicago now. When the lawyers come
there, I told him he would have to go back to
school, and they told me it would be alright.

Q All right.

A Yes. He went back to Chicago to go to school.

Q Now, did you notice anything going on around
there, Abell, as you came up there and parked
that car. Did you see any folks walking along
there, or gathered together.

A What -- when we got to the store and got out
of the car?

Q Un hun.

A No, sir. I did not.

Q You didn't see anything?

A No, sir. I shore didn't.

Q You went on in the store and stated buying your
groceries, there, from Mrs. Varner?

A Yes.

Q And, you said that you thought that there might be trouble?

A Yes, sir.

Q Did you hear any racket outside, or anything like that?

A No, sir. I did not. When I looked around I just saw it looked like there was going to be trouble, and I layed my head right over the counter like that.

Q You put your head down when you thought there was going to be some trouble?

A Yes, sir.

Q All right. And, you say you heard somebody say, "Get out, get out. Don't you know this store is closed?"

COURT: All right. You may go.

A Yes, sir.

Q Now, William Hardy, he let you all come on in the store and he went over next door behind the store to the gin?

COURT: All right. You may go home then.

A Well, after we got out he walked over. I didn't know where he went.

Q You don't know where he went?

A No, sir.

Q There wasn't any man folk in that store?

A No, sir. I didn't pay any attention to no man being in there, I just went right on in and got my groceries.

Q And, behind that store is a little beauty parlor.

Isn't there a little beauty shop that you know about?

A Yes, sir.

Q And, there is women folk back there too, aren't there?

A Well, the rear door was closed.

Q All right. I see. good night, a comfortable place to sleep, to the guests of this county.

MR. PHELPS: I believe that's all, Abell, thank you.

(Recess.)

A Your welcome.

THE COURT: All right. You may go.

MR. PHILPS: Judge, its been a long day for her, I expect, so we would agree to let her go home.

THE COURT: All right. You may go home then.

MR. GAMBLE: Your Honor, its been a long day for me too. I hate to make a request like, at this time, but if the Court would indulge me, I would like to recess until tomorrow morning.

THE COURT: All right, sir. Gentlemen, as you gentlemen realize, Mr. Gamble is somewhat handicapped in the trial of this case -- just a minute --

THE BAILIFF: Order in the Court. Shut the

door. You all sit down, and stay there.

THE COURT: -- and, he said he needs to recess so that he can spend the rest of the time this afternoon preparing for his witnesses in the morning, so we will now recess until 9:00 o'clock in the morning. You may go with the bailiff, and I hope you have a good night, a comfortable place to sleep, as the guests of this county. Be back at 9:00 o'clock in the morning.

(Recess.)

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(After recess, 9:00 A. M., (Wednesday, September 29, (1965, case is resumed.

THE COURT: Mr. Gamble tells me that he needs a little bit of time this morning, to talk to his witnesses. He has been here since 8:30 talking to them, but this takes time. Also, Mr. Hardeman, the District Attorney, wants to come down with a motion on another case. We expect him here about 9:30. If you gentlemen want to get out and stretch you legs -- anyway, you may do so rather than just sit there at ease. Just do accordlingly.

(Recess.)

MR. GAMBLE: Call Dr. W. L. Staggerd.

Thereupon,

DR. W. L. STAGGERD

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name, please, sir?

A William L. Staggerd.

Q Dr. Staggerd, are you a medical doctor?

A I am.

Q How long have you practiced medicine?

A Since 1916.

Q Since 1916?

A Yes, sir.

Q What is your medical background, doctor, your educational background?

MR. ROBISON: If the Court please, we admit the qualification of Dr. Staggerd.

MR. GAMBLE: Thank you, very much.

Q Doctor, where do you practice medicine?

A I practice in Benton, and two afternoons a week here in an office in Hayneville.

Q Do you remember the occasion, Dr. Staggerd, when its said that a man was shot and killed here in Hayneville, in front of the Cash Store?

A Yes, sir. I remember very definitely a man was shot. I didn't know, at the time, the man was killed.

Q Did you go down to the Cash Store at that time?

A Not to the store. I went to the seed house right back of the store.

Q And, ~~xxxxsaw~~ the man wounded on the ground?

Q Did you see another man there, who had been shot?

A Not at that time, No, sir.

Q Did you ever see another ~~manx~~ there.

A I went back down there, after I had treated the man who was on the ground, I saw -- I heard that there was another man down there, dead, and I asked Joe -- I mean Luck Jackson and two highway patrolman if they wanted me to go down and call the man dead, and after they had said they called the coroner, I said, "Well, still, do you want me to see whether he is dead, or not?" They said, " Yes, I think you should." I went back and listened to -- put the stereoscope to the man's heart to see if he was living, and he was dead.

Q He was dead, at that time?

A Yes, sir.

Q Did you notice any wound marks on that man's body?

A One puncture wound on the right side of the chest.

Q On the right side of the chest?

A Right.

Q And, that's all?

A That's the only one I saw.

Q All right. The man that you treated, doctor, did he have a wound mark on his body?

A He had several bullet wounds on the side.

Q Will you describe those wound marks, and there location for us?

A He was lying on his stomach when I saw him, and I told him that I was a doctor, and was there to do somethigg for him. There was blood on the back of his shirt. I pulled his trousers down and saw a bullet wound on the right side, and right upper part of his hip.

Q The right side, and right upper part of his hip?

A That's right.

Q All right. Now, did you administer treatment to him there?

A I gave him an injection of Vistaril, which was to calm him, and that's all I did.

Q That's all you did?

A No, I beg your pardon, I put three, or four peaces

of gauze over those bullet wounds, and pulled his clothes back up.

Q I see. Now, doctor, were you there when coroner Jack Golson arrived to pick up --

A I don't know if the coroner came. I was there when the ambulance came, and put the dead man in the ambulance first, and then lifted the wounded man into the ambulance next. I was there until the ambulance left.

Q Until the ambulance left. Did you know any one of those people personally?

A (Indicating)

MR. GAMBLE: I believe that's all.

CROSS EXAMINATION

By Mr. Black:

Q Doctor Staggerd, did Mr. Morrisroe have anything to say there?

A He said -- I told him who I was and why I was there and he said he thought the spine was injured, because he couldn't move his legs.

Q All right, sir. Did he say anything about water?

A He asked for water when I was down there the last time. After I went back I was standing there by

him and he asked for water, and I asked one of the men who was there to give him a drink of water.

MR. BLACK: That's all, Doctor, thank you.

MR. GAMBLE: That's all, doctor.

(Witness excused.)

MR. GAMBLE: Call Leon Crocket.

Whereupon,

L. W. CROCKET

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name, please, sir?

A L. W. Crocket.

Q Are you Leon Crocket?

A Leon W. Crocket.

Q Where do you live, Leon?

A Here in Hayneville.

Q How long have you lived here?

A Since '41.

Q Since 1941?

A Yes, sir.

Q Mr. Crocket, when you came to Hayneville, what was your business?

A I worked for the old triple "A".

Q How long?

A Twenty-five years.

Q Twenty-five years?

A Yes, sir.

Q Are you engaged in business at this time?

A No, sir. I am retired.

Q Retired. Mr. Crocket, do you know Tom Coleman?

A Yes, sir. I know him.

Q How long have you known him?

A Oh, since about '18, or '20.

Q Ah, --

A Back in 1918, or 1920. Back in the earlier days.

Q Back in the earlier days. You and Tom have been right close through the years, haven't you?

A Well, we have been friends, yes.

Q Played a few games of dominoes during your time?

A A few.

Q Mr. Croket, do you remember the occasion when its said that the Reverend Jonathan Daniels was shot

and killed, here in hayneville, down at the Cash Store?

A Yes, sir. I remember.

Q Were you there at that time?

A I was.

Q What time did you go to the Cash Store that day?

A It was a few minutes either before, or after, 3:00 o'clock. Within a few minutes.

Q Do you remember what day it was?

A It was on Friday.

Q And, what time?

A The day of the month, I don't know.

Q What time did you say you went there?

A Three o'clock.

Q Three o'clock in the afternoon. All right. Was there anybody else there around the store?

A Mr. Joe Bell Coker was sitting on the bench outside.

Q Was he there when you got there?

A Yes, sir.

Q All right. Now, did you go inside the store?

A No, sir. I did not.

Q You don't know who was in the store?

A No, sir. I looked through the window and saw, kind of an elderly negro woman, but I didn't know who whe was.

Q Did Tom Coleman come to the store that afternoon?

A Yes.

Q How long had you been there/when Tom came?

A Between five and ten minutes.

Q All right. What did Tom do, Mr. Crocket, when he came to the store? How did he come there?

A He drove up in his car.

Q Will you describe that car for us?

A Well, it was a/black Chevrolet with a white top.

Q All right, sir. And, what did he do when he got there?

A He got out and went in the store.

Q Now, when he got out of the car, did he have anything with him?

A Yes, sir. He had a shotgun in his hand.

Q Now, Mr. Crocket, did he have a pistol onhis side?

A I did not see a pistol, no, sir.

Q You did not see a pistol?

A No, sir.

Q All right. Now, what did he do with the shotgun?

A Carried it in the store.

Q All right. And, did he come back out?

A Came back out and got on the bench.

Q With you and Mr. __

A Mr. Coker.

Q Mr. Coker? All right. Now, how long did the three of of you sit there?

A Oh, just a minute. I don't know, it didn't __

it wasn't long.

Q Now, during the time that the three of you was sitting there, on the bench, did the Reverend Jonathan Daniels come up to the store?

A Yes, sir.

Q Was there anybody else with him?

A Yes, sir. There was another white man, and two Negro women.

Q Did you know any of them at all?

A No, sir. I did not.

Q Had you ever seen any of them before?

A No, sir.

Q All right, sir. Now, Mr. Crocket, just tell the Court, and Jury, what ah, happened when these four people walked up to the Cash Store?

A The one that is called Daniels, he took the lead when they got there, and he walked up -- just as he got in front of the store, and I heard Mr. Coleman tell him that the store is closed for business.. You all can't come in, and he stood there oh, just for seconds I reckon, and took a step right up on the steps like he was coming on in, and Tom told him the second time, says " I told you the store was closed, and you can't come in." And, at that time Mr. Daniels asked him, "Are you threating me?" Tom says, " No I'M not not threating you, I'm trying to get you to leave."

And, at that time, Daniels opened the screen door, and started on in.

Q And, then what happened?

A I heard a shot.

Q Did you see where the shot came from?

A No, sir.

Q Mr. Crocket, I show you here a photograph, marked State's Exhibit No. 2, and ask you if you recognize that?

A Yes, sir.

Q Is that part of the Cash Store?

A That's right.

Q Now, is this the bench that the three of you were sitting on?

A Yes, sir.

Q All right. Now, you say, at the time that shot was fired --

A I was about half way to the bench.

Q Will you turn around here so the jury can see.

A I was about half way to the bench, and Mr. Coker was sitting on this end, and he had been on that end of the bench.

Q All right. Now, you say Reverend Daniels had gotten to -- had the door open?

A Yes, sir.

Q Is that a double door?

A Yes, sir.

Q Do you remember which side of the double door it was?

A The left side.

Q The left side, right there? (Pointing on Photograph)

A That's right.

Q All right. Now, when the shot was fired, was Mr. Coleman inside that door, or outside?

A Inside.

Q Where you were sitting, over here, you couldn't see who did it?

A I couldn't see the gun, or the man.

Q You couldn't see either one? The gun or the man?

A No, sir.

Q Now, Mr. Crocket, after that first shot was fired, what happened to Jonathan Daniels?

A I saw him fall back on that cement front there.

Q Now, he fell right there in front of the store, is that right?

A That's right. Right straight back.

Q All right, sir. Now, after he fell, what happened?

A Well, I would say, during the time he was actually falling, the other, Morrisroe, I think is his name -- he was out at the bakk end of that cement walk, there, that -- if you will bring it here I will show you.

Q (Handing photograph to witness) He had gotten up to the, ah, --

A He was up to this walk.

Q That part in front?

A Right in front of this walk. He made a break like he was going right in to his assistance -- going in.

Q All right. And, --

A Going in the door.

Q And, then what happened?

A Just as he made the fall -- he first got about two steps, and he just made a twist -- twisted -- leaned over to his left.

Q And, was there a second shot fired at that time?

A Right immediately at that time, yes, sir.

Q Did that second shot hit Father Morrisroe?

A Yes, sir.

Q What happened to him?

A He fell back against the car that was parked right there, at an angle, there in front of curb.

Q Let me get the position of that. Can you show the location of the car in this picture?

A Yes, sir.

Q Will you point it out so the jury can see it?

A It was at an angle, the front of it was near the curb, and the back was out, I would say, four or five feet from the curb.

Q Now, that's in front of the store?

A Right -- directly in front.

Q Do you know whose car that was?

A Tom Coleman's.

Q Tom Coleman's car.

MR. PHELPS: Mr. Gamble, you might let him draw that --

MR. GAMBLE: How's that?

MR. PHELPS: -- draw where he saw that car, so that we will have it.

MR. BLACK: I have a grease pencil here, if you want to use it.

Q All right. Just mark there, on that photograph, the location of that automobile.

A (Witness marking) Just about right here.

Q Now, were there any other vehicles parked around --

A I don't recall any others, except around here, and there was one or two more back here.

Q Now, can you locate those cars?

A I had parked right along here.

Q All right. Now, were there other vehicles there?

A I don't know where.

Q That was the location of your car, and Mr. Tom Coleman's car?

A (Indicating)

Q Now, Mr. Crocket, after Kather Morrisroe was shot, did he fall?

A He didn't fall there. As I said, he kind of fell back against that car at an angle, and fell,or just sort of rolled and fell, his way down that car on to the back, and as he left the back he begain to fall and stagger and fell out in the street, about, I reckon, 20 feet.

Q All right, sir. Now, after that second shot was fired, did Tom Coleman come out of the store?

A He did.

Q Did he still have the shotgun with him?

A Yes, sir. He still had the shotgun, and he handed it to me and said, "You take the shotgun, you may need it. I'm going to the sheriff's office."

Q He handed the shotgun to you?

A Yes, sir.

Q All right. Now, Mr. Crocket, what did you do with the gun?

A I put it in the back seat of my car.

Q And, did you later turn that gun over to the deputy sheriff, Luck Jackson?

A I did. When he asked for it, I gave it to him.

Q Now, at the time you carried that gun over to Luck Jackson, was it in the same, or substantially the same condition as it was when Tom Coleman handed it to you?

A It was in exactly the same.

Q Exactly the same. Would you recgonize that gun, if you saw it?

A I would know the similarity, I wouldn't say that I could identify the exact gun, but I would know if it was a gun like it or not.

Q I show you this gun here, marked State's Exhibit No. 5, and ask you if that is --

A Essentially the same, or one exactly like it.

Q This is the gun that Tom Coleman handed you?

A Yes, sir.

Q

THE COURT: Gentlemen, I assume that somebody has seen to it that the gun is not loaded?

MR. GAMBLE: Yes, sir. Your Honor, its not.

Q Sometime after this shooting took place, did you find any empty hulls there close to the Cash store?

A There was two empty hulls roght on the step, jsst outside the screen door.

Q Just outside the screen door?

A On that first little step.

Q Did you pick up those empty hulls?

A I did.

Q What did you do with them?

A I threw them in the back of my car, and carried them to the house. Got up there I threw them

out in the back, in the trash barrel.

Q All right. Did you later pick them up?

A I did.

Q Were they in the same condition at the time you picke them up, as they were when you picked them up in front of the Cash Store?

A No, it seemed that a ground squirrel, or some-kind of an animal out there, had gnawed on the end of one of those shells.

Q (Showing hulls to witness)

A That's exactly the condition they were in, yes, sir.

Q Are those hulls in the same condition that they were, or substantially the same condition, that they were at the time you picked them up at the Cash Store, except for the fact this one was chewed on a little bit?

A That's right.

Q Now, what did you do with those hulls, Mr. Crocket?

A Ah, there was a State Investigator come up there and asked me for them and I gave them to him.

Q Do you know Captain R. W. Godwin?

A Yes, sir.

Q The State Investigator?

A Yes, sir.

Q Was he the man that you turned those over to?

He was one of the three. There was three of them.

Q Now, Mr. Crocket, during the time that you were there at the Cash Store, was the bodys of Jonathan Daniels, and Richard Morrisroe moved from the places that they had originally fell?

A Yes. They were.

Q Where was Jonathan Daniels' body moved to?

A Two of the deputy sheriffs, and myself, picked him up and carried him around to the side of the store and laid him on the grass in the shade.

Q Now, which side of the store was that?

A On this side, north side.

Q Towards town?

A Yes, sir.

Q Now, what about Richard Morrisroe?

A While we were -- well, I don't know -- immediately after we moved him, there was some other parties, I don't know who, moved him across to the shade on the grass by the seed house.

Q Now, were you there when Jack Golson came to pick them up?

A No, sir. I wasn't.

Q You had left?

A Yeah.

MR. GAMBLE: I believe that's all.

CROSS EXAMINATION

By Mr. Phelps:

Q Mr. Crocket, you say that screen door there, was that a double door?

A Double door.

Q And, that Daniels reached and opened the left double door?

A Yes. He did.

Q The left side with his left hand?

A Yes.

Q All right, sir. That would be the Southern door. Did you see anything, Mr. Crocket, in Daniels' right hand?

A There was a bright shiny object that resembled a knife blade. I didn't see the handle and I don't know what kind of knife it was, but it was a knife of somekind.

Q When, Mr. Crocket, did you see this shiny object that resembled a blade?

A When I heard Daniels ask Tom, "Are you threatening me?" I looked up, I hadn't been looking at him directly, I looked at him at that time and he had the knife in his hand.

Q All right, sir. Was that when he was going into the store?

A The last move he made to go into the store.

Q Are you sure you saw the blade?

A Yes, sir. I saw the blade. It was shiny object about three or four -- I would say, three inches, out of his hand.

Q In his right hand?

A Yes, sir.

Q And, he was walking into the store with that?

A Malking a move inside the store, yes, sir.

Q All right, sir. When did he make the statement, "Are you threatening me?"

A That was just before he made his last move to go in.

Q Did he have the knife out at that time?

A That was when I looked around and saw him. As he said that he moved forward and that is when I saw the knife.

Q And, then a shot was fired?

A= Yes, sir.

Q What was the next thing, Mr. Crocket, that you saw?

A That was when I saw Mr. Morrisroe make a move to go towards the door.

Q All right, sir. He went in the direction of the door. All right, sir. Then what happened?

A Just as he made a move to go in, he got right in front of the door and he just sort of twisted,

like he was trying to dodge something.

Q Did you see, Mr. Crocket, anything in Morrisroe's hand?

A I took it to be a pistol. It was a round object, that looked like a gun barrel, in his hand.

Q Did you see a barrel?

A Yes. I saw the barrel, I didn't see the handle.

Q You did not see a handle, but you saw a barrel?

A Yes, sir.

Q Are you sure about that?

A Yes, sir.

Q And, which hand did he have that in?

A He had it in the right hand.

Q All right, sir. You say that he went toward the door of the store?

A He made a move toward the store. That's right.

Q And, he twisted?

A Just as he started, he made about two steps --

Q Twisted to his left?

A Thats right.

Q And, then what happened?

A That's when I heard another shot, and Morrisroe fell --

Q He fell?

A -- back against the car.

Q And, he twisted, you say, to his left?

A Yes, sir.

Q What happened, then, Mr. Crocket?

A Well, in just a second or two, is when Tom came out of the store.

Q Did you see any of these so called Civil Rights workers around in the vicinity?

A Not at that minute. Just as soon as Mr. Coleman left to go to the Courthouse, it was just a few minutes, then they begin to assemble back out.

Q Did any of them come up and go over these two bodys?

A Yes, sir. Several of them.

Q Do you know it was?

A No, sir. I don't know any of them.

Q But you do state to this jury, that some of them came up there over those two bodys?

A Yes, sir. There were three, or four, at least, that stood around the dead man first and then left and went to the wounded one.

Q All right, sir. Mr. Crocket, Lets back up just a minute. Had you seen Tom Coleman on this Friday before the occasion when he came up to the Cash Store?

A Yes, sir. I did.

Q Where had you seen him?

A At the Courthouse here.

Q About what time was that?

A A few minutes before three.

Q Did you and Mr. Coleman have any conversation at that time?

A Well, the way that I remember it, we just discussed the group down there and what they might do, or what we expected them to do from the actions that they had had all week, and nobody knew exactly what to expect. We said that it looks like somebody ought to get them on out of town, before we started up there.

Q All right, sir. What did you do then, Mr. Crocket, at that time?

A I got in my car and went down to the store.

Q How long was it after that, Mr. Crocket, when Mr. Tom Coleman came down there?

A Oh, five or ten minutes. Not very long.

Q I believe you went down to that store because you knew that Mrs. Varner was down there, didn't you?

A She is usually there by herself, and I went there -- more or less concerned for her safety.

Q All right. And, you knew there was a beauty parlor in the back of that store?

A Right.

Q And, there is ladies and women folk down there?

A That's right.

Q And, you had been there for about five or ten minutes and Mr. Tom Coleman came down?

A Right.

Q Was Joe Bell Coker there, Mr. Crocket, when you got there?

A He was.

Q All right, sir. And, Mr. Coleman went into the store and came back out, is that right?

A Yes, sir.

Q And, he sat down out there on that bench with you and Mr. Coker?

A Right.

Q I believe you were sitting in the middle?

A Right.

Q And, Tom Coleman was sitting over towards the store?

A Yes, sir.

Q And, Mr. Coker was sitting on the North side?

A Yes, sir.

Q And, then Tom Coleman got up and went back in that store?

A Yes.

Q Hanyeville, at that time, Mr. Crocket, was in a tense condition --

MR. GAMBLE: We object to that, Your Honor.

Q --the people were in a so called --

THE COURT: Wait a minute.

MR. GAMBLE: Let him rule on my objection.

MR. PHELPS: I had to ask the question.

THE COURT: Well, don't answer the question. We will let him get it out, Mr. Crocket, and then don't answer it, until I rule on it. All right, Mr. Phelp, go ahead with your question.

MR. GAMBLE: I objected to the first question you asked.

Q On this Friday, on August 20th, were the people in Hayneville, and you, worried and tense about what these so called Civil Right's workers were going to do --

MR. GAMBLE: Now, we object to that.

Q -- when they were released from jail?

THE COURT: Sustained.

MR. PHELPS: If the Court please, we believe its irrelvant in this case to show the condition of the city, to show what Mr. Tom Coleman thought, and was fearful of what was going to happen, and what Mr. Crocket thought. The fact that Mr. Tom Coleman went down there to help Mr. Crocket. It was a tense situation, and we believe, Judge,

and under the case which we cited Your Honor yesterday, and we have more today, that the circumstances surrounding this incident, all during that day, are certaintly irrelvant, to show the circumstances out there.

THE COURT: I don't think so, Mr. Phelps, objection sustained.

MR. PHELPS: We except.

Q But, you did talk to Mr. Tom Coleman right before you went down there?

A Yes.

Q Now, as you and Mr. Coleman, and Mr. Coker, sat there on that bench, did you see any of these workers, or demonstrators, at that time?

A Yes, they were all out there on the corner.

Q They were out there on the corner, Mr. Crocket?

A Towards town, and the store.

Q Here is State's Exhibit No. 3, is this the corner that they were on, over by that hedge?

A That's right. Near the telephone post.

Q Do you know whether that is about two hundred feet from the Cash Store, approximately?

A Approximately.

Q Now, was it a group of them down there, Mr. Crocket?

A About 25 to 30.

Q Did you see any of them leave that group, and go somewhere?

A I did. I saw the white man that got shot. He went toward the jail to meat and talk to a Negroe man. I didn't know who he was. I couldn't see through a tree. I could just tell it was a Negro man, and they stood there and talked about two, or three -- ten or fifteen seconds -- or twenty seconds, I reckon.

Q That is the white man that got shot, is that the one that was wounded?

A No. The one that got killed.

Q The one that got killed. And, he came back up to the main group?

A (Indicating)

Q Mr. Crocket, do you remember, specifically, a tall black Negro bending over these -- either one of these bodys after the shooting?

A Yes, sir. He was one of the last ones that went

Q to them and when he went by Morrisroe, he told him, "Now you lay here, and don't try to get up. Your going to have help."

MR. PHELPS: That's all.

MR. GAMBLE: Your Honor, we would like to reserve the right to recall this witness at a later time.

THE COURT: All right, sir. Mr. Crocket, you may stand aside.

(Witness excused.)

THE COURT: Gentlemen, we have got to hear a motion in another case that is sit for trial this week, and I think it better that you gentlemen not hear the arguments on this motion. So if you all would like to get out, you may go downstairs and walk around, or do whatever you want to do, for, I think 20 minutes will do.

(Thereupon the jury were (were retired from the (courtroom while a motion (in another case was heard.

- - - - - -

(Thereupon the jury were (returned to the courtroom (and the following pro- (ceedings took place before (the court and jury, to-wit:

THE COURT: Call your next witness.

MR. GAMBLE: Your Honor, I would like to ask Mr. Crocket one or two more questions.

THE COURT: Is Mr. Crocket in the witness room?

- - - - - -

Thereupon,

L. W. CROCKET

having been previously duly sworn, was recalled as a witness by the State, and testified further as follows, to-wit:

REDIRECT EXAMINATION

By Mr. Gamble:

Q Mr. Crocket, I believe you testified that you saw a Negro man go to Jonathan Daniels after he was shot, is that right?

A Yes, sir. I saw -- he went by himself. There were several there before he was there, you see, he was the last.

Q Did you see him pick up, or take away from there, any sort of knife or gun?

A No. I didn't.

Q All right. Now, did you see -- I believe you said he also went to Richard Morrisroe?

A Yeah.

Q Did you see them pick up, or take away, any knife or gun from him?

A I did not.

Q I believe you testified that you helped move the body of Jonathan Daniels?

A I did.

Q When you moved that body, did you see any knife, or gun, on the body?

A No, sir. I did not.

MR. GAMBLE: That's all.

MR. PHELPS: Just one question.

RECROSS EXAMINATION

By Mr. Phelps:

Q Mr. Crocket, its not your testimony to this jury, that there was not the opportunity for these Negroes who went to the body, to pick up a knife, or a gun, or both of them?

A Was not. Did you ask me, "was not?"

Q Was there, or was there not, and opportunity for them to --

A Oh, there was an opportunity. They went to the body.

Q And, they could have picked something up, or removed it from the bodys, is that correct?

A Yes, sir.

Q All right. Any number of people could have done

that?

A Well, there were several.

MR. PHELPS: I believe that's all.

MR. GAMBLE: That's all.

(Witness excused.)

- - - - - -

MR. GAMBLE: I want Joyce Bailey.

THE COURT: Call Joyce Bailey.

Whereupon,

JOYCE BAILEY

was called as a witness on behalf of the State, and having been first duly sworn, testifies as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name?

THE COURT: I think, Joyce, it might be a good idea to throw your chewing gum out. Just throw it out the window, there.

A Joyce Ruby Bailey.

Q Joyce, where do you live?

A Fort Deposit.

Q Were you born in Lowndes County?

A That's right.

Q Have you lived here all your life?

A Yes.

Q Now, Joyce, do you remember the occasion when its said that Jonathan Daniels was shot and killed, here in Hayneville?

A Do what?

Q Do you remember the occasion when its said that Jonathan Daniels was shot and killed, here in Hayneville?

A I was there.

Q You were there?

A (No answer)

Q Did you go up to the Cash Store with Jonathan Daniels and Richard Morrisroe, at the time of that shooting?

A That's right.

Q The four of you went up there?

A That's all.

Q All right. Now, Joyce, tell the court and jury what happened, at the time -- from the time you started walking up to the Cash Store, until the shooting took place?

A Well, I -- the four of us went down to the store to get a cold drink, and something to eat. When we got to the door, Jonathan Daniels held the door open, and Ruby Sales stepped up to the door, and this unknown man in the store had a gun and started shouting to get out, the store is closed. I'll blow your God damned heads off, you son-of-a-bitches. When he said that we stopped, and Ruby Sales, and I started backing back. Jonathan Daniels was still standing at the door, then the man fired a shot.

Q All right. Now, was there more than one shot fired?

A Yes, sir.

Q All right. Now, when that first shot was fired, Joyce, where were you?

A I was standing by the door, ah -- by a car, and, ah, Richard Morrisroe jerked me around the car.

Q Joyce, I show you a picture marked State's Exhibit No. 2, and ask you if you recogonize that as a picture of the Cash Store?

A That's right.

Q All right. Now, can you point out, for the jury here, in that picture, where John Daniels was standing when he was shot?

A He was standing right here, by the door.

Q By that --

A By that front screen door.

Q The front screen door. All right. Now, where were you standing when that first shot was fired?

A I was standing right along here.

Q All right. Now, you said something about an automobile being there, where was that automobile?

A It was right here.

Q About right there where that black mark is?

A (Indicating)

Q Now, was there any other automobiles parked around the store?

A If there was I don't remember.

Q You don't remember. But you do remember this one being parked here?

A Yes, sir.

Q And, you were standing between that car and the door to the store when that shot was fired?

A Yes, sir.

Q All right. Now, when that first shot was fired, Joyce, did it hit anybody?

A Yes.

Q Who did it hit?

A Jonathan Daniels.

Q And, what did Jonathan Daniels do when that shot hit him?

A He caught his stomach, and then he fell backward.

Q Did he fall right in front of the door to that store?

A Ah, he fell, ah -- kind of from the side, you know, he was standing on the side of the door, and he fell backward, just like this.

Q All right. Now, after that first shot was fired, Joyce, what did you do?

A I was running because Father Richard had me by the hand.

Q All right. Now, was there a second shot fired?

A That's right.

Q Now, was anybody hit by that second shot?

A Father Richard.

Q All right. Now, where were you when the second shot was fired?

A Father Richard had me by the hand running when the second shot was fired?

Q All right. Now, what happened to him when that second shot was fired?

A He fell.

Q And, what did you do?

A I was still running.

Q You were still running?

A Un hun.

Q Now, Joyce, did you hear the -- did you hear the man with the gun, there in the store, say anything other than that store was closed, and for you all

to get out, before that first shot was fired?

A He said, "I'll blow your God damned heads off, you son- of-a-bithces."

Q Was there anything else?

A If there was I didn't hear it.

Q All right. Did you hear him say anything at all before the second shot?

A Before the second shot?

Q The second shot.

A No, I didn't.

Q Didn't hear him say a thing, hun?

A If I did, I don't remember it.

Q Now, did you hear him say anything after the second shot was fired?

A I'm not so sure who said it , but somebody said, "Run, you <u>niggers</u>." I don't know who said that.

Q All right. Now, Joyce, from the time that the four of you started up to the Cash Store, from that time until after the second shot was fired, did you ever see Jonathan Daniels, or Richard Morrisroe, with a knife or gun, or any sort of a weapon in there hands?

A No, They didn't have anything.

MR. GAMBLE: I believe that's all.

MR. ROBISON: Just a minute.

CROSS EXAMINATION

By Mr. Robison:

Q Joyce, where do you live?

A Fort Deposit.

Q How long have you been living in Fort Deposit?

A All my life.

Q Do you know Ruby Sales?

A Yes, sir.

Q How long have you been knowing her?

A About two years, or more.

Q Do you know Jonathan Daniels?

A Yes, sir.

Q How long have you known him?

A About one —

Q How long?

A I was knowing him about one month before he was killed.

Q How long have you been knowing Morrisroe?

A I just had meet him Saturday. We went to Fort Deposit to pick —

Q You all went to Fort Deposit to picket?

A Yes.

Q And, you were in jail over here in Hayneville, is that right?

A Yes, sir.

Q While you all were in jail, you had visitors, didn't you?

A Yes. We did.

Q Who delivered the stuff to you that stopped up all the toilets --

MR. GAMBLE: We object --

Q -- and had to cut the stuff out --

MR. GAMBLE: -- to that.

MR. ROBISON: Let me ask the question.

Q And, had to cut the stuff out --

THE COURT: Don't answer the question now. Let him get it out, but don't answer it until I rule on the objection.

Q Who delivered that to you?

THE COURT: Sustained.

MR. GAMBLE: We object to that and move that it be stricken from the record.

THE COURT: Strike the question from the record. I don't think she answered it, but --

Q You all did have visitors, is that correct?

A That's right.

Q Now, while you all were in jail, there, you all communicated with one another didn't you?

A Yes. We did.

MR. GAMBLE: Now, we object to that.

Q You wrote these notes, "Dear John," signed, "Love, Joyce", is that correct?

MR. GAMBLE: We object to that, too.

THE COURT: Yes. Sustained.

MR. ROBISON: We except, your Honor.

Q Where di d Jonathan Daniels live?

A Do what?

Q Where does Jonathan Daniel live. Where did he live?

A New Hampshire.

Q Didn't he aleo live at 313 East Geogetown, down in a Colpa home, Selma, Alabama?

A I don't know where he was living in Selma.

Q You don't know where he was living in Selma?

A No, I don't.

Q Did you write several notes to Jonathan, while he was --

MR. GAMBLE: We object to that.

THE COURT: Sustained.

Q You all were let out of jail on Friday, weren't you?

A That's right.

Q You had been singing there all night every night you had been in jail?

MR. GAMBLE: We object to what went on in the jail.

THE COURT: Sustained.

Q You were let out Friday?

A Right.

Q At the time you were let out, you kissed Jonathan Daniels, when you all got back together?

A No. I didn't.

Q You did not.

A No. I did not.

Q You didn't embrace him, or kiss him?

A No. I didn't kiss him.

Q Didn't do it?

A (No answer)

Q Well, when you all got out, where did you go?

A We went on the outside.

Q I know that, and then where did you go?

A We went up the street to the corner.

Q Then, where did you go?

A We stayed up there for a while, and then went down to the store.

Q While what?

A We went to the store.

Q You stayed up there until you went to the store? That's what you did, is that right?

A Yes. Teh four of us.

Q The four of you. Others who had been released in your group, had been visiting, or had been off in different places, hadn't they, and come back to the group just about the time you all went to the store?

A No. They was -- everybody was in the group when we left.

Q Nobody left there?

A Two left, was on the way to the store, and Jonathan Daniels told them not to go.

Q Jonathan Daniels told them not to go to the store?

A That's right.

Q When did Jonathan Daniels tell them not to go to the store?

A When did he tell them?

Q Un hun.

A When they started.

Q Who was --

A They was going to town, up there to the little town.

Q They were going to the little town, you're talking about Hayneville?

A That's right.

Q They were going to the little town of Hayneville, and two of them that were there in the group, were going to some other store, not the Cash store, but some other store in the town of Hayneville, and Jonathan Daniels told them not to go, is that right?

A That's right.

Q When was it that Virginia Rogers, or Willie Vaughn, told you, and Jonathan Daniels, and Father Morrisroe, and Ruby Sales, not to go to the Cash store?

MR. GAMBLE: We object to that.

A If they told us, we didn't know anything about it.

MR. ROBISON: If the Court please, I think that's part of --

THE COURT: The answer is in anyway.

MR. ROBISON: Sir?

THE COURT: The answer is in anyway.

Q What did you say?

A I said we didn't hear when he told us.

Q You didn't hear when he told you?

A No. We didn't.

Q You didn't hear when he told you. You all went on down there anyway, right?

A We sure did.

Q You sure did. In spite of his telling you that. Did Jonathan Daniels borrow a dime from you to get a Coka Cola?

A He didn't borrow anything because we hadn't gotten to the store to get change.

Q Didn't Jonathan Daniels tell Jimmie Rogers, or Willie Vaughn, at the time, that he would go down there, that store was supposed to be open to everbody and he would go down there and show the people about it. Show you all how it ought to be operated.

MR. GAMBIE: Now, we object to that.

A No, he didn't tell us --

MR. ROBISON: If the Court please --

THE COURT: Objection overruled.

MR. ROBISON: Objection is overruled. Thank you, your Honor.

Q Didn't Jonathan Daniels tell you all, when Jimmie Rogers, or Willie Vaughn, made that statement, or one of them made the statement, "Don't go down there," that store is supposed to be open, and I'll go down there and show you how it ought to be done?"

A I didn't hear him say that.

Q You didn't hear him say that. Did you hear everything that took place there in front of the Cash Store before the shooting?

A I sure did.

Q Did you tell Solicitor Gamble everything that you heard said there on Direct Examination?

A I told him that —

Q You told him everything you heard said there, correct?

A That's right.

Q Did you hear, ever hear, Jonathan Daniels make the statement, "Are you threatening me?" to whoever was in that store?

A I didn't hear him say that.

Q Well, you were standing right next to him, weren't you?

A If I heard him, I didn't remember.

Q Were you standing right next to him?

A No. I wasn't standing next to him?

Q How far were you standing from him?

A I was standing, ah -- back to where that mark was on that peace of rubber floor.

Q Well, how far is that? As close as I am to you?

A Just --

Q As close as I am to you?

A Probably. Yes.

Q And, the only thing that you heard said there, was just what you told Mr. Gamble?

A Yes, sir. I did.

Q And, you didn't hear anybody say anything about, are you threatening me?

A No, sir. I didn't.

Q All right. Now, after the shot was made, you say that you, and Ruby Sales, and Father Morrisroe, begin to run?

A That's right.

Q How long was it between the first shot and the second shot?

A I don't know how long it was.

Q A little while, or a long while?

A It wasn't a long while.

Q It wasn't a long while, is that right?

A Yes, sir. That's right.

Q Well, as soon as the shot was made, did you all run?

A Ruby Sales was on the ground, because Jonathan had pushed her to the ground.

Q But, you and Jonathan -- Jonathan had pushed Ruby to the ground?

A That's right.

Q Where was Ruby standing, with respect to Jonathan?

A Ruby was in front of Jonathan.

Q Ruby was in front of Jonathan. Ruby, in other words you tell this jury, was going in the store, or was practically in the store?

A That's right.

Q All right. Ruby, you tell this jury, was in the store, in front of Jonathan Daniels, and I believe you testified --

A She wasn't in the store.

Q She was in front of Jonathan Daniels?

A That's right.

Q You told this jury that Jonathan Daniels had his hand on the door didn't you?

A That's right. But she wasn't in the store.

Q And she was in front of Jonathan Daniels?

A That's right.

Q Well, where was she?

A Standing on the steps.

Q Standing on the steps in front of Jonathan Daniels?

A That's right.

Q And, Jonathan Daniels had his hand on the door, which screen door?

A The screen door --

Q Which one was he opening, the left one, or the right one as you face it?

A I don't know which one.

Q You don't know which door it was. I show you State's Exhibit No. 1. Is that the picture of the store, the Cash Store?

A Yes, sir.

Q Is this the screen door?

A That's right.

Q And, Jonathan Daniels had his hand on one of those screen doors, he had his foot up here on this little step?

A I didn't -- I wasn't noticing his foot.

Q All right. Then he had his hand on the screen door?

A Yes, sir.

Q And, you tell this jury that Ruby Sales was standing in front of Jonathan Daniels when he was shot?

A That's right.

Q All right.

A He was on the goound --

Q Did Jonathan Daniels have anything in his hands?

A He didn't have anything.

Q Did Father Morrisroe have anything in his hands?

A No. He didn't.

Q Well, he had some books there, the Fanatics, where was that?

A I don't know where it was. I wasn't noticing the books.

Q You wasn't noticing any books?

A No, sir.

Q You didn't see any books there?

A No. I didn't.

Q Did you see these books? In anybody's hand?

A I didn't see any books there at all.

Q Or anything there, "The Church in the New Latin AMerican," "Life and Times of Frederic Douglas", "Native Sons"?

A If he had them I didn't know it.

Q You didn't know it. You tell this jury that there was nothing in there hands, is that what you tell this jury?

A Yes, sir.

Q All right. Now, lets get bakk to where we was a moment ago when you said that you and Father Morrisroe was running. How far did you all run?

A We didn't run far.

Q Abput how far?

A We made about one or two steps.

Q Was Father Morrisroe completely turned around running at the time?

A He was kind of to the side.

Q What?

A He was, ah, kind of turned to the side.

Q He was twisting, you say, when he was shot?

A I imagine so.

Q Then he was not shot in the back, was he Ruby, ah, or Joyce?

A I don't know where he was shot, I didn't stay there.

Q But, at the time he was shot, he was twisting, he wasn't off running as you described it to this jury, is that right?

A He was running.

Q He was running. I don't -- Do you know where 313 East George Washington Carver homes is in Selma, Alabama.

A No. I don't.

Q You don't. Did you say that you had some money there?

A Yes. I did.

Q Where did you get that money?

MR. GAMBLE: We object to that, Your Honor.

THE COURT: I will let her answer.

A I got it from my friends and my family.

Q From your friends and your family. They had -- didn't your brother, or you give your brother,

or your brother give you some money?

A I give my brother some money.

Q That's Robert Bailey?

A Right.

Q Now, you've got another brother, but he was in jail at the time this happend?

A That's right.

Q In Birimgham?

A Right.

MR. ROBISON: If the Court please, I don't believe we have any further questions of this witness at this time, but we would like to keep her on call.

MR. GAMBLE: That's all.

(Witness excused.)

MR. GAMBLE: Call James Lee Beaty.

- - - - - -

Thereupon,

JAMES LEE BEATY

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name?

A James Lee Beaty.

Q James, you talk so these gentlemen over hear can hear what you've got to say.

Where do you live, James Lee?

A Fort Deposit.

Q How long have you lived in Fort Deposit?

A 18 years.

Q 18 Years?

A Yeah.

Q Now, how old are you James?

A Eighteen.

Q Eighteen. So, you have lived in Fort Deposit all your life, then?

A Yes, sir.

Q Now, James Lee, do you remember the occasion when it's said that Jonathan Daniels was shot and killed here in Hayneville?

A That's right.

Q Were you in Hayneville, at that time?

A That's right.

MR. ROBISON: If the Court please, I would

like to ask the witness to speak a little louder. I can't hear him.

THE COURT: Speak just a little louder, please, so these gentlemen over here can hear you, and also these over there.

Q Do you know where the Cash Store is, here in Hayneville?

A It's down there. (Pointing)

Q Is that where the shooting took place?

A Yes, sir.

Q Now, did you see that shooting?

A Yes, sir.

Q Where were you when the shooting took place?

A I was standing in front of the store, over there on the South.

MR. ROBISON: I didn't understand the witness.

THE COURT: He said he was standing in front of the store, over there on the sidewalk.

Q I will show you State's Exhibit three, and ask you if you can recognize that as being a photograph of the front porch of the Cash Store, looking back toward Hayneville? (Photograph handed to witness)

A Yes, sir.

Q Now, I call your attention to a fire plug and a hedge, at this intersection here. Now, in relation to this store, where were you standing at the time of this shooting?

A Down here. (Indicating on map)

Q Down here at this intersection by this fire plug, is that right?

A Yes.

Q All right. Now, James Lee, did you -- how many shots were fired?

A I didn't hear but two.

Q You didn't hear but two. All right. Now, at the time of the first shot, at the time that first shot was fired, just tell this Court and Jury what you saw and what you heard?

A Well, I heard the shot, and I saw Brother "Mc Daniels" hands fly up.

Q Now, where was he standing when you saw his hands fly up?

A Well, I saw -- just seemed like to me he was in front of the store.

Q In front of the store?

A Seemed like to me, yes, sir.

Q And, that was when the first shot was fired?

A Yes, sir.

Q Now, did you see -- did you hear the second shot?

A Yes, sir.

Q Now, where were you when the second shot was fired?

A I was standing in the same place.

Q You what?

A I was standing in the same place.

Q You were standing in the same place. Now, did the second shot hit anybody?

A That was the shot that hit, ah -- ah, Father Morrisroe.

Q That was -- the second shot was the one that hit Father Morrisroe, right?

A Yes, sir.

Q All right. Now, after that second shot was fired, did you see Father Morrisroe fall?

A No, sir.

Q What were you doing after that second shot was fired?

A Running, I was running.

Q You were running. All right. Now, before that first shot was fired, James Lee, did you hear any conversation betwiin Jonathan Daniels and anybody else up there at the Cash Store?

A No, sir.

Q All right. Now, before the second shot was fired did you hear anybody up there at the Cash store say anything?

A No, sir.

Q All right. Now, James Lee, during the time that -- just prior to this first shot, until after the second shot was fired, did you ever see a knife, or gun, or any sort of a weapon in the hands of Jonathan Daniels, or Richard Morrisroe?

A No, sir.

MR. GAMBLE: I believe that's all.

CROSS EXAMINATION

By Mr. Robison:

Q James, you had been in jail with the other Civil Rights workers, had you not, here in Hayneville?

A Yes, sir.

Q And, had visitors while you were there?

A Yes, sir.

Q Now, when you all were released on Friday afternoon, where did you go?

A We went down on the sidewalk.

Q Some of the others went down by the race tracks, didn't they?

A I don't know, sir.

Q You don't know whether they did or did not, some of them, go down by the race track?

A No, sir.

Q Hun.

A No, sir.

Q You, though, went from the jail up to where you have testified you were standing when the shooting occured, is that correct?

A Yes, sir.

Q Now, that is where there is a little locust tree there, and a hedge, isn't it?

A Yes, sir.

Q There is a tree there, and a concrete -- peace of concrete that looks like part of the side walk, isn't that right?

A Yes, sir.

Q That is where you all were standing?

A Yes, sir.

Q Now, look here, assuming this is the street, fire plug, and all. That would be about where it is is, is that correct? Under that Mimosa tree?

A Yes, sir.

Q How far would you say that is from the Cash Store?

A I don't know, sir.

MR. PHELPS: It might be of aid to put a mark on there , where he was.

Q Take this pencil and mark for me, this is the Mimosa tree, this is the hedge, there is the fire plug, here is part of the sidewalk. Now mark for me where you were.

A (witness marking).

Q You were right in there, all of you were right up there, hun, a big gang of you?

A Yes, sir.

Q About 20, or 25?

A I don't know how many it was.

Q Well, about how many?

A I don't know, sir.

Q Hun?

A I don't know, sir.

Q Now, were you there in the group, when Joyce Bailey, Ruby Sales, and Jonathan Daniels, and Father Morrisroe were there?

A Yes, sir.

Q Were you there when Jimmy Rogers, or Willie Vaughn, told them not to go down there, there might be trouble?

A Yes, sir.

Q You said,"Yes, sir", didn't you?

A Yes, sir.

Q All right. So, you did hear that and they left anyway, and I believe Jonathan Daniels made the statement "Well the store ought to be open for

business," and that "I will show you all how it ought to be done", isn't that what --

A I didn't hear him say that.

Q You didn't hear him say that. He said something, though, didn't he?

A I don't know, sir.

Q All right. Now, they left, the four of them left, didn't they?

A (No answer)

Q Hun?

A Yes, sir.

Q I didn't understand you.

A Yes, sir.

Q All right. They walked on down, is that right?

A (Indicating)

Q Now, how many cars were parked around the Cash Store?

A I don't know, sir.

Q Was it two, or three?

A I don't remember.

Q Was one parked in front of the Cash Store?

A I don't remember that.

Q Were there two parked along side the Cash Store?

A I don't remember. All I knew, it was cars.

Q You know there was cars there, is that right?

A Yes, sir.

Q Now, did you see Joyce Bailey, and Ruby Sales,

and Father Morrisroe, and Jonathan Daniels, when they went up to the door way?

A No, sir. I didn't see them go up to the door.

Q You didn't see them?

A No.

Q When did you first see them down there? I believe you testified that you saw Jonathan Daniels with his hands this way?

A I said I heard the shot.

Q You didn't see anything until you heard the shot?

A Yeah.

Q Now, how many shots did you hear?

A I didn't hear but two.

Q You didn't hear but two, is that right?

A Yes, sir.

Q Now, did you see Father Morrisroe after the first shot?

A No, sir.

Q You didn't see Father Morrisroe after the first shot?

A (indicating)

Q I believe you testified that -- or do you testify to this jury that neither Jonathan Daniels, or Father Morrisroe, had anything at all in there hands when they went to the store?

A No, sir.

Q What?

A They didn't have anything. I know they didn't have anything.

Q Didn't have anything. Did you see any of them with this book, "The Church in the New Latin American"? By John J. Considine?

A No, sir.

Q Did you see any of them with this book, "Native Sons"?

A No, sir.

Q "Life and Times of Frederick Douglas"?

A No, sir.

Q So, you tell this jury that these books were not on their persons, or in their hands, is that what you tell this jury?

A I didn't see them with the books.

Q You didn't see them with anything?

A No.

Q Did you hear John, when he asked Joyce, or Ruby, if they had a dime to get a Coka Cola?

A No, sir.

Q You didn't hear that?

A No, sir.

Q I believe you testified you didn't hear anything but the shot, except to tell Jonathan Daniels, and Father Morrisroe, and Joyce, and Ruby, not to go down to the store?

A (indicating)

Q Now, you didn't notice these four, Jonathan Daniels, Father Morrisoe, Joyce, or Ruby, from the time they left the group up there?

A No, sir.

Q Until you heard the shots?

A (Indicating)

Q

MR. ROBISON: If the Court please, we have no further questions.

MR. GAMBLE: That is all. We would like to ask that he be held.

(Witness excused.)

- - - - - -

MR. GAMBLE: Call John Colvin.

Thereupon,

JOHN COLVIN

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

A Yes, sir.

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name?

A John Colvin, Jr.

Q John, where do you live?

A Fort Deposit, Alabama.

Q Fort Deposit, Alabama?

A Yes, sir.

Q How long have you lived there?

A Ten years.

Q Ten years. How old are you John?

A Sixteen.

Q Where did you live the other six years?

A Sandy Ridge.

Q Have you lived all your life here in Lowndes County?

A Yes, sir.

Q All right. Now, John, do you remember the occasion when it's said that Jonathan Daniels was shot and killed here in Hayneville?

A Yes, sir.

Q Were you here in Hayneville, at that time?

A Yes, sir.

Q All right. Now, John, are you familiar with the location of the Cash Store here in Hayneville?

A Yes, sir.

Q Is that the place where the shooting took place?

A Yes, sir.

Q Did you see what happened at the time of the

shooting, John?

A I could see it all back -- I saw most of it.

Q All right. Now, did you hear the shots fired?

A Yes, sir.

Q Was it one, or more than one?

A It was three.

Q Three?

A Yes, sir.

Q All right. Just tell the Court and this jury what you saw, and what you heard at the time that first shot was fired?

A When the first shot was -- before the first shot fired, ah, Reverend John was going --

MR. ROBISON: If the Court please, I would ask him to talk a little louder.

THE COURT: Talk a little louder so we can understand you.

A When the first shot was fired Reverend John had his hand on the screen door, and then this man shot, and he fell, and I begin -- I heard the second shot -- shot Father Richie and he stepped about three steps from this door step, and pointed the gun to us. He said, "I'll kill all you Niggers," and we turned and run, and I heard another --

Q Now, ah --

MR. ROBISON: Wait a minute. Let him finish the testimony. You say you heard another shot?

A Yes, sir.

Q All right. Now, John, I show you here State's Exhibit three, and ask you if you can recognize that as a picture of the court -- of the Cash store, looking back toward Hayneville. I will call your attention, here, to a fire plug, and hedge, ask you if you were standing in the vicinity of those hedges at the time you heard the shot, and saw Jonathan Daniels fall?

A Yes, sir. About here.

Q About right there. All right. Now, before the first shot was fired, did you here any conversation between Jonathan Daniels, and anybody down there at the Cash Store?

A No, sir.

Q All right. Now, John, did you hear any conversation before the second shot was fired?

A No, sir.

Q All right. Now, John, I believe you had been in the County jail?

A Yes, sir.

Q Down there was Father Morrisroe, and Jonathan

Daniels, is that right?

A (No answer)

Q Had you been in the same cell with Father Morrisroe?

A Yes, sir.

Q All the time that you were in jail?

A Yes, sir.

Q All right. Now, wer e you searched before you went into jail?

A Yes, sir.

Q How about Father Morrisree, was he searched?

A We all were searched.

Q You all were searched. Jonathan Daniels, too?

A Yes, sir.

Q All right. Now, while you were in the County jail, there, with Father Morrisroe, did you see anybody around there bring him a knife, or pistol?

A No, sir.

Q Now, the whole time that you were together, from the time that you were put in the County jail, until after that second shot was fired, did you ever see Jonathan Daniels, or Father Morrisroe, with a knife, or pistol, or any other kind of weapon, in their hands?

A No, sir.

MR. GAMBLE: I believe that's all.

CROSS EXAMINATION

By Mr.Phelps:

Q John, how old are you?

A Sixteen?

Q What do you do there in Fort Deposit for a living?

A When I get out of school -- most of the time I try to go in the summer time, mostly -- I try to find something in the afternoon.

Q Are you in school now?

A Yes, sir.

Q What grade in school you in?

A Eighth.

Q Are you a member of this "Snick" organization?

A Yes, sir.

Q You are?

A Not actually a member, I was just participating in the picket.

Q How long you been participation?

A Three or four years.

Q How long had you known Jonathan Daniels and this Morrisroe?

A About -- almost -- about a week.

Q Have you ever been to Selma to see them?

A No, sir.

Q Ever been to the George Washington Courts over there to see them?

A No, sir.

Q You say you all were there in jail for about a week. Did you have any visitors?

A Yes, sir.

Q Five, or six, seven, eight visitors. A good many people came there to see you didn't they, John?

A Yes, sir.

Q Now, how long, John, had you been out of Jail that afternoon when this occurance that you have testified about, how long had you all been out of jail before that happened?

A About an hour or two.

Q About an hour or two?

A Yes, sir.

Q All right. It was a group of about 20 of you all released from jail?

A About 19, or 20.

Q What did you do when you got out?

A Ah, when they first let us out, went downstairs to sign our bonds and also a fellow went down with us, down the street there, tryed to find a house, or phone.

Q Now, I wonder if somebody left the group and went down the street to the house and tryed to

find a phone, is that right?

A Yes, sir.

Q How many of them was it?

A Three of them.

Q Three of them. And they left the group, and then came back, is that right, John?

A Yes, sir.

Q Now, John, as you were leaving that jail, were you there with Jonathan Daniels? Did you all leave about the same time?

A Yes, sir.

Q Did you see one of the girls there, come up and put her arms around him?

A No, sir.

Q You didn't see that? Did you see her kiss him?

A He kissed Mel.

Q Kissed who?

A Mel -- Joyce.

Q Is that Joyce Bailey?

A Yes, sir.

Q That's the one that testified here earlier today?

A Yes, sir.

Q You saw that, John?

A Yes, sir.

Q Now then, what did you do, John, from the time you got out of jail, up until this thing happened, you yourself?

A What did I do myself?

Q From the time they let you out, up until the time you saw these folks walking down the street?

A I went down the highway with the other boy, and tried to find a phone.

Q You went with them, with the other boys to try to find a phone?

A Yes, sir.

Q Now, lets see. You say three had left, had been down to the store -- the race tracks, somewhere?

A Yes, sir.

Q You went womewhere else with another boy?

A No. I was with the three who went down --

Q Oh, you were with the three, I see. Did anybody else go off down to the race tracks?

A No, sir.

Q Did Willie Vaughn later on go down to the race track?

A I don't quite know.

Q You don't quite know, whether he did or not?

A No, sir.

Q Do you know whether Mack Hoff John, and McNeeley went off down towards Letohachie --

A No, sir.

Q -- and came back?

A No, sir.

Q You just wasn't keeping up with it that close?

Q All right. Now, tell me what you did, John, when you got back from the house, there, about the telephone?

A We didn't actually make it to the house, a truck was coming so we joined the group on the corner.

Q You re-joined the group and went back up here to the corner. Now, about where were you there, on this picture, is this the corner, here, across from the seedhouse?

A That's right.

Q About where were you there?

A About right there.

Q On the north side of that street, there, that runs in front of the jail?

A Ah, --

Q Over toward Hayneville, away from the Cash Store?

A Sort of like this.

Q What were you all doing there, John?

A I was talking with James, ah, Bailey.

Q Talking to James Bailey, that's the boy that was just in here?

A Yeah.

Q Now, John, you could look down here and see the Cash Store, and the cars around it, couldn't you?

A Yes, sir.

Q Do you remember a 1958 black Chevrolet parked

anywhere in here?

A Yes, sir. Parked in here.

Q Parked up in here?

A Yes, sir.

Q Can you remember another car parked right in here?

A No, sir.

Q Was there a car parked right in, between -- right in this street here?

A No, sir. I didn't pay any attention.

Q You didn't pay that any attention. You didn't pay any attention, John, whether there was a car parked -- or whether or not -- whether there was a car parked here, where this line is maked here? Was there a car parked there, if you can refresh your recollection from that picture?

A I don't quite know.

Q Well, what about right here, do you quite know that?

A There was a car parked up here.

Q You know one was parked up here?

A Yes, sir.

Q All right. Now, how long did you tell this jury you all had been up there at the intersection when the group went off towards the store?

A How long -- how long we were up there?

Q Un hun.

A About -- about 30 minutes

Q All right. Did you see them when they left the group?

A Yes, sir. Yes, sir.

Q Could you see them, or did you notice them walk on up to the store?

A No, sir. I didn't pay to much attention -- walked up to --

Q You all were just talking there, Bailey and you all, and you all didn't have special reason to looking down there to that store, did you?

A Sir?

Q You all didn't have no special reason to be looking down there at that time, did you?

A No, sir.

Q You and Bailey, and the rest of you all were standing there talking?

A Yes, sir.

Q And, what made you look down there to the store?

A I---I heard some -- I couldn't make out what -- I heard some voices, but I couldn't make out what they were saying, and I looked towards the store and I saw, ah -- Reverend Daniels with his hand on the door.

Q All right. The first thing you saw was Daniels with his hand on that door?

A That's right.

Q All right. Where was Joyce, and Ruby at that

time? Was Joyce inside the store, or was Ruby inside the store?

A No, sir.

Q They were back behind Daniels, is that right?

A I don't quite -- I don't quite -- I didn't pay that too much attention.

Q You wasn't paying too much attention to that?

A No.

Q And you really wasn't paying to much attention when you say you saw his hand on the door and he looked like he was going in the store/?

A No, sir. He wasn't like he was going into the store, he was like he was talking.

Q You was a pretty good ways off, wasn't you?

A Not too far.

Q You were up there on that corner?

A Yes, sir.

Q Wasn't there some cars in there, between you and Daniels, John?

A No, sir. I don't remember. I don't think so.

Q You don't remember, but you don't think so?

A Yeah.

Q Then you heard three shots?

A Yes, sir.

Q Are you sure you heard three shots?

A Yes, sir.

Q Three of them?

A Yes, sir.

Q Now, as you were standing there talking to Beaty --

A Yes, sir.

Q -- you said that he recalled Jonathan Daniels telling him not to go down to that store, that he would go down there and show him how to do it, that Jimmie Rogers said that, do you remember that?

A No, sir.

Q Do you remember either Willie Vaughn, or Jimmie Rogers, telling anybody not to go?

A No, sir.

Q You just don't remember, then?

A No, sir.

Q A lot of talk was going there at the time. Were you all fixing to have a demonstration, James?

A No, sir.

MR. GAMBLE: We object to what they was fixing to have.

THE COURT: Well, he has allready said, "No," Mr. Gamble.

MR. PHELPS: I believe thats all, thank you.

MR. GAMBLE: Will you give me about five

minutes?

(Recess.)

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THE COURT: All right. Who do you have next, Mr. Gamble?

MR. GAMBLE: We will call Robert Earl Bailey.

Thereupon,

ROBERT EARL BAILEY

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name?

A My name is Robert Earl Bailey.

Q Robert, now speak up so these gentlemen over here can hear what you are saying.
Where do you live?

A Fort Deposit.

Q How long?

A All my life.

Q How old are you?

A Twenty-four.

Q All right. Now, Robert, Do you recall the occasion when it's said that Jonathan Daniels was shot and killed here in Haynevilèe?

A What did you say?

Q I said, do you recall the occasion when it's said that Jonathan Daniels was shot and killed here in Hayneville?

A Yes, sir.

Q Were you in Hayneville at that time?

A Yes, sir.

Q Did you see, or hear, the shooting?

A Well, I heard it.

Q You heard it?

A Yes, sir.

Q Where were you at the time of the shooting?

A Up on the corner.

Q Are you familiar with the location of the Cash store here in Hayneville?

A I was the first one that went to the store.

Q You was the first one that went to the store?

A (indicating)

Q What did you go to the store for?

A A pack of cigarettes and a penny box of matches.

Q Was this before the shooting?

A Yes, sir.

Q How long before the shooting?

A ah, about ten or fifteen minutes, I think.

Q Who else was at the store at the time you went there?

A Well, there was a lady and a man the first time I went there, and the man and lady went into the store together. Colored lady. I don't know who whe was.

Q You say it was a colored lady? How about the man?

A He was a white man.

Q Did you know him?

A No, sir.

Q Had you ever seen him before?

A No, sir.

Q Did he have anything in his hand when he came in the store?

A No, sir.

Q All right. Now, let me show you here a picture marked State's Exhibit three, and ask you if you can recognize that as a picture of the porch of the Cash Store looking back towards Hayneville?

A It looks like it.

Q All right. Now, I call your attention here to a fire plug and some hedges at that intersection there.

A Down here. We was standing down here.

Q You were standing right there by that hedge?

A Not by the hedge, right down here by the fire plug.

Q Now, you say you had been to the store and boyght a pack of cigarettes?

A Yes, sir.

Q Now, how long was that before the shooting?

A That was about ten or fifteen minutes.

Q What did you do after you bought the cigarettes?

A I went back to the group.

Q Back to the group standing there on the corner?

A Yes.

Q All right. Now, Did you see the shooting, Robert?

A No, sir. I didn't see the shooting. I heardit, and I looked.

Q Was there one shot, or more than one shot fired?

A Well, I thought I heard three shots.

Q You thought you heard three?

A I thought.

Q All right. Now, Robert, at the time that first shot, the first shot, was fired, just tell this Court and jury what you saw and what you heard?

A Well, when the first shot was made I looked around, and I seeh Reveredd Jonathan Daniels falling.

Q Now, where did he fall?

A It was a car -- a car was across the street, in front of -- I couldn't see where he fell.

Q You didn't see where he fell. All right. Now, was there -- you say there was a second shot fired?

A I didn't see it when it hit Richard. I mean the second shot, I didn't see that when it hit Richard.

Q Did you see him fall?

A No, sir. I didn't.

Q Didn't see him fall?

A No, sir.

Q Now, after that second shot was fired, what did you do?

A Well, ah -- I run.

Q You run?

A Yes, sir.

Q All right. Now, Robert, before the first shot was fired, did you here any conversation between Reverend Jonathan Daniels and anybody up there at that store?

A No.

Q Did you hear any conversation up there at the store before the second shot was fired?

A No, sir. I didn't.

Q You did not?

A I didn't no more than -- I heard the gun shotand

some -- ah, there was some odder things going on up in there, was all.

Q All right. Now, Robert, you had been in the Lowndes County jail there with Jonathan Daniels and Richard Morrisroe hadn't you?

A Yes, sir.

Q When you were put in the Lowndes County jail, were you searched?

A Yes, sir.

Q Was all of you searched?

A Yes, sir.

Q All right. Now, from the time you were put in the Lowndes County jail, until after the second shot was fired, did you ever see a knife, or gun, or other weapon in the hands of Jonathan Daniels, or Richard Morrisroe?

A no, sir.

MR. GAMBLE: I believe that's all.

CROSS EXAMINATION

By Mr. Black:

Q Robert Earl, the day you were searched, when you were put in the jail, do you know what the sheriff took off the different people when they

were put in jail?

A No, sir. I don't know what they took of\, but the sign we had, they took the sign we had.

Q They took the sign away?

A Yes, sir.

Q What did the sign say?

A Ah, I can't recall.

Q Well, you were picketing with the sign?

A What you mean, up here?

Q Hun?

A You talking about the time we were put in jail?

Q Yeah.

A Ah, --

Q They took your sign away, you said, now what did your sign say?

A I don't remember the sign, that was at -- in Fort Deposit, it was --

Q You mean you were picketing with the sign and you didn't even know what it said?

A Ah, I don't -- I can't recall the sign.

Q All right. After you were put in jail, and you were searched, you had several visitors come in, didn't you?

A Yes, sir.

Q And, they brought some things with them when they came in, didn't they?

A They brought food.

Q They brought food. What else did they bring you?

A They brought books.

Q Books. What else did they bring you?

A That's all, as far as I know.

Q Well, did you see the visitors give the books -- did you see the visitors hand the books to somebody?

A No, sir. Right there when they brought the books we would get them ourselves.

Q I see --

A When they brought the books -- they give us books to read.

Q Now, what else did they give you besides books and food?

A That's all.

Q Do you know what every visitor gave every person in that jail?

A (No answer)

Q And they talked to people, and gave people things while you weren't watching, didn't they?

A I didn't say. I didn't say that.

Q Well, didn't they?

A If they did, I don't know nothing about it.

Q You just didn't see it?

A (indicating)

Q But, they had an opportunity to, didn't they?

A I don't know.

Q You don't know about it. Now, did you have any money when you were put in jail?

A Yes, sir. I had some, when we were put in there.

Q What did you do with the money?

A We spent it.

Q You spent it in jail?

A No, sir. At the store.

Q At the store. You didn't get money from Joyce Bailey to buy your cigarettes?

A That's where I got the money. Fifty cents to buy a pakk of cigarettes.

Q And, went down to the store. Now, who was at the store when you got there?

A A man and a lady.

Q Was anybody sitting out front?

A Not at that time. If they did, I didn't know it.

Q Where was the man?

A He was -- he was in the store.

Q He was in the store. How did he get to the store, do you know that.

A He was there when I got there.

Q Well, was his car parked out front?

A No, sir. Wasn't no car parked out there.

Q There wasn't any cars parked out front?

A Wasn't -- that car wasn't parked out here.

Q How many cars were parked out in front?

A I can't -- I can't remember how many.

Q Was there one, or two, five, or six?

A About two, I think.

Q About two, where were they parked. See this picture, this is State's Exhibit No. three, can you show me on that picture, about where they were parked?

A (Incicating on picture) Right here.

Q I believe you testified earlier that some of the cars were parked between you and the group down here, now show the jury there.

A Somewhere right in here.

Q Somewhere right in here?

A About two cars down there.

Q All right. Lets mark on there where one car was parked. With that grease pencil, to the best of your recollection. I believe you said right in there.

A About right in there.

Q Right in there. All right. Lets just put a "C" by this, if that's all right with you, that's one car there, now, where was the other car?

A Another right there.

Q Another car, and lets just call this car "one" and the other car "two". How about in this area, was there any cars parked there that you recall? Could have been some, and you don't remember

them, couldn't it?

A Could have been, but I don't remember.

Q You just don't remember. I see. Now, I believe you said you didn't see the shooting, and you turned around, and Reverend Jonathan Daniels was falling down, is that your testimony?

A Yes, sir.

Q The cars were between -- you couldn't see him good because the cars were between you and that group?

A Ah, what I mean -- when he was falling, I just glimpsed him when he was falling back, I didn't actually see him when he hit the ground.

Q All right. But, there was cars between you and him, wasn't there?

A Yes, sir.

Q I see. And, cars between you and Richard, I believe you called him?

A Ah, Reverend --

Q It's Richard Morrisroe. And, you ran, and I believe youwere too far away to hear any conversation?

A Why, after the shooting, I heard them, but the man who did the shooting, I don't know what he said. He said something, but what he said I don't know.

Q I see. All right. What did Mr. Morrisroe have

with him when he went up to the store?

A Nothing.

Q What did John Daniels have when he went up to the store?

A (No Answer)

Q What did Joyce Bailey have?

A Nothing.

Q What did Ruby Sales Have?

A Nothing.

Q Did you see anybody go up to there and take anything?

A I was gone then.

Q You didn't see anybody go up there and take any books and put them down up there did you?

A No, sir.

Q Do you know how those books got up there?

A No, sir.

Q But, you are sure that any of those folks didn't have them?

A Sir?

Q You sure that any of those four people didn't have the bokks?

A No, sir.

Q You are sure about thqt. But they were there later, did you see them?

A I don't know what you -- I don't know that I -- -- later -- ah, I couldn't see them if I wasn't

there.

Q All right. Were there three shots fired?

A I thought it was three.

Q Where did the other shots go, did anybody else get shot?

A I don't know.

Q Do you know what Mr. Morrisroe had in his pockets?

A No, sir. I don't.

Q Do you know what Mr. Daniels had in his pockets?

A No.

Q There could have been something in his pockets, couldn't there?

A Well, if he did I didn't know nothing about it.

Q He could have had a book in his pocket, couldn't he?

A I know Reverend John Daniels -- he had a Bible.

Q Had a Bible in his pocket?

A I don't know whether he had it in his pocket, I know he had with him.

Q Is this the Bible he had, called the "Fanatics"?

A (No answer)

MR. BLACK: That's all.

MR. GAMBLE: That's all, Robert.

Your honor, we would like a ten minute recess.

THE COURT: All right. We will recess until 1:15.

(Recess.)

MR. GAMBLE: For the record it is hereby stipulated between the State of Alabama, and the defendant, that the shotgun marked State's Exhibit No. 4, and the empty hulls marked State's Exhibit, whatever they are, whatever there number is, were turned over, the shotgun was turned over, by Mr. Crocket, to deputy sheriff Luck Jackson. That deputy sheriff Luck Jackson in turn, turned the shotgun over to Captain R. W. Godwin of the State Investigative Committee, Department of Public Safety. That the two hulls referred to were turned over to Capt. Godwin by Mr. Leon Crocket and that Capt. Godwin in turn, turned those shells along with the shotgun over to Dr. C. J. Rehling. That the shells and the gun were in the same, or substantially the same condition when they were turned over to each of the persons who handled it.

MR. ROBISON: It is stipulated between the defendant and the State, that the books, Plaintiff's Exhibits One A, B, and C, were found by Joe Jackson in the vicinity of the body of Morrisroe, and were placed by Joe Jackson under the seed house in the area of the Cash Store. That said books were taken by Doc Jackson and delivered to Mr. Varner in the Cash Store. That Mr. Varner

delivered the books to Robert C. Black, and V. H. Robison, who in turn delivered one of the books, "The Church in the New Latin American" to Dr. C. J. Rehling. That the books marked Plaintiff's Exhibits A and B, "Native Sons," and "Life and Times of Frederic Douglas" were in the possession of Vaughn Hill Robison until they were brought into Court at the commencement of the trial. That said three books are now in substantially the same condition that they were in when first picked up by Joe Jackson.

Now if the Court please, we would like to introduce those books in evidence.

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MR. GAMBLE: Call Ruby Sales.

Thereupon,

RUBY SALES

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name?

A My name is Ruby Sales.

Q Where do you live, Ruby?

A I live in Selma, Alabama.

Q Where were you born?

A I was born in Tillison, Alabama.

Q How long have you lived in Selma?

A About two months.

Q Ruby, do you remember the occasion when it's said that Jonathan Daniels was shot and killed here in Hayneville?

A yes. I do.

Q Were you in Hayneville at the time of that shooting?

A I most certainly was.

Q Did you go with Jonathan Daniels, Richard Morrisroe, and Joyce Bailey, to the Cash Store the day that this shooting took place?

A Yes. I went with them to the store the day the shooting occured.

Q All right. Now, just tell the Court and jury what you saw and what you heard from the time you started walking up to the Cash Store, until the shooting took place?

A Well, the four of us went to the store, and when we got to the store, this, ah, Tom Coleman came running out of the store with a gun -- to the

door of the store with a gun, and he told us that the store is closed, and -- and, ah, he used some profane language --

Q Wait a minute, just tell us what he said?

A You want me to quote what he said?

Q The exact words he said.

A He told us this store is closed and to get the hell off this property before I blow yo r God damned brains out, all you black bastards.

Q All right.

A No, that's exactly what he said. He would blow our brains out.

Q All right. Now, after he said that, what happened?

A We didn't even have a chance -- I didn't even have a chance to turn around, neither did John have a chance to turn around, and the next thing that I knew someone had pulled me, from behind, and I stumbled to the side, and the next thing I knew I heard a shotgun blast.

Q All right. Now, when you heard that shotgun blast, did anybody get hit?

A Yes. John immediately fell to the ground, and he didn't say not one single word through the entire occurrence --

Q Now, wait a minute --

A -- he didn't say one word.

Q Now, for the record, when you say "John," you

mean Jonathan M. Daniels?

A I mean Reverend Jonathan Daniels, the fellow that worked with me in Lowndes County. Reverend Daniels.

Q What did you do after that first shot was fired?

A I told you before, he pulled me to the ground, and I --

Q Tell me again?

A --laid there.

Q All right. Now, were you still there on the ground when the second shot was fired?

A I was still there on the ground when the second shot occured, and Father Morrisroe was running and he shot them IN THE BACK.

Q All right. Now, after the first shot was fired, what happened to Jonathan Daniels?

A After the shot was fired he crumbled to the ground.

Q Where?

A Right in front of -- sort of -- right in front of the store, in the door like.

Q Now, you are familiar with the door that goes into the Cash Store?

A Of Course, I am familiar with the store, I've been there several times.

Q All right. Now, did he fall right in front of that door, or was he to the side toward the

hinges?

A If you really want to know the truth, I can't exactly --

Q Well, that's what I've got you up there for.

A Okay, well I -- well I don't know exactly -- I know he fell, like -- I won't say it was directly in front of the door, and I won't say it was on the side. I know he fell by the door. I was concerned about him lying there, not how he fell.

Q All right. Where did Father Richard Morrisroe fall?

A He fell, ah -- he was way out -- he was -- he had passed -- he got -- fallen on the side, you know the little sidewalk, the drive way.

Q How far from the door was he?

A I don't know how many feet. I don't know how many feet.

Q Well, point out something in the courtroom to show about how far he was. As far as from where you are to where I am?

A From where --

Q From where you are sitting to where I am. Is that how far it was?

A To be sure I wouldn't say, because I can't be sure.

Q Well, what is your best judgement?

A I know that he had run, he had run, but I'm not

going to estimate on feet because I don't know, and I don't like to say things that I don't know. He had run, he had started running, I know that he was running. I'm not going to estimate on distance.

Q All right. Now, let me ask you this, from the time you, and John Daniels, and Richard Morrisroe, and Joyce Bailey, started walking up to that store, from that time until after the second shot was fired, did you ever see a knife, pistol, or any other kind of weapon --

A No, I --

Q Now, wait a minute. In the hands of John Daniels or Richard Morrisroe?

A No. I did not see a knife or pistol in either of the gentlemens hands.

MR. GAMBLE: That's all. Thank you.

CROSS EXAMINATION

By Mr. Robison:

Q You say your name is Ruby Sales?

A Ruby Sales.

Q Where do you live, Ruby?

A Selma, Alabama.

Q Where in Selma, Alabama?

A Right now I'm living at 31½ Freshman Street, Selma, Alabama.

Q Where is 313 East George Washington Carver in Selma, Alabama?

A I really don't know. I don't know where that is.

Q You don't know where that is?

A No, sir.

Q And, you are living in Selma, Alabama now. By whom are you employed?

A I am a field secretary for Student Nonviolent Coordinating Committee.

Q Field Secretary for --

A Student Nonviolent Coordinating Committee.

Q Is that "Snick?"

A "Snick," but the proper name is Student Non-violent Coordinating --

Q It is commonly known as "Snick," and you are a field secretary for "Snick"?

A Right.

Q Now, I believe you testified in your examination by the Solicitor, that this fellow who was working with me, are you talking about John?

A Reverend Daniels, yes.

Q Reverend Daniels. Reverend Morrisroe, too?

A Father Morrisroe.

Q Father Morrisroe?

A Father. He's a Catholic Priest.

Q All right. And, "they were working with me," is that your testimony? And, what kind of work were you all doing?

A We had been working in Lowndes County with the Lowndes County Christian Association for Human Rights, to rid the racial barriers in this area, and that's --

Q That's the way that you all do it?

A -- our rights under the Constitution of the United States. That's exactly what we were doing.

Q That's what you were doing down in Hayneville, when you were arrested?

A We were down in Fort Deposit picketing for our Constitutional rights.

Q What did you all have on the picket signes down there, do you know?

A We had, "Equal treatment for all, and no back door." "No more back Doors."

Q And, that's the kind of work that you, and John, and Father Morrisreo were doing?

A Yes. It was.

Q And, the others that were with you also doing that work?

A They were local people of Fort Deposit, and Lowndes County, felt that they had certain rights, and they were there exercising their rights.

Q Now, while you were in jail there your money run out, while you were in jail there, and you wrote off for some more money, didn't you?

A Wrote off for some more money?

Q Yeah.

A Wrote off. I didn't wrote -- write out. I didn't write any letter outside that jail for more money.

Q Did you write any letters while you were in jail?

A Of course I wrote letters while I was in jail.

Q Who did you write those letters to?

A I wrote letters to Reverend Jonathan Daniels, a personal friend of mine.

Q A personal friend of yours?

A Right. He was a friend. We worked together. We worked together. He was a friend of Mine, right.

BAILIFF: Order in the Court.

Q You've made a considerable number of statements about this case, haven't you?

A Beg your pardon?

Q You've made any number of statements about what happened down here, haven't you?

A Well, I told the truth about what happened down here.

Q You made a statement for Time Magazine, didn't you?

A I don't know who I made a statement to. It might have been Time, Life, Look, I don't know.

Q Time, Life, Look, you made it to all of them?

A Not -- not to all of them. I made a couple of statements about what happened, how the incident happened, people asked me how it happened, and I told the truth about what happened.

Q Made statements to UP and AP about it too?

A Beg your pardon?

Q Did you make statements to the UP and AP about it, too?

A Did I make statements to the UP what?

Q The UP and the Associated Press, about what you did down here?

A I told you just a moment ago, I made statements and all the people -- I don't know who -- UP, it could have been IP, I don't know.

Q When you and Jonathan, or John, as you call him, and Reverend Morrisroe, walked down there to the store, who was with you?

A Well, we walked down to the store, with me, there was Reverend Jonathan Daniels, Father Richard Morrisroe, Miss Joyce Bailey, and myself.

Q And, the four of you went down there?

A The four -- I didn't -- right, the four of us went down there.

Q Now, when the shots were fired, were they fired inside the store, or outside the store?

A I told you these things -- oh, I'm sorry, I didn't hear you. Well, he came to the door with the shotgun.

Q Was he inside, or outside the store, when the shot was --

A He was standing at the door.

Q Well, Now, I want to read to you a statement which you made to the United Press, and the Associated Press --

A Okay, read it.

Q --and to the Time Magazine.

A Okay, go on.

Q "The white man came out and told us the store was closed, he had a shotgun, and he said get off my property before I blow blank blank brains out. We hadn't even touched the steps. Suddenly there was a shot, and the next thing I knew, I was on the ground. Somebody, evidently John, pushed me down, the next thing I knew, there was another shot, and John had fallen down by me. I shook him, tryed to rouse him but he wouldn't move. I started crawling along the ground. Joyce helped me up, and ran across the street to the back of a house. We looked back and this white guy who shot at us was standing

over John's body with his gun, like he was daring somebody to do something about it." Is that true?

A That's --

Q Is that true?

A Wait. Let me --

Q I want you to answer the question, is that true?

THE COURT: You can answer that yes or no.

A Okay, well, thank you.

Q Is that true?

A In order for me to tell you --

Q Is that true?

A I refuse to --

Q Is that true?

A -- on the grounds -- that is -- because he -- I didn't -- he is hollering at me.

Q Is it true?

A Yes, some of those things are true.

Q Some of those things are true?

A Because you know how --

Q Nevermind, you have answered the question.

A Okay.

RUBY SALES: (to the court) May I say something?

Q Did I understand you to say?

THE COURT: I can't let you do that. (to Ruby Sales)

Q Did I understand you to say that you were running when the second shot was made and that Joyce Bailey and Morrisroe was shot?

A You did not understand me to say that. No, you didn't.

Q Was Morrisroe running when he was shot?

A He was running, and he was shot --

Q And, he was shot in the back?

A Yes.

Q Where in the back?

Q I don't know because I didn't go over to see where it was at, but I know he was shot, because when he was shot his back was turned.

Q The back, the full back, was turned?

A The back was turned.

Q The back was turned. He wasn't turning, the back was turned?

A I don't know whether or not --

Q While you all were in the jail, did you have a Bible in there?

A While we were in jail, I don't know -- I didn't have a Bible.

Q No body else that you know of had a Bible. Is

Q this what you all had in jail, "The Church in the New Latin American," "The Fanatics," "Native Sons," "Life and Times of Fredrick Douglas," is that what you all had in the jail?

A Well, that's some of the material that we had.

Q And, who brought them to you?

A I don't know. I just know that someone --

Q Were you all searched when you were put in jail?

A Were we searched when we were put in jail, yes. The girls were --

Q The girls were not searched, you were not searched, right?

A (indicating)

Q None of the girls were searched. Were you searched when you got out of jail?

A No.

Q How long were you out of that jail before the shooting occurred?

A How long we were out jail. Oh, it should have been an hour, an hour and a half, I don't know.

Q Where had you all been, moseing around in this little town of Hayneville, as it came out in the testimony?

A No, we were not moseing around. We were waiting on someone to come and pick us up.

Q Some of you left the crowd, though, didn't you?

A Yes. Some of us left the crowd to make telephone --

Q To make telephone calls. Visited around, some of you, in the race tracks, didn't you?

A I don't know where they went, I --

Q You don't know where they went. How many of them left?

A I don't know. I wasn't keeping count on how many was in the crowd.

Q All right. When you got ready to leave there, you, and Joyce Bailey, and Morrisreo, and John, as you call him, who was it that told you not to go down there at the store, that there might be trouble?

A I did not hear not a single person say that.

Q You didn't hear a single person say that?

A No, I did not, because if I had heard it I would not have gone to the store.

Q Did you hear anybody down there at the store, around about the time of the shooting say, or ask if they were being threatened?

A No, I did not hear that.

Q How close were you to John Daniels when he was shot?

A I told you, I'm not good at estimating.

Q Well, were you this close, or were you closer?

A Was I what?

Q Were you this close to John Daniels, or closer?

A I don't -- oh, let me see, I was -- see, when he

got shot --

Q You can answer the question.

A I am trying to tell you now --

Q Did John Daniels ever walk up to the door?

A He didn't --

Q Did he?

A I was the one. Let me tell you. You want to know how --

Q No, you answer my question.

A Okay. Go on.

Q Did John ever walk up to the door?

A Well, see, I'm going to have to -- I can't say yes or no, I'm going to have to --

Q You don't know whether he walked up to the door?

A Of course I know, I was right there.

Q Did you open the door?

A Open the door. No, I did not.

Q Did John open the door?

A The man was standing in the door. I -- I told you that, that the man --

Q Was the door open?

A How could -- he was standing in the doorand the door was closed? The door was open.

Q The door was open, and who opened the door?

A The same gentleman that was standing in -- I don't know who opened the door. The door was already open and he was standing in --

Q The door was already open when you all walked up?

A He wasstanding in the door. Do you think he was standing behind closed doors, in the door? He was standing in the door and the door had to be open.

Q That's very enlightening.

A It sure is, very enlightening.

THE BAILIFF: Order in the Court. Order in the Court.

Q You say the door was open when you all walked up there?

A Yes. And, I say it again, and again, and again. When we got to the store the gentleman was standing in the door with a shotgun, now whether he or whoever opened the door, he was standing in the door and nobody got inside the store. Nobody even got -- to the -- I mean -- enough to even walk -- to -- in -- pass the door, because he was blocking the door. I said it again.

Q Now, where were you in relation to the door?

A Where was I in relation to the door. Well, I was --

Q Yeah. Where was I?

A Well, I in relation to the door. Well, I was the one closest to the door.

Q You were the closest one to the door?

A Right.

Q And, John was behind you?

A He was behind me, right.

Q And, who was behind John?

A Well, I assume it had to be -- it was either John -- I mean, Father Morrisroe, or either Miss Bailey.

Q And, how far behind, were they?

A How far behind; they were not too far behind.

Q As far as I am to you, or

A They shouldn't have been that far.

Q They were this close?

A They were pretty close to

Q They was this close--

A I didn't say that-- this close, I said they were close to the door. I didn't say this close.

Q Well, I will ask you. Were they this close?

A And, I told you. They were pretty close to the door.

Q All right. And, they were behind you?

A They were behind --

Q I don't know who you'r looking at out there, but if you would look at me I would appreciate it.

A I'm looking at you.

Q How far behind you were those two?

A Ah, -- I -- they were pretty close behind. In relationship to feet, inches, mileage, I can not say.

Q How many cars were there?

A How many cars?

Q Were parked in front of the Cash Store?

A I didn't pay any attention. I know there were -- there was a car. I saw a car, but I didn't pay any attention as to how many cars was there and I cannot truthfully say and I'm not going to say.

Q After the shooting, where did you go?

A After the shooting I ran, down -- I mean after I had gotten up off from my knees, after Miss Bailey helped me off my knees, we both ran behind the place and across the street down by the -- this white house next door, I think, I am not sure, but it appeared to be the doctor's office because the doctor came out of this little office. I don't know whether or not -- that's where I went.

Q Who did you see come to the body of John and Morrisroe?

A Who did I see?

Q After the shooting.

A After the shooting, well, see, after the shooting I didn't see anybody come to the bodys.

Q You didn't see anybody?

A No I didn't. Because after -- I waited around for about fif teen or twenty minutes and nobody came around the bodys and then I left.

Q You were there how many minutes?

A It might have been 10, or 15, I don't know, but I left.

Q Where was Jimmy Rogers?

A Well, before I left, He was right with me, because I was -- I was rather shocked because I couldn't -- conceive of nothing happening like that, and I was rather shocked, and he had to try to quite me down, and he stayed with me until I left.

Q So, Jimmy Rogers stayed with you until you left and then you don't know where Jimmy Rogers went?

A No, I says that I left, and I can't see what happen -- about what happened after I left, because I wasn't there.

Q When you left Jimmy Rogerw was still there?

A When I left, I left Jimmy Rogers right there, because he helped me in the car.

Q You left Jimmy Rogers right in the vicinity of the Cash Store, didn't you?

A That's -- I was in the vicinity of the Cash Store.

Q That's where you left Jimmy Rogers.

A Well --

Q I don't believe I asked you.

MR. ROBISON: I don't believe I have any more questions of this.

MR. GAMBLE: No more questions.

(Witness excu)

MR. GAMBLE: Call E. J. Dixon.

Thereupon,

E. J. DIXON

was called as a witness on behalf of the State, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Gamble:

Q What is your name?

A E. J. Dixon.

Q Dixon, who do you work for?

A Department of Public Safety.

Q Do you hold any title with them?

A Yes, sir.

Q What is that?

A Captain.

Q What division?

A I am with the investigation division.

Q How long have you been with the investigative division, Dixon?

A About four years.

Q You were with the investigative division in August of this year?

A Yes, sir.

Q Dixon, do you remember the occasion when it's said that Jonathan Daniels was shot and killed in Hayneville?

A Yes, sir.

Q Did you come to Hayneville on that occasion?

A Yes, sir.

Q Did you participate in the investigation of that killing?

A Yes, sir.

Q Dick, do you know Tom Coleman?

A Yes, sir.

Q How long have you known him?

A Probably 13, or 14 years.

Q You used to be stationed in Lowndes County, didn't you?

A Yes, sir.

Q Now, Dick, in the course of your investigation did you have occasion to talk to Tom Coleman?

A Yes, sir.

Q When did you talk to him?

A First about 4:40 in the afternoon of the 20th.

Q That was the day the shooting took place?

A Yes, sir.

Q Where did you talk to him?

A Down stairs in the office, behind the clerk's office, I believe.

Q Now, who else was there at the time you talked to Tom?

A Capt. R. W. Godwin of our department.

Q Anybody else there?

A Several people in and out, so that --

Q Now, Dick, there at that place, and with those persons present, did Mr. Coleman make any statement to you, or in your presence?

A Yes, sir.

Q About what happened?

A Yes, sir.

Q Did you, or anybody in your presence, threaten him in any way?

A No, sir.

Q Did you promise him any reward, or hope of reward?

A No, sir.

Q Did you tell him it would be better for him to make a statement or worse for him if he didn't?

A No, sir.

Q Did you do anything to him to force him to make a statement to you?

A No, sir.

Q And, he did make a statement to you?

A Yes, sir.

Q Will you tell us what that statement was?

A He told us in more or less general terms, we never did go into details on this. He told us that he had shot this man, I don't believe he gave us his name, but he told us that he -- well, had shot both men at the store, and, of course, told us that it happened there at the Cash Store, and he told us, too, that he -- the weapon he used was a shot gun.

Q All right. Now, did he tell you anything that had happened at the time of the shooting?

A Yes, sir. He told us that he had gone there, and had carried the gun there, and that he had told the men, when he came up to the door, that the store was closed, and that the man had asked him if he was threatening him and reached in his pocket for what he thought was a knife, and then he shot him. He said the second man was running toward him and that he shot him just as he turned.

Q All right. And, Mr. Coleman made that statement in your presence on the evening that this shooting took place?

A Yes, sir.

MR. GAMBLE: I believe that's all.

CROSS EXAMINATION

By Mr. Black:

Q You were ordered on the scene, I assume, by your employer, Mr. Dixon?

A Yes, sir.

Q Director of the Department of Public Safety. When you came down were you told to plan the investigation for either side?

A No, sir.

Q Did you, in godd conscious as a police officer and an officer of the Public Safety, conduct a conscientious and thorough investigation as you could, and knew how?

A Yes, sir.

Q Without slanting for the defendant or the State of Alabama?

A Yes, sir.

Q Did you write down Tom Coleman's statement?

A Yes, sir.

Q Did he sign it?

A Well, let me correct that. It was written into a report. There was never a written statement signed by Mr. Coleman.

Q You are testifing from your memory of what Tom told you.

A Yes, sir.

Q Now, I believe that was before, ah -- probably just right after the shooting, was it not?

A Yes, sir.

Q And, it was before any of Tom's lawyers, or people, were there, is that right?

A Yes, sir.

Q Before I got there. And, I believe you said that Tom said that the man came up to the store and pulled out what he thought was a knife, what appeared to be a knife?

A Yes, sir.

Q And, did he say anything about Mr. Morriscoe having what appeared to be a gun?

A Well, now, a gun was mentioned, but I don't remember the exact statement that was made about the gun at that time.

Q All right. Could Tom have made the statement that it appeared that Mr. Morrisroe had a gun?

A Yes, sir.

MR. BLACK: Thank you. That's all.

(Witness excused.)

MR. GAMBLE: Your Honor, the state had reached an agreement to admit into the record of

this case a showing for the absent witness Richard Morrisroe. The State and the Defendant have agreed that if he was present his testimony would be as follows, and I would like to read it for the Jury.

My name is Father Richard Morrisroe.

MR. PHELPS: One thing for clarification, if the Court please. We do not agree to the truthfullness of this statement.

THE COURT: In the light of --

MR. PHELPS: We only agree that if this witness were in court he would testify thusly. We don't agree with the truthfullness of what he is saying.

MR. GAMBLE: My name is Father Richard Morrisroe. My home is Chigago, Illinois. I am twenty-six years old. On August 20th, 1965, I was in Hayneville, Alabama with a group of about 20 other civil rights workers, and I was with Jonathan M. Daniels when he was shot at the Cash Store. Daniels and I had gone to the Store with Ruby Sales, and Joyce Bailey, to get something to drink. When Daniels reached the door of the store a man announced from inside that the store was closed and demanded that he leave. Daniels asked that man if he was threatening us. He answered in effect, you damn right

I am. Daniels was within a foot or two of the door, at the time. I was about ten feet back of Daniels. I had not gotten to the porch of the store. I donot know whether Daniels had his hand on the door or not. Almost instantly after the statement was made one shot was fired at Daniels. When Daniels was shot I turned to leave. I did not want to play hero. Another shot was fired, and I was struck by that shot in my lower spine, and I fell to the ground. To my knowledge, at the time of the threat and the first shot, Daniels did not have a knife, gun, stick, or other weapon in his hand. The only thing I had in my hand was a dime.

That's the State's case, Your Honor.

STATE RESTS

MR. ROBISON: Now, if the Court please, do I understand that that is his statement, but it is not to be taken —

THE COURT: Would you like for me to explain that to the jury?

MR. ROBISON: Yes, sir. It is not to be taken as an exhibit in the case, or part of the evidence in the case.

THE COURT: Gentlemen, the paper that has

just been read to you is what is commonly called a showing. It is used when a material witness, from one side or the other, is absent without the procurement of the side who wants the testimony taken, and the other side, has stipulated in this case, that the witness, Morrisroe, if he were in Court, and put under oath, and testified from this witness stand, that what you have heard read is a substance of what he would testify. You should take that as if the witness Morrisroe had appeared and so testified. Now, by stipulating and agreeing, by the defendant stipulating and agreeing that Morrisroe would have so testified, it doesn't mean that the defendant admits that that is true. It simply means that that is what that witness would have testified if he had been in Court, It will be up to this jury, weighing that along with all the other testimony in the case, to determine how much weight he will give to that statement.

Is that sufficient?

MR. ROBISON: Your Honor, we are satisfied.

MR. GAMBLE: That is the State's case, but we would like to reserve the right for some rebuttal testimony.

THE COURT: All right, sir.

MR. ROBISON: Your Honor, before commencing

with our case, we would like to ask for about a ten minute recess.

THE COURT: Yes, certainly.

(Recess.)

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MR. PHELPS: We call Harvey Lancaster.

- - - - - -

Whereupon,

HARVEY LANCASTER

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Phelps:

Q Would you state your full name, please, sir, to the Court and to the jury.

A Harvey Lancaster, agent of the ABC Board.

Q All right, sir. Where do you live, Mr. Lancaster?

A Fort Deposit.

Q How long have you been with the ABC Board?

A About five years.

Q Now, in that work do you have occasion to be in and around Hayneville and the courthouse?

A Yes, sir.

Q All right, sir. During the week prior to August 16th, prior to August 20th, approximately August 16th, did you have occasion to see and to have any contact with the Civil Rights demonstrators over in Fort Deposit?

A Yes, sir.

MR. GAMBLE: We object to what happened in Fort Deposit.

MR. PHELPS: This will be irrelevant, if the Court please. I'm going to show by this witness, that this man searched these demonstrators when they were put into the Hayneville jail.

THE COURT: All right.

Q Did you, Mr. Lancaster, search the demonstrators when they were put into the Hayneville jail?

A I did.

Q Did you search all of them?

A I searched all but the women.

Q All right. The women were not searched, is that right?

A No, sir.

Q Did you find any money or any books on any of these demonstrators?

A No, sir.

Q Now, were you present, Mr. Lancaster, when these Civil Rights workers were released from the Hayneville jail?

A Yes, sir.

Q Did you search them at that time?

A No, sir.

Q Were any of them, to your knowledge, searched at that time?

A They were not, to my knowledge.

Q Now, didyou come on up to the courthouse here in Hayneville, after these people were released from jail?

A I did.

Q And, at that time, did you have any conversation, or any concern, about what these people were going to do when they got out of the jail down there, where they were going?

A When I came back to the courthouse --

MR. GAMBLE: We object to what they were going to do, Your Honor.

MR. PHELPS: I think the general community at that time is especially irrelvant in this case.

THE COURT: I sustain the objection.

Q What did you Mr. Lancaster?

A When we came back to the courthouse, we all came back here. Bothe the deputies, and David Crook, and myself, and Eddy Crook and myself got in the car and rode back down here to see where they were all assembling at, or where they were going, to see if we could tell if there was going to be any trouble, and we rode down the road and back to the courthouse.

Q What was the purpose of that trip down there?

A Just to see if they were going to disperse and leave there.

Q You all were concerned about trouble down there?

A We didn't know what might take place.

Q Now, when you got back to the courthouse, did you see Tom Coleman?

A Yes, sir.

Q At that time did you hear Tom Coleman make any statement or say anything?

A I don't know how long it had been since we had got back to the courthouse, it wasn't very long, that I heard him make a statement that Crocket, Talking about Leon Crocket, was down there at that store, and that he was going down there.

Q All right. And, that was, of course, before this thing happened?

A Yes, sir.

MR. PHELPS: I believe that's all, Mr. Lancaster, thank you.

CROSS EXAMINATION

By Mr. Gamble:

Q Just a minute, Harvey. Harvey, after the shooting took place did you go to the Cash Store?

A Yes, sir.

Q Who did you go with?

A I rode down with Mr. Mack Davin.

Q And, when you got there, what did you find?

A I found the wounded fellow, Morrisroe, lying out in front of the store, to the side of the front of the store, back this way from the front of the store, and I was told by deputy Jackson, Joe Jackson, to come back and call for an ambulance, which I did.

Q Now, after you called — did you call Mr. Jack Golson?

A When I got back to the courthouse someone else had already called for him.

Q Did you go back down to the store?

A I did.

Q When you got back down there, were the bodys still in the same place as they were when you left?

A Morrisroe was moved to the shade of the seedhouse.

Q Did you help move him?

A No, sir. He was moved after I left the first time.

Q Did you look at the body of Jonathan Daniels?

A I did when I went back the second time, I didn't the first time.

Q Did you notice any wound marks on the body?

A Yes, sir.

Q Could you descibe those to the jury?

A There was a puncture wound in the right side -- in the right side of the chest, along here.

Q Was that the only wound mark that you observed on the body?

A Yes, sir. That's the only visible one.

Q How about Morrisroe, did you notice any wound marks on him?

A Yes, sir.

Q Will you describe those to the jury?

A They was wounds in his right side, right along here, and he had a few skined places on his head.

Q All right. Now, Harvey, I believe you said that you searched these people when you put them in Jail?

A Yes, sir.

Q Did you take any of their belongings from them for safe keeping while they were in jail?

A I did not.

Q Did anybody?

A No, sir. There was nothing of any nature that would be harmful to leave with them.

Q You didn't find any knifes, or any guns, on any of them?

A No, sir.

Q All right. Now, when they left the jail, you didn't turn over any knifes, or any guns, to them, did you?

A No, sir.

Q Were you there when Jack Golson came?

A Yes, sir.

Q Did you help them put the people in the ambulance?

A Yes, sir.

Q And, at that time, do you know whether or not Jonathan Daniels was dead or alive?

A He was dead.

Q He was dead. What about Richard Morrisroe?

A No. He was alive.

Q Now, did you also go with Jack Golson to Montgomery?

A Yes, sir.

Q Where did you go when you got to Montgomery?

A We went to the Baptist Hospital and left Richar Morrisroe, and then we went to White Chapel and left the body of Jonathan Daniels.

Q And, how long did you stay at the White Chapel?

A I don't know how long we were there, sir. We

stayed there a pretty good while, until Dr. Rehling, and Dr. Cox came.

Q Do you know Dr. C. J. Rehling?

A Yes, sir.

Q And, he was there before you left?

A Yes, sir.

Q Harvey, had he started the Post Mortem examination before you left?

A I believe so, sir.

Q And, the Post Mortem examination that he performed was on the body of Jonathan Daniels?

A Yes, sir.

Q Now, Harvey, did you ever see when you were admitting, or receipting, Jonathan Daniels or Richard Morrisroe, did you ever see any one of them with a knife or pistol, or any kind of weapon?

A No, sir.

MR. GAMBLE: I believe that's all.

REDIRECT EXAMINATION

By Mr. Phelps:

Q Mr. Lancaster, how long was it before you got down there, until the shooting took place,

approximately?

A It was somewhere around 10 minutes, before I got there.

Q Do you recall who was there at the Cash Store when you got down there that afternoon, who all really was there?

A Mr. Leon Crocket, and I believe Joe Bell Coker, Billy Bevis, Doc Jackson, Mr. Joe Jackson, and Mr. I. V. Taver.

Q Do you remember seeing Ed Mims down there?

A I believe he was, I'm not positive, but I believe he was there.

Q And, I think you said the Solicitor had talked -- asked you questions about the people being searched when they went into jail, and I think you said when they were released from jail they were not searched, is that right?

A No, sir. They were not.

MR. PHELPS: I believe that's all, thank you.

(Witness excused.)

MR. ROBISON: Call Mr. Joe Bell Coker.

Whereupon,

JOE BELL COKER

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Robison:

Q You are Joe Bell Coker, is that right?

A Yes, sir.

Q And, I believe you are Tom Coleman's first cousin, is that correct sir?

A Yes, sir.

Q Mr. Coker, where do you live?

A Hayneville.

Q And, how long have you lived here, Mr. Coker?

A All my life.

Q What do you do?

A Right now, I am unemployed.

Q Unemployed, at the present time? Mr. Coker, on the 20th day of August, Friday afternoon, around 3:00 o'clock, I believe, where were you?

A I was down at Mrs. Vanner's store.

Q Is that what is known as the Cash Store?

A Yes, sir.

Q You had gone in there and gotten a Coke Cola that afternoon?

A Yes, sir.

Q Where were you with respect to the store when Mr. Crocket came up?

A I was standing on front of the store.

Q What did you and Mr. Crocket do there?

A We sat down on the bench and talked.

Q Did Mr. Crocket go in the store at that time?

A No, sir.

Q And, you all were sitting there on the bench. Is that the bench to the left of the door, there?

A Yes, sir.

Q Then, Mr. Coker, did Tom Coleman come up there?

A Yes, sir. About ten minutes.

Q About ten minutes after Mr. Crocket did?

A Yes, sir.

Q Will you tell this jury, when Tom Coleman came up there, if he had anything with him, and if so what it was and what he did?

A He got out of the car, and he had a gun, and he went in the store.

Q Did he come back out?

A Yes, sir.

Q Was he in the store very long?

A No, sir.

Q Now, when he came out, what did he do?

A He sat down there on the bench.

Q He sat down there on the bench with you and Mr. Crocket?

A Yes, sir.

Q Then tell the jury what happened next, Mr. Coker, just tell it in your own wards, what happened after he took a seat there on the bench?

A Well, at that time Daniels walked up to the store, and there was some nigger women walking to his left, and he walked up and stopped right in front of the store, and Mr. Coleman was on the inside --

Q Had Mr. Coleman gone back in the store as they walked up?

A Yes, sir.

Q And, then you say, Daniels walked up?

A Yes, sir.

Q Were there approximately three together, the other three witnesses?

A (No answer)

Q Behind Mr. Daniels?

A They wasn't anybody behind Daniels, but --

Q Sir?

A But they walked up later.

Q They walked up later. All right, sir. Then what happened?

A Tom told him the place was closed for business, not to come in.

Q Did Mr. Jonathan Daniels open the door afterwards, any time that you saw?

A Well, ah -- he attempted to open the door.

Q Which hand did he -- do you recall which hand it was, or which door it was?

A The left screen, going in.

Q All right, sir. Then, you said that Mr. Coleman was inside the store?

A Yes, sir.

Q And, he told him that the store was closed?

A Not to come in.

Q Not to come in. Did you hear Daniels say anything?

A Daniels said -- asked him, "Are you threatening me?" And, he said, "No, the store is closed for business," and, "not to come in."

Q Did you see anything in Daniels hands at that time?

A He had an open pocket knife in his hand.

Q Which hand, in your best recollection?

A Right hand.

Q Sir?

A He had it in his right hand.

Q All right, sir. And, where was he standing there, at the time he had the knife in his hand?

A Right in front of the door, the screen door.

Q And, the door, you say, was opened by him at that time?

A Yes, sir. And, he attempted to walk in.

Q All right. Then, what happened, Mr. Coker?

A That's when I heard the shot.

Q Then, at the time of that shot, do you recall where Morrisroe and the two girls were?

A They was -- Morrisroe was walking up to the store on an angle, kind of at the corner of the concrete slab.

Q All right, sir. Then, what happened, Mr. Coker?

A Tom stepped out, and Morrisroe told him to leave, and Morrisroe kept coming forward, and he had something in his hand, an object -- shiny object, that looked like a pistol to me.

Q And, then what happened?

A He reached -- just about reached the concrete slab, and just as the blast -- Tom shot him -- just as he went off, he just kind of swerved around to his left.

Q All right, sir. Then, Mr. Coker, what did you do?

A I went back in the store after --

Q After the shooting?

A (No answer)

MR. ROBISON: I believe that's all.

CROSS EXAMINATION

By Mr. Gamble:

Q Joe Bell, how long did you stay in the store after you went in?

A I wasn't in very long. I walked back into the back and then I came on back down town.

Q Who was in the store?

A Wasn't anyone in there but me, Mrs. Varner, and

Q Abell Hardy, and it seems like two other girls -- girl and a boy, about 11, or 12, or 13 years old a peace.

Q When you came back out of the store, Joe Bell, was Jonathan Daniels body still lying in front of the door?

A I walked through the beauty parlor and came out the side door.

Q Came out the side door. You didn't go back in front of the store?

A No, sir.

Q Did you see, as you came on back to town, did you see the body of Richard Morrisroe?

A No, sir. I did not.

Q You did not. Now, Joe Bell, I believe you testified that Jonathan Daniels had, what appeard to be a knife in his hand, is that right?

A Daniels had a knife.

Q A pocket knife?

A Yes, sir.

Q Can you describe it for us a little better?

A Well, now, I couldn't see the handle, or anytingg, but it looked like a switch-blade knife to me.

Q Looked like a switch-blade knife?

A A switch-blade knife.

Q All right. Now, did you see that knife any more after he was shot?

A No, sir.

Q Do you know what happened to it?

A No, sir.

Q Now, you said I believe, that Richard Morrisroe had what looked like a pistol?

A Yes, sir. It was a shiny object inhis right hand.

Q Was it a silver colored pistol, or blue?

A It was light colored.

Q Light?

A Silver colored.

Q Silver colored. All right. Now, did you see that pistol anymore Morrisroe was shot?

A No.

Q You didn't see the knife fall out of Daniels' hand when he was shot?

A He had it in his hand when he fell, but I didn't see it fall on the ground, and I didn't look

around.

Q You didn't see it anymore after that?

A I did not.

Q What about the pistol?

A What was that?

Q What about the pistol, did he still have it in his hand when he fell?

A Yes, sir.

Q And, you didn't see it anymore?

A Well, I didn't see him drop it, and I didn't go down there and look at the body.

Q And, immediately after the shooting took place you went in the store and out the side door and back to town, is that right?

A Yes, sir. I walked through the beauty parlor and came back to town.

Q Now, Joe Bell, when Jonathan Daniels was shot, how far was he from the steps going up to the store?

A He had, ah, stepped up on the top step, wasn't but one step, he opened the door -- he walked in.

Q Now, I show you State's Exhibit No. 1, Joe Bell, do you recognize that as a photograph of the Cash Store?

A Yes, sir.

Q Now, just point out to us here, where Daniels was standing when he was shot.

A He was standing right at the front, and he opened the door, and he had one foot on the step.

Q Had one foot on this step, here?

A And stated in.

Q All right. Now, which door was open?

A He opened the left door.

Q He opened the left door with his left hand, is that right?

A That's right.

Q All right. Now, when he was shot where did he fall?

A He fell backwards. Straight backwards.

Q Right here on the concrete porch?

A He fell backward with his head and shoulder off the porch.

Q All right. Now, at the time that shot was fired, were you still setting here on the bench?

A I was sitting over here.

Q On this one? All right. Now, could you see who fired that shot from where you were sitting?

A From where I sat?

Q Yes.

A No, sir. I couldn't see.

Q The shot came from inside the door there?

A Yes.

Q All right. Now, Joe Bell, where was -- can you locate, onthis picture here, where Richard Morrisroe was when he was shot?

A Well, this slab --

Q Wait a minute. I think we've got a better picture.

(Another picture handed to the witness.)

A All right. Now, I show you State's Exhibit No. 2, Do you recognize that as a picture of the Cash Store?

A Yes, sir.

Q In your best judgement, where was Morrisroe?

A He was at the corner right there.

Q Right in the corner of the --

A Yeah.

Q -- concrete porch? All right. Now, from where you were sitting, could you see who fired that shot?

A Yes, sir. I saw that.

Q You saw that. Now, where was -- who fired that shot, and where was he standing when that shot was fired?

A He was down the steps.

Q Now, this is the steps that you are talking about, you don't count that there, this is the steps that you are talking about and he had stepped down on that step when he fired the second the second shot?

A Yes, sir.

Q And, you say that Morrisroe was standing right out here when that shot was fired?

A Yes, sir.

Q In your best judgement, Joe Bell, how far would you say that was. How far was Morrisroe from --

A Seven to eight feet.

Q From the muzzle of the gun?

A I would say it was about seven feet, yes.

Q About seven feet. Now, Joe Bell, did -- after Tom came out of the store there, did he say anything to Richard Morrisroe? Did you hear him say anything?

A When he first came -- he told him to leave.

Q When he came out of the store?

A Yes, sir.

Q All right. Now, did he say anything else after he got out there?

A No. He told him to leave, and ah,--

Q Told him to leave?

A Yes, sir.

Q All right. Now, Joe Bell, how many shots were fired there?

A Two.

Q Just two? And, what did Tom Coleman do with the gun after he fired the second shot?

A He had it. I didn't know what he did with it?

Q He still had it in his possession when you went in the store?

A Yes, sir.

Q I believe you said you left before the ambulance

got there?

A Yes, sir. I did.

Q You didn't stay but how long afterwards?

A Four, or five mintes.

Q Four or five minutes.

MR. GAMBLE: I believe that's all.

MR. ROBISON: That's all, thank you.

(Witness excused.)

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MR. ROBISON: Your Honor, I would like to call Mr. Ed Mims.

Whereupon,

MR. ED MIMS

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Phelps:

Q Were you sworn yesterday, Ed?

A Yes, sir.

Q Would you state for the record, please, sir, your full name.

A Edward Mims.

Q Speak up, now, loud, so we can all hear you. Where do you work, Ed?

A = Lowndes, County.

Q How long have you worked there?

A Six years.

Q And, what do you do?

A Construction work.

Q And, where do you live, Ed?

A About two miles this side of Letohatchee.

Q Ed, are you familiar with the incident and the shooting that occurred down at the Cash Store?

A Yes, sir.

Q Had you driven past the Cash Store that afternoon?

A Yes, sir.

Q Where were you going when you drove by the Cash Store, the first time that afternoon?

A I was going home.

Q About what time was that?

A I imagine it was around 3:00, 2:30 or 3:00 o'clock, I'm not sure.

Q All right. What were you driving at that time?

A I was driving a gravel truck.

Q Did you take that gravel truck on home?

A I rode home in it, yes, sir.

Q Did you notice anything, Ed, as you passed the vicinity of the Cash Store?

A Yes, sir. On this side of there next to the road going down to the jailhouse, there, there was a bunch of negroes and two white boys standing besidethe road. When I went on.

Q You went on home, as I understand, then?

A Yes, sir.

Q What did you do when you got home?

A Well, I got in m y pickup and drove back to Hayneville.

Q All right. Did you come on back up to the Cash Store?

A I come -- drove by the Cash Store and saw that boy laying beside the road there.

Q What did you do then?

A I went up the road and turned around and come back, and parked beside the Cash Store, between --

Q Between the Cash Store and Mr. Will Hagler's seed house?

A Yes, sir.

Q Now, let me ask you this, about where were the negroes -- can you see on that picture about where they were when you came by the first time, now, in your gravel truck going home?

A They were right here, then.

Q On that corner there, around in that vicinity?

A Yes, sir.

Q Looked like it was about 20, or so, of them?

A Yes, sir.

Q Now, what did you do, Ed, after you came back in your car, and pulled the car in here, as I understand, next to the seedhouse. What did you do then?

A I pulled my truck up next to the store, there. Between the seedhouse and the store there.

Q And, lets see, you had the gravel truck at home. What kind of car did you -- what kind of --

A I had a pick up truck.

Q Pick up truck?

A Yes, sir.

Q All right. And, you parked that in here?

A Yes, sir.

Q All right. Then, what did you do?

A I got out of the pick up and walked -- started around the corner of the building, in front of the store there.

Q All right. Did you see any people, or anybody, or persons, laying around on the ground there?

A Whenever I got around in front of the store, there, I saw that other boy laying there then.

Q All right. Now, when you first drove by, you saw someone laying out in the vicinity of the street?

A Yes, sir.

Q All right. Do you know exactly where?

A (No answer)

Q Or to the best of your recollection?

A I believe he was right along -- right along there.

Q Right along in that general area in here?

A Yes, sir.

Q And, where was the other?

A The other was laying with his back and his feet right up here -- edge of the store there.

Q All right. All right. On the concrete slab?

A Yes, sir.

Q Now, what did you see, Ed, if anything, as you walked on up there to the scene?

A Well, when I got out of the pick-up and walked -- started around the store, there, I meet a negro boy coming around there, around the store then.

Q He was going in the same direction that you were?

A No, sir. He was meeting me.

Q That's right. He was meeting -- you all passed there?

A Yes, sir.

Q All right. What was he doing?

A He seemed to be putting something in his pocket, when I met him. It looked like a knife. I'm not --

Q Why do you say, Ed, that it looked like a knife?

A It was about the size of a knife.

Q Did you see anything shiny?

A Well, it looked like the back of a knife.

Q All right. Where was he putting it?

A Putting it into his right pocket.

Q His right pocket?

A Yes, sir.

Q All right. What did you do then, Ed?

A I walked on around to the front of the store, there,
and I met -- I saw Billy Bevis around there, then,
and we stood up there, and at that time there was
another boy down there beside that boy that was
wounded.

Q Another boy?

A Yes, sir. A colored boy.

Q A colored boy down by the one, you said, that was
in the vicinity of the street?

A Yes, sir.

Q What was that colored boy doing down there?

A He was kneeling down beside him, when I saw him,
and seemed to be talking to him. I don't know.

Q All right. Did you watch him there as he knelt
down and talked to the wounded man?

A Yes, sir. I was standing on the edge of the porch
then.

Q What transpired between the two of them?

A Well, he picked up something from the ground.
I don't -- I didn't know what it was, but Billy,
he walked down towards him and told him to get

A away and leave that boy alone. Ah, I asked
Q Billy --
A MR. GAMBLE: Now, we object to what he asked Billy.
THE COURT: Yes. Sustained.
Q All right. You say that he picked something up?
A Yes, sir. He picked up something from the ground.
Q You say you couldn't, at that time, tell what it was. What did he do with it?
A He put it in his -- stuck it in his, ah, britches, or pockets, one, I couldn't tell.
Q Did you see him do that, Ed?
A Yes, sir.
Q Could you tell then, what it was he was sticking in them?
A No, sir. I couldn't tell myself.
Q But, he was sticking something that he had picked up, is that right?
A Yes, sir.
Q Was it a book?
A I don't know. I couldn't tell.
Q You couldn't tell what it was?
A No, sir.
Q Have you got any recollection, or anything about it, that you could describe to this jury?

A No, sir.

Q Was Billy Bevis there closer to where this negro was bending over, than you were?

A Yes, sir. He walked down toward him -- the negro.

Q

MR. PHELPS: I believe that's all, Ed, thank you.

A

CROSS EXAMINATION

By Mr. Gamble:

Q Ed, when you said that this first negro boy that you testified about, was putting something in his pocket, it looked to you like the back of a knife?

A Yes. It looked --

Q What do you mean when you say the back of a knife?

A Well, it just -- it just looked like a knife to me, I --

Q Well, what part of the knife did it look like? When you say the back of the knife, I just don't know what you mean? (Handing poket knife to witness)

A No, not that. Just leave it closed.

Q All right. Now, show me what you mean.

A This part back here.

Q This part here that the blade folds in to?

A Yes, sir.

Q That's what it looked like to you?

A Yes, sir.

Q All right. Now, Ed, do you know where he got that object from?

A No, sir. I don't. I was --

Q You don't know where it came from?

A No, sir.

Q You just saw him putting something that was shiny in his pocket?

A Yes, sir.

Q All right. And, I believe you testified that you didn't know what the other boy was putting in his pocket?

A No, sir.

Q How far away from him were you, Ed?

A Well, I was up there at the edge of the -- back of-- edge of the porch where the other boy was laying there.

Q And, the other boy was down by the seedhouse, is that right?

A No, sir. He wasn't down by the seedhouse. He -- He was between there and next to the highway, down there.

Q Well, now, did somebody later move him?

A Yes, sir.

Q Was you there when he was moved?

A Yes. I was there when they moved him over there in the shade out of the sun.

Q Now, who moved him, do you remember?

A I really don't know who moved him. Sure don't.

MR. GAMBLE: I believe that's all.

MR. PHELPS: We have no further questions.

(Witness excused.)

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MR. ROBISON: Call Billy Bevis.

Whereupon,

WILLIAM LAMONT BEVIS

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Robison:

Q You are William Lamont Bevis?

A Yes, sir.

Q Do they call you Billy?

A Yes, sir.

Q Where do you live, Billy?

A Hayneville.

Q How long have you been living in Hayneville?

A Just about all my life.

Q How old are you?

A Twenty-five.

Q Where do you work?

A Hooper Stock Yards.

Q On August 20th of this year, did you have occasion to be around the Cash Store in the afternoon of August 20th, around 3:00 o'clock?

A Yes, sir.

Q Where had you been just before you got to the Cash Store?

A Holiday Store.

Q You had gotten a Coka-cola there?

A Yes, sir.

Q And, where were you going?

A I was going back home.

Q Now, tell this jury what you saw as you came out of the Holiday Store, there?

A Well, I left by the -- the street runs parallel to the courthouse, and it comes out right above the Cash Store on highway 97, and as I pulled into the street, well, I saw several negroes running

up toward Hayneville, so I pulled on out into the street and pulled down below the Cash Store, and I didn't know anything had happened but I had seen the negroes running and it looked kind of strange, so I pulled up -- down below the Cash Store and parked and got out of the car and walked up to the front of the store. And, I saw this white man laying on the ground -- on this little concrete step on the front of the store, and I saw this negroe, kind of a slim, dark looking negro. It looked like he had been leaning down over him, and he was straighting up and moving off, and I could see the blade of a knife protruding out of his hand, and he run around the corner of the building, and it looked like he was heading in the direction of the cotton gin. I lost sight of him when he went around the corner of the building. I still didn't know what had
Q happened, so I looked inside the Cash Store, and the only people I remember seeing in there was Mrs. Varner, and Mr. Coker, I didn't go inside,
A I just opened the screen door and looked inside
Q to see what had happened. So, I closed the door
A and turned around and looked up towards Hayne-
Q ville and I saw this -- there was another man
A sitting out there on the edge of the pavement, and
Q I saw another negro down on his hands and knees

between me and this other white man, and it looked like he was trying to pick up something off the ground, and I hollered at him and told him to get away from that boy because I knew anybody didn't have business being around him.. So, I started over there towards him and he started straightening up and it looked like he had a pistol in his hand, and he turned his back to me and steped across the boy and started going up towards that seed-house right up above the Cash Store, and I walked over to him, the boy on the ground, to see what was the matter with him, and I could see that he was bleeding a little bit. I heard him say something about, "where is the gun?" He seemed to be in a dazed condition, and I asked him was he hurt and he didn't answer to that, so then I just waited there until some of the law officers got there.

Q Did he ask you, the one that was out at the edge of the street, did he also ask you anything about water?

A Yes, sir.

Q Wanting a drink of water?

A Yes.

Q Sir?

A Yes, sir. He asked for water.

Q And, what did you do, or what was said, with re-

spect to the water, at that time?

A Well, sir, I didn't know what kind of injuries he had, and I don't think you'r supposed to give people water unless you know what kind of injury they had. Maybe --

Q So, you did not give him any water, and waited until the doctor got there?

Now, Billy, I show you a picture of the Cash Store, this being the steps, Now, when you first walked up there, I believe you said the shooting was over and you had come out of the store, after it was over, is that right?

A Yes, sir.

Q Now, where was the body of the man closest to the store?

A Ah, well, the feet was almost right against this door of the store.

Q And, where was his head?

A Right down here.

Q All right. Was that practically on the edge of this thing?

A Yeah.

Q Now, where was the second one, the one that you say asked you for water and you say you saw the second negro?

A Right up in this area. Right in here.

Q All right. Now, could you describe for me, if

you can, the appearance of those two negroes that were over those two bodieswhen you first got there?

A Well, I remember the first one, he was kind of a slim, black looking negro. The other one had been on his hands and knees beside that wounded man, ah -- all I can tell you is he was a little bit lighter.

MR. ROBISON: I don't believe we have any further questions. Your witness.

CROSS EXAMINATION

By Mr. Gamble:

Q Billy, you said that this negro that was bending over the body of Jonathan Daniels' there, you saw him putting in his pocket, a knife?

A Yes, sir.

Q You said you saw the blade of the knife?

A Yes, sir.

Q Will you describe that blade for us?

A Well, all I can tell you, it was a knife blade. It looked kind of -- it was about three, or four inches long. That's about all I could see of it.

Q Did it look like the blade of a pocket knife, or

switch blade?

A Well, I couldn't see the handle. It happened so fast, I couldn't tell if it was switch-blade. I know it was some kind of pocket knife, though.

Q You did see the blade of the knife?

A Yes, sir.

Q Billy, did you make a statement on August 27th, here at the courthouse to one of the State investigators, which you said in substance, that he put a shiny object in his pocket which appeared to be a knife?

A Yes, sir.

Q But now you say it didn't appear to be a knife, it was knife?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q I believe you said that you saw this other negro pick up something off the ground that looked like -- looked like he had a pistol in his hand, is that right?

A Yes, sir.

Q Can you describe that pistol for us?

A Well, it was about the size of your hand. Maybe a little bit smaller, and I could see the handle --

Q the handle of it, and it looked like the hammer.

A He had his hands over it and I could see it when

he was picking it up off the ground.

Q Can you describe the barrel of the pistol?

A I couldn't — I couldn't see the barrel.

Q Couldn't see the barrel. All you could see was the handle?

A Yes, sir.

Q What color was the handle?

A Looked like it might have walnut, or something like that.

Q Did you see any of the metal on this pistol?

A All I remember was just seeing the outline of the handle, maybe part of the trigger guard.

Q What color was the handle and the trigger guard?

A Well, it just looked kind of bright and shiny.

Q Bright and shiny. Billy, were you there when these people were moved?

A Yes, sir.

Q Did you help move any of them?

A Ah, yes, sir. I helped move the dead one.

Q Jonathan Daniels?

A Yes, sir.

Q The one that was dead?

A Yes, sir.

Q From the porch of the store?

A Yes, sir.

Q Where did you move him to?

A Ah, Mr. Jackson, the deputy, suggested we move

him around to the side of the building, to the shade. Which we did.

Q Well, Now. What about Richard Morrisroe, did you help move him?

A No, sir. I didn't help move him.

Q Do you know whether anybody did move him, or not?

A Yes, sir. I know some people moved him, but I don't remember exactly who it was.

Q Where did they move him to?

A Sir?

Q Where did they move him to?

A They moved him up into the shade of the seed-house along side the road.

Q That's the seedhouse just this side of the road?

A Yes, sir.

MR. GAMBLE: I believe that's all.

MR. ROBISON: We have no further questions. May this witness be excused?

MR. GAMBLE: As far as I am concerned.

(Witness excused.)

MR. ROBISON: Call Joe Bales.

Whereupon,

JOE BATES

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Robison:

Q Will you state your name, please, sir.

A Joe Bates. B., A., T., E., S. J., O., E.

Q What's your occupation?

A Methodist Minister.

Q Where is your church?

A Pine Hill, Alabama.

Q Wilcox, County?

A Wilcox, County.

Q Do you know Tom Coleman?

A Yes, sir.

Q How long have you known Tom?

A Oh, I can't remember when I didn't know him.

Q Do you think you know Tom Coleman's general reputation in the community in which he lives?

A I think so.

Q Would you say that reputation is good or bad?

A I would say it was very good.

MR. ROBISON: We have no further questions of the witness. Thank you.

MR. GAMBLE: No questions.

(Witness excused.)

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MR. PHELPS: Call V. E. Richy.

Whereupon,

V. E. RICHY

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Phelps:

Q Would you state your full name to the court and to the jury please.

A Man Erie Richy.

Q And, by whom are you presently employed?

A State of Alabama Highway Department.

Q In what capacity, sir?

A Personel Officer.

Q And, how long have you been employed by the Highway Department in the State of Alabama?

A Approximately 12 years.

Q Mr. Richy, do you know Tom Coleman?

A I do.

Q How long have you known Tom Coleman?

A Approximately 10 years.

Q Mr. Richy, do you know Mr. Coleman's reputation in the community in which he lives?

A I do.

Q Is that reputation good or bad?

A Good.

MR. PHELPS: I believe that's all.

MR. GAMBLE: No questions.

(Witness excused.)

MR. BLACK: Call Andrew H. Bullard.

Whereupon,

ANDREW H. BULLARD

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Black:

Q State your name, please, sir, for the court and for the jury.

A Andrew H. Bullard.

Q Where do you live, Mr. Bullard?

A Hayneville.

Q What is your occupation here, sir?

A I am a minister of the Gospel.

Q What church?

A Presbyterian Church of the United States, popularly known as the Southern Presbyterian Church.

Q Do you know Tom Coleman?

A Yes, sir.

Q How long have you known him, sir?

A Since I came to Hayneville, about 30, 40 years ago.

Q Do you know his general reputation in the community where lives here?

A Yes, sir.

Q Is that reputation good or bad?

A I think it's good, sir.

MR. BLACK: Thank you.

CROSS EXAMINATION

By Mr. Gamble:

Q Is the Southern Presbyterian Church kind of like the Southern Baptist Church?

A I hardly feel in the position to say, sir. I'm sorry.

MR. GAMBLE: That's all.

(Witness excused.)

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MR. PHELPS: Call Leon Bray.

Whereupon,

LEON BRAY

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Phelps:

Q Would you state your name, please, sir, to the Court and jury.

A I am Leon Bray.

Q Mr. Bray, where do you live, please, sir?

A Montgomery.

Q And, by whom are you presently employed?

A State Highway Department.

Q All right. How long have you been employed by the State Highway Department?

A Forty years.

Q Mr. Bray, do you know Mr. Tom Coleman?

A I do.

Q How long have you known him?

A Twenty-five years.

Q Mr. Bray, do you know Mr. Tom Coleman's reputation in the community in which he lives?

A Not in this community, no, sir.

Q Do you have an opinion as to his reputation, and to his character, in so far as your dealings --

MR. GAMBLE: We object to his character outside the community, your honor.

THE COURT: I'll let him answer.

Q You have been working with Mr. Tom Coleman in the Highway Department, for how long?

A Twenty-five years.

Q Is his character in that respect, good or bad.

A Good.

MR. PHELPS: I beleive that's all. Thank you.

MR. GAMBLE: No questions.

(Witness excused.)

MR. BLACK: Call Mrs. J. H. Tavor.

Whereupon,

MRS. J. H. TAVOR

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Black:

Q Would you state your name, please, ma'am?

A Mrs. Almore G. Tavor.

Q Where do you live, Mrs. Tavor?

A Hayneville.

Q How long have you lived here?

A I have lived here 30 years.

Q Do you know Mr. Tom Coleman?

A Yes, sir. I know him.

Q How long have you known Tom?

A Well, very intimately for 25 years.

Q Do you know his reputation in the community where he lives in Hayneville, Alabama?

A Yes, sir. I do.

Q Is that reputation good or bad?

A His reputation is good.

MR. BLACK: Thank you.

MR. GAMBLE: No questions.

(Witness exxused.)

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MR. ROBISON: Call M. G. Tovin

Whereupon,

M. G. TOVIN

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

M. G. TOVIN'S DIRECT EXAMINATION

By Mr. Robison:

Q State your name, please, sir.

A M. G. Tovin.

Q Mr. Tovin, where do you live?

A Hayneville.

Q What's your occupation?

A Pastor of the Hayneville Christian Church.

Q How long have you been serving in that capacity?

A More than 14 years.

Q Sir, have you lived in Hayneville that 14 years?

A Yes, sir.

Q Do you know Tom Coleman?

A Yes. I do.

Q How long have you known Mr. Tom?

A The same length of time, more than 14 years.

Q Do you think you know his general reputation in this community?

A I believe I do.

Q Would you say that reputation is good or bad?

A I would say it is especially good.

MR. ROBISON: We have no further questions.

MR. GAMBLE: No questions.

(Witness excused.)

MR. PHELPS: Call Mr. Garn Pruitt.

Whereupon,

GARN PRUITT

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Phelps:

Q Would you state your name, please, to the court and jury.

A Garn Pruitt.

Q Where do you live, Mr. Pruitt?

A Montgomery.

Q And by whom are you presently employed?

A Sun insurance and bonding company.

Q Are you, sir, a past director of the Highway Department of the State of Alabama?

A Yes. I served one year for governor Frank Dickson, and four years for Gordon Persons.

Q Mr. Pruitt, do you know Tom Coleman?

A Yes, sir.

Q How long, sir, have you known Tom Coleman?

A About 30 years.

Q Do you know Mr. Coleman's reputation in the community in which he lives?

A I would say it's excellent.

MR. PHELPS: Thank you sir.

(Witness excused.)

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MR. BLACK: Call Judge Harrell Hammons.

Whereupon,

JUDGE HARRELL HAMMONS

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

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By Mr. Black:

Q Would you state your name, for the court and jury, please.

A Harrell Hammons.

Q Where do you live, Mr. Hammons?

A Mount Willing.

Q And, your ocmpation?

A Probate Judge.

Q How long have you lived in the Hayneville Mount Willing vicinity, sir?

A About 40 years.

Q Do you know Tom Coleman?

A Yes, sir.

Q How long have you known him, Judge?

A I would say 35 years.

Q Judge, do you know his general reputation in the community where he lives?

A Yes, sir.

Q Would you tell the Court and jury what that reputation is?

A It is good.

MR. BLACK: No further qqestions. Thank you.

MR. GAMBLE: No questions.

(Witness excused.)

- - - - - - -

MR. ROBISON: Werth Thomas.

Whereupon,

WERTH THOMAS

- - - - - -

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Robison:

Q State your name, please, sir.

Q W. W. Thomas.

Q What is your occupation?

A Sheriff of Butler County.

Q How long have you been sheriff of Butler County?

A Well, since January of '55.

Q How long have you known Tom Coleman?

A Eighteen to twenty years.

Q Do you think you know his general reputation in the community in which he lives?

A I certainly do think so.

Q Is it good or bad, sheriff?

A Good.

MR. ROBISON: (to Mr. Gamble) Any questions?

MR. GAMBLE: No questions.

MR. ROBISON: Come down, sheriff.

(witness excused.)

- - - - - -

MR. ROBISON: Call Judge Beeland.

Whereupon,

JUDGE J. T. BEELAND

was called as a witness on behalf of the defendant, and having been first duly sworn, testified as follows, to-wit:

DIRECT EXAMINATION

By Mr. Robison:

Q State your name, Judge.

A J. T. Beeland.

Q Where do you live, Judge?

A I live at Greenville, Alabama, Butler County?

Q How long have you been living in Butler County?

A I ain't going to tell you how long, but all my life.

Q How long have you been knowing Tom Coleman?

A About 18 years.

Q Do you think you know Tom Coleman's general

reputation in the community in which he lives, sir?

A Yes, sir.

Q Would you say that is good or bad?

A Good.

MR. ROBISON: Thank you.

MR. GAMBLE: Judge, I hate to pass up this opportunity while I've got you under oath, but no questions.

(Witness excused.)

- - - - - -

MR. ROBISON: If the Court please, the defendant rests.

DEFENDANT RESTS

MR. GAMBLE: That's all for the State, your Honor.

MR. ROBISON: EVIDENCE CLOSED

* * * * * *

THE COURT: All right, I will excuse from the jury.

(Thereupon Mr. Perdue summed
(up to the Jury in behalf of
(the State)

(Mr. Phelps summed up to the
(Jury in behalf of the
(Defendant)

(Mr. Robison summed up to the
(Jury in behalf of the
(defendant)

(Mr. Gamble summed up to the
(jury in behalf of the State.
(During the summation the
(Following occurred:)

MR. GAMBLE: Mr. Phelps had a lot to say to you about a gun, and a knife, and Mr. Phelps tells you that Jimmy Rogers, or Varner, or whatever his name was, had something to do with taking that gun, and that knife, but they were not here to testify. They could have came here, if the defendant wanted them here. And, gentlemen of the jury, if they had taken that gun, and if they had taken that knife, the defendant would have had them here. He would have had that gun, and that knife here to show you. All you --

MR. ROBISON: If the Court please. I think that is an improper argument. To make a statement like that. Jimmy Rogers, and them, would have both lied about it. All the others did.

THE COURT: All right. I will exclude that from the jury.

(Thereupon Mr. Gamble concluded his summation to the Jury.)

(The Court charged the jury as follows:)

The COURT: Gentlemen, the indictment in this case, which was returned in Lowndes County by the Grand jury in the Fall Term of 1965, charges that, before the signing of this indictment Tom L. Coleman unlawfully and intentionally, but without malice, killed Jonathan M. Daniels by shooting him with a gun. In answer to the indictment the defendant has said that he is not guilty, and also that he is not guilty by reason of self defence. His plea of not guilty puts an issue on all of the material allegations in the indictment, and casts upon the State the burden of satisfying your minds beyond a reasonable doubt, and to a moral certainty, by the evidence in the case, that the defendant is guilty as charged in the indictment. That is the occurence of all the elements of the offence charged in this indictment. The indictment, itself, Gentlemen, is not evidence in the case as to the defendant's guilt, nor is it evidence of his innocence, and it should not be so construed, or interpreted by you. It is simply the mode, or instrumentality, which the law has provided for bringing an accused person to his trial. It serves

the purpose of acquainting the defendant himself, first of all, with the nature of the offence with which he is charged, and then secondly, acquaints the Court and the Jury and everybody connected with the case who has a responsibility in connection with the case, to the nature of the offence of which he is charged. So, as I have said, you will give no weight whatever to the fact that an indictment was returned by the Grand Jury of this County. The offence with which the defendant is charged is commonly called First Degree Manslaughter. Manslaughter in the First Degree is voluntary manslaughter. That is the unlawfull killing of a humna being without malice. That is an un-premeditated result of passion-heated blood, caused by sudden sufficient provocation. And, in cases of sudden rencounter that provocation can in no case be less than assault, either actually committed, or managed under such pending circumstances as reasonable to convince the mind that the accused had caused the believing, and did believe he would be presently assaulted, and that it's not in consequents with the previously conformed design, generally special, but in consequents of a passion suddenly arised by the blow given or apparently about to be given. Mere words, no matter how insulting, are never sufficient provocatinn for

the killing of a human being. Mere words are not sufficient provocation even to reduce a homicide to manslaughter. To constitute voluntary manslaughter, or manslaughter in the first degree, there must be either a partial intention to kill, or an act of violence from which ordinarily in the usual course of events there, or a great bodily injury may be a consequence.

Now, as I said the defendant's plea of not guilty casts upon the State the burden of proving all the material allegations of the indictment, but in addition to that the defendant says he is not guilty by reason of self defence. And in order to avail himself of the plea of self defence, as he has by the evidence in the case, sufficiently avail himself of the plea of self defence, it would be a complete defence to this charge and the defendant would be entitled to an acquittal. The burden is on the defendant, in both the indictment and self defence, to show that he could not have retreated without apparently increasing his peril. If the defendant, by attempting to retreat, would not have exposed himself to greater peril than was involved in his standing his ground and fighting it would have been his duty to retreat. But, if the circumstances were such as to reasonably impress upon the defendant

that if he did retreat he would increase his peril, then he would not have been required to retreat. If the defendant has reasonably satisfied your minds, by the testimony in the case, that he was under danger of death or bodily harm at the hands of this Jonathan Daniels, and that there was no reasonable retreat open to him, or if he exercised what appeared to be a mode of retreat, that it would thereby increase his peril, or he in good faith believed it would increase his peril, well then he would have made out a case of self defence, unless the State then, satifies your minds beyond a reasonable doubt and to a moral certainty that the defendant was a fault, in bringing on or provoking the dificulty. If you are convinced beyond a reasonable doubt and to a moral certainty that the defendant was at fault in bringing on the dificulty, then his plea of self defence would not avail you.

You look to the evidence, gentlemen, and to all the evidence that has come to you from the witness stand to determine the issues. It is your duty to take into account every witness who has testified, whether or not that witness has any interest in the out come of the case. The question of the interests of the witnesses goes not to his credibility, but to how much weight

you will give the testimony of that witness and in determining that you will use your own common sense and take into account the demeanor of the witnesses, for the particular witness, and the reasonableness of the testimony of the witness, and so on.

It's your duty to reconcile the conflicts in the testimony, if you can, and when the conflicts are such that you cannot reconcile them, then, as I said, you apply your good common sense and decide what ypu will accept to be the truth and then let your verdict speak the truth.

The defendant has brought in certain character witnesses who have testified that they know his general character and reputation in the community in which he lives, and that it is good. It is the law, gentlemen, that if a man has so lived that his neighbors are willing to come in and testify under oath that his character is good, he is entitled to the benifit of that testimony in a Court of law when he is accused of having committed a heinous crime. And, it's further the law that it is the duty of the jury, on hearsay testimony, to take that into account along with all the other law in the case. And, if that testimony of good character is sufficient to raise a reasonable doubt in your minds of the guilt of the defendant

even though you might not have had such a reasonable doubt without the character testimony, or without the testimony of his good character, then it would be your duty to give the defendant the benifit of that reasonable doubt and to acquit him.

So, the questions for you to determine, gentlemen, are these: First, was Jonathan M. Daniels killed by having been shot with a gun, as alleged in this indictment. If you find that to be true, then, did this defendant, Tom L. Coleman, fire the fatal shot. If you find that that is true, then, what was the circumstances under which the shot was fired. If you find that it was done unlawfully and intentionally as alleged in this indictment, and by unlawfully is meant without legal excuse or justification, and with specific intent to kill, or with the intention to fire the gun, if he did fire it, knowing that to do so would perhaps or probably fatally injure the decedent, then it would be your duty to convict the defendant. To find him guilty as charged in this indictment. But, if you find that he killed Jonathan M. Daniels by shooting him with a gun, but you have a reasonable doubt that it was done unlawfully, or if the testimony is such that you have a reasonable doubt as to whether or not it

was done lawfully, and was justifiable, then it would be your duty, of course, to give the defendant the benifit ot that reasonable doubt and acquit him. Also, if you have reasonable doubt that it was done intentionally, then it would be your duty to give the defendant the benifit of that, but by intentionally, gentlemen, I don't mean necessarily that he had to have -- entertain the intention to kill the decedent but he did have to entertain the intention of shooting him as he did do and knowing that to do so would probably result in killing him, or inflicting grievous bodily harm upon him.

If after considering all the testimony you are satisfied beyond a reasonable doubt that the defendant is guilty, then you would move on to the question of his punishment. That would be a sentence to the penitentiary of not less than one year nor more than ten years, and it would be your duty to fix that punishment. If you have a reasonable doubt as to his guilt, of course, your verdict would be guilty. In the event you find the defendant guilty and agree upon his punishment, then your verdict should read; We the jury find the defendant guilty of manslaughter in the first degree as charged in the indictment and fix his punishment that he be imprisoned in

the penitentiary for so many years. Naming your term fixed, not less than one year, nor more than ten years. If you have a reasonable doubt of his guilt, then your verdict should read; We the jury find the defendant not guilty. What ever form it takes, one of you write the verdict on the back of the indictment, and if you have any trouble with the form of the verdict, if you will come back and tell me what your verdict is, I will be glad to prepare it for you. After preparing the verdict, then, one of you write your name and write the word foreman under your name, whoever acts as the foreman of the grand jury -- I mean foreman of this jury.

What do you say for the State?

MR. GAMBLE: I am satisfied, your honor.

THE COURT: What do you say for the defence?

MR. ROBISON: I am satisfied, your honor.

THE COURT: Gentlemen, I almost forgot to tell you that the defendant has requested certain charges in writing, which he has a right to do. And, at his request, I give you these charges and instruct you that they are proper and correct statements of the law to be taken into account by you along with all the other law in the case as I have given it to you.

-1-

The court charges the jury that if the defendant, Tom Coleman, shot the deceased under a bona fide belief that he was in impending danger of limb, and he had, under all the circumstances, reasonable cause to believe that he was in imminent danger at the time the shooting was done, it would be immaterial whether there was such danger or not.

-2-

The Court charges the jury that if the circumstances attending the killing of Jonathan Daniels were such as would justify a reasonable man in the belief that he was in danger of great bodily harm or death, and the Defendant believed such to be the case, he was, justified in shooting the deceased, although he was not in actual danger and if the defendant acted under such circumstances, the burden of showing that the Defendant was not free from fault in bringing on the difficulty is on the State.

-3-

The Court charges the jury that if, after looking at all the evidence in this case, your minds are left in such a state of doubt or uncertainty that you cannot say, beyond a reasonable doubt, whether Tom Coleman acted upon a well-founded and reasonable belief that it was necessary

to take the life of Jonathan Daniels to save himself from great bodily harm or death, or he shot before such impending necessity arose, then this is such a doubt as will entitle this Defendant to an acquittal and you should find the Defendant not guilty.

-4-

I charge you that the burden is on the State to prove from all the evidence, beyond all reasonable doubt, that the Defendant, Tom Coleman, was not free from fault in bringing on the difficulty.

-5-

The Court charges the jury that it is the law that the Defendant, Tom Coleman, had a right to protect himself from real or reasonably apparent felonious assault upon him by Jonathan Daniels, and if, on considering the evidence or any part of it, when considered with the whole evidence, you have a reasonable doubt as to whether the Defendant was justified in taking the life of the deceased in defending himself, Tom Coleman, from such assault, it will become your duty to acquit him.

-6-

The Court charges the jury that if the Defendant, Tom Coleman, shot under a bona fide belief that his life was in danger, and had under

the circumstances reasonable cause to believe that he was in imminent danger at the moment the shot was fired, it would be immaterial whether there was such actual danger or not.

-7-

The Court charges the jury that good character itself may, in connection with all the evidence, generate a reasonable doubt and entitle the Defendant to an acquittal, even though without such proof of good character you would convict.

-8-

The Court charges the jury that proof of good character, if proved to your reasonable satisfaction, may be sufficient to authorize you to acquit the Defendant, when taken in connection with all the other testimony.

-9-

The Court charges the jury that unless each of you is convinced beyond a reasonable doubt of the guilt of the Defendant, Tom Coleman, from the evidence in this case, then you should not convict him.

-10-

The Court charges the jury that the Defendant cannot be convicted in this case unless each and every juror is not only reasonably satisfied from the evidence of the Defendant's guilt, but is

satisfied from the evidence, and the evidence alone, beyond all reasonable doubt, and to a moral certainty, of his guilt.

-11-

The Court charges the jury that each juryman must be separtely satisfied, beyond a reasonable doubt and to a moral certainty, that Defendant, Tom Coleman, is guilty of the crime charged, or you cannot convict him.

-12-

The Court charges the jury that if, after looking at all the evidence in this case and considering it fully, your minds are left in such a state of uncertainty that you cannot say beyond a reasonable doubt that the Defendant is guilty of the offense charged, then this is such a doubt as would entitle the Defendant to an acquittal and you should find the defendant not guilty.

-13-

The Court charges the jury that if, upon a consideration of all of the evidence, the minds of the jury or any member of the jury is left in such a state of reasonable doubt and uncertainty, by the evidence or any part of the evidence, of the Defendant's guilt, you cannot convict the Defendant.

-15-

The Court charges the jury that if there is, from the evidence, a reasonable probability of Defendant's innocence the jury should acquit the Defendant.

-17-

The Court charges the jury that the burden is upon the State and it is the duty of the State to show, beyond all reasonable doubt, and to the exclusion of every other reasonable hypothesis every circumstance necessary to show that the Defendant is guilty; and, unless the State has done this in this case, it is your duty, gentlemen of the jury, to render a verdict of not guilty.

-18-

The jury is instructed that if the evidence is reasonably consistent with the Defendant's innocence, you should promptly acquit the Defendant, Tom Coleman.

-19-

The Court charges the jury that the Defendant enters into this trial with a presumption of innocence, and this is a fact in the case, which must be considered with all the evidence in the dase and should not be disregarded.

-20-

-20-

The Court charges the jury that there is a legal presumption of innocence which is to be regarded as a matter of evidence by the jury to the benefit of which the accused, Tom Coleman, is entitled, and as a matter of evidence it attends the Defendant until his guilt is, by the evidence, placed beyond a reasonable doubt.

-21-

The law presumes the Defendant is innocent of the charge against him and this presumption of innocence is evidence in his behalf to be considered by you, and you cannot find him guilty, until, from all the evidence, his guilt is established beyond all reasonable doubt and to a moral certainty.

-22-

The Court charges the jury, the Defendant is presumed to be innocent until the evidence convinces the jury and each and every one of you beyond all reasonable doubt and to a moral certainty that he is guilty, and if upon a consideration of all of the evidence the jury has a reasonable doubt growing out of all the evidence they must acquit the Defendant, Tom Coleman.

-23-

The Court charges the jury that proof of good

character if proved to your reasonable satisfaction, may be sufficient to authorize you to acquit the Defendant when taken in connection with all other testimony.

-24-

The Court charges the jury that no inference or conclusion should be drawn by the jury from the fact that the Defendant was not sworn and put on the stand as a witness in his own behalf, nor should this fact have any weight with the jury in reaching a verdict.

-25-

The Court charges the jury that the indictment in this case is no evidence that the Defendant is guilty of the offense charged against him in this case.

-26-

The Court charges the jury that the indictment in this case is not any evidence in this case, and the fact that the Defendant has been indicted is not to be considered by you as a circumstance against him, but said indictment is merely the method of placing the Defendant on his trial and the presumption of innocence attends the Defendant throughtout this trial and remains with him and authorizes an acquittal, if the entire testimony fails to overcome said presumption,

by proof of Defendant's guilt beyond all reasonable doubt and to a moral certainty.

-29-

The Court charges the jury that the burden is on the State to convince you of t s Defendant's guilt to the exclusion of every reasonable doubt, and by evidence that overcomes the presumption of fact, that the law surrounds the Defendant with, that he is innocent of crome.

-31-

I charge you, gentlemen of the jury, that the burden is on the state to convince each and every one of you beyond all reasonable doubt and to a moral certainty, that Tom Coleman is guilty of manslaughter in the first degree.

-32-

I charge you, gentlemen of the jury, that if you are reasonably satisfied from the evidence in this case that Tom Coleman at the time of the shooting was at the Cash Store and that he was there approached by Daniels who drew a weapon or otherwise acted in such a manner and under such circumstances as to reasonably impress Tom Coleman with the belief that Daniels intended to inflict on him great bodily harm, then, gentlemen of the jury, I charge you that Tom Coleman had the legal right to repel the deceased, Daniels, by shooting

him, and that he must be acquited if he did nothing to provoke the assault.

-33-

I charge you, gentlemen of the jury, that the law imposes no duty on Tom Coleman to retreat unless he could have done so in safety or without putting himself at a disadvantage.

-36-

The Court charges the jury that Tom Coleman need not have been in actual imminent peril of his life or great bodily harm before he was justified in killing Jonathan Daniels.

-37-

I charge you, gentlemen of the jury, that the law does not demand reflection in the wake of an uplifted knife.

(The following are the refused charges:)

-3A-

I charge you, gentlemen of the jury, that if you are reasonably satisfied that Tom Coleman acted on a reasonable belief that Daniels had drawn a knife, then he was justified in acting and was not required to wait if he was free from fault and was in reasonable apprehension of his life or great bodily harm.

-14-

The Court charges the jury that if the evidence for the State consists of testimony as to the truth of which the jury has a reasonable doubt, the jury must not convict the Defendant, although they may not believe the testimony of the Defendant's witnesses.

-16-

The Court charges the jury that you are not authorized to find a verdict of guilty on the testimony of a single witness, if you have a reasonable doubt of the truth of his statement.

-27-

After considering all the evidence in this case, if you have a reasonable doubt of the truthfullness of the evidence of the State's witnesses, you cannot convict the Defendant.

-28-

The Court charges the jury that if there is, from the evidence, a reasonable probability of the Defendant's innocence, the jury should acquit the Defendant, Tom Coleman.

-34-

I charge you, gentlemen of the jury, that a person under reasonably apprehension of danger to his life or great bodily harm has a right in self defense to take the life of the aggressor.

-38-

I charge you, gentlemen of the jury, that one who acts in the defense of another, steps into the shoes of the person whom he is protecting.

-39-

The Court charges you, gentlemen of the jury, that it is proper and competent for you to consider the acts of the deceased and the circumstances surrounding their being jailed, their release from jail, and their activities between the time of their release and this shooting in your consideration of this case.

-40-

The Court charges the jury that the atmosphere existing in Hayneville, Alabama, and in Lowndes County, Alabama on August 20, 19655is a relevant factor in your determination of the issues of this case to the end of determining whether at the time of this shooting Tom Coleman was acting in the defense of himself or in the defense of another.

-41-

The Court charges the jury that the tension or lack of tension existing in Hayneville, Alabama on August 20, 1965 is a relevant factor in your determination as to whether Tom Coleman had any criminal intent in this case.

THE COURT: Now, gentlemen, one of you -- will you hand the indictment to one of them. Keep that in your pocket until you get in the room, and I'll get one of the bailiffs to put all the exhibits in the room for you, so that when you go in the room everything that you will need will be there. All right, gentlemen, you may now take a short recess.

(Recess)

(Thereupon the jury retired (at 4:40 o'clock)

- - - - - -

(Thereupon the jury returned (to the Courtroom, and the (following proceedings took (place, to-wit:)

THE COURT: Gentlemen, have you reached a verdict?

A JUROR: No, we haven't, your honor.

THE COURT: Well, unless you are just right on the very verge of one, I'm going to let you -- I know you are tired, and worn out, and I'm going to let you go back to Montgomery and get a good night sleep, and a good dinner. Be back in the box at 9:00 o'clock in the morning, and I will let you go back in, and resume your deliberations.

(The Court then recessed (until 9:00 A. M. the (following morning.)

- - - - - -

(Thursday September 30, 1965
(the jury were again retired
(to the jury room to resume
(their deliberations)

(Thereupon the jury were
(returned to the Court room
(and the following proceedings
(took place, to-wit:)

THE COURT: Gentlemen, have you reached a verdict?

A JUROR: We have, your honor.

THE COURT: Do you have it prepared?

A JUROR: Certaintly.

THE COURT: Give it to Mrs. Coleman, please.

DISTRICT CLERK: "We the jury, find the Defendant, Tom Coleman, not guilty."

* * * * * *

REPORTER'S CERTIFICATE

THE STATE OF ALABAMA)
)
)
(
COUNTY OF BUTLER)

I, CHARLES R. HIGGINS, Official Court Reporter in and for the Second Judicial Circuit of Alabama, do hereby certify that the above and foregoing typewritten pages contain a full, true, and correct transcription of my shorthand notes and recording machine taken upon the occasion set forth in the caption hereof, as reduced to typewriting by me or under my direction.

Witness my hand, this the 30th day of October, A. D. 1965.

C R Higgins

Official Court Reporter

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