

Q Are you sure that is one of the men that you saw?

A I am positive.

Q The day of the bank robbery; any doubt in your mind?

A No, there isn't.

Q The other picture you identified, were they full length pictures? A No, sir.

Q Or just the face? A They were half.

Q That is, you could just see the chest, shoulders and head? A Yes.

MR. DEFENSES: I think you may take the witness.

CROSS EXAMINATION BY MR. PARSONS.

Q When you first saw this respondent, Bentz, that you now identify as this respondent, where was it?

A Where was it?

Q Where was he, when you first saw him? A Directly across the street from me, before this shooting started.

Q By directly across the street from you, where would that put him with reference to the bank? A At the side door.

Q What was he doing? A He just came out of the bank and had a gun in his hand. Well he was behind-- there were two girls in front of him, he was behind them.

Q You were then across the street in the store?

A Yes, sir.

Q How wide is that street there? A I don't know.

Q Well it is at least sixty-six feet isn't it?

A Probably that.

Q You say there were two girls in front of him? A Yes.

Q He was behind them? A Yes.

Q Any persons on the street between you and him?

A No.

- Q Then he began to go down the sidewalk, is that correct?
- A Yes, sir.
- Q And were these other people still with him, or was he alone when he went down the sidewalk?
- A He was the second one to go down the street.
- Q Was he running? A No.
- Q Half running, half walking? A Later on he was, but while he was just a little ways from the door he was walking. He was facing me with his back toward the bank, walking sort of sideways.
- Q Sideways then? A Yes, sir.
- Q Kind of stepped along sideways? A Yes.
- Q Was there any apparent reason for that?
- A Well, we were shooting and his fellowmen were shooting.
- Q Was he shooting at you? A I don't know if he was shooting at us, the bullets were going rather high, either to scare us or--
- Q Well do you think he saw you there in the door?
- A Well he must have, he either saw us or else heard us.
- Q He was sort of going sideways in a southerly direction?
- A Yes, sir.
- Q This car that you had seen with a man in it, where was that at that time? A That disappeared.
- Q That had gone already? A Yes, sir.
- Q How far did this bandit go in a sideling direction or manner there before he turned and started to run south?
- A Well he was at the -- into the bank property. There is a house right directly back of the bank, there is a driveway, and after they got right near the driveway then they started running.
- Q That is about how far from the point where you first saw him?

- Q About twenty feet.
- Q So this sort of sidewise progress covered a distance of about twenty feet? A Yes.
- Q Where were the other bandits at that time?
- A They were all going toward Franklin Street, except the man with the machine gun, he was the last man.
- Q Where was Doyle? A Doyle was working toward the curb, he was backing up.
- Q And was Linkema there with you at that time? A Yes.
- Q And did you assist in the capture of Doyle?
- A I don't know as I assisted any, but when Linkema run out of shells, Doyle was crawling on the ground and Linkema and Deputy Sheriff Bycang hollered at me to kill him, and the man kept on moving, so I cocked the gun and put it up against his head and that stopped him. He said "don't kill me, my leg is broke, I can't get away."
- Q And at this time these other bandits had gone?
- A Yes.
- Q And you came across the street after Doyle as soon as the man that you identify as the respondent had gone on down the street? A Yes.
- Q Are you related in any way to Mr. Melling? A No, sir.
- Q Or to Mr. Kellegrom or any of the other employees of the bank? A No, sir.
- Q Your store banks there at this bank? A No, sir.
- Q Do you bank there yourself, personally? A No.
- Q You had never seen this particular robber before?
- A No, sir.
- Q Before you identified these pictures did you talk with anybody about what they had discovered, or whether there were any discoveries or not? A No, sir.

- Q What did you do, just go down and were shown some pictures, and finally you pointed out a picture and said "That is one of them." A Yes.
- Q How many of them did you identify that way? A Two.
- Q Did they show you Doyle's picture? A No.
- Q And two of them, as far as you know, the other one you say is Ed Bentz? A Yes.
- Q At the time you identified the respondent in the jail here, how many other men were in jail with him? A I think there were three.
- Q And how did they compare, did they look anything like him at all? A No, they didn't.
- Q The same size and weight? A There was one man was practically the same size.
- Q Didn't look anything like him at all? A No.
- Q And have you talked with the officers about whether or not they had some evidence by way of travelers' checks, something of that kind? A No.
- Q When did you first learn about these money orders?
- A Today.
- Q Have you discussed the matter of this identification at any time with Mr. Pellegrini or any of the other people there in the bank? A No, sir; they told me to keep my mouth shut.
- Q Who told you that? A The prosecuting Attorney, Dethmers.
- Q And you thought you shouldn't talk the matter over with Mr. Pellegrini or Mr. Welling or any of these? A No, sir.
- Q You say now you never have discussed the matter of identification with either Mr. Pellegrini or Mr. Welling? A No, sir.
- Q And you never have commented to them or they to you on the fact that you agreed you were all correct about it, anything of that kind? A No.
- Q Never any such talk? A No.

MR. PARSONS: That is all.

MR. DETHMERS: That is all.

MR. FREDERICK C. BOLT, being first duly sworn by the Clerk,
testified as follows:

DIRECT EXAMINATION BY MR. DISTENFELD:

- Q Mr. Bolt, you are the Cashier of the Peoples Savings Bank of Grand Haven? A Yes, sir.
- Q That is a Michigan banking corporation, located in this city? A Yes, sir.
- Q And were you such cashier on the 18th day of August, last year? A Yes, sir.
- Q Were you present in the bank at the time that the robbery occurred? A I was.
- Q And where were you located in the bank the first you knew anything about it? A I was standing at my desk, I had just finished a telephone call to the Beers Motor Company.
- Q That is you were standing in this front room here marked "Cashier's Office"? A Right behind the desk.
- Q Behind this desk? A Yes, sir.
- Q And what was the first thing that occurred that you noticed?
- A The first thing I knew Ed Bentz was around the corner of the door to my office and had a gun right in my middle.
- Q Through this door? A Yes.
- Q When you say Ed Bentz, how do you know it was Ed Bentz?
- A That is the one I identified when the picture was shown to me.
- Q You are not referring to this respondent? A I am not referring to this man.
- Q But you are referring to a man whom you identified by picture as being Ed Bentz? A Yes, sir.
- Q Did any one else come into your office? A No, sir.
- Q Are you able to identify anyone aside from the one you say is Ed Bentz? A No, the little fellow that has not yet been identified.

- Q But you feel that if you saw his picture or saw him that you could identify him? A I feel reasonably sure I could.
- Q But you do not claim to be able to identify this respondent?
- A I never saw that man.
- Q And you didn't see all four of them that day?
- A I did not. Three of them.
- Q So your failure to identify Mr. Theodore Bantz here is not because you don't remember or know what he looked like that day, but because you didn't see them all?
- A Didn't see them all.
- Q And did you make a check-up after this robbery as to what was taken away by these robbers? A I did.
- Q And will you state to the jury approximately what was taken and its value? A The cash amounted to approximately \$3500, and there was seven Chicago, Milwaukee, St. Paul & Pacific railroad bonds taken; the current market at the time was around twenty-five, therefore they had a value of about \$1750; and on the basis of those two figures the American Surety Company of New York reimbursed us for those two amounts.
- Q Was there anything further taken besides that?
- A Travelers' checks of the Mellon National Bank and of the American Express Company.
- Q And do you know approximately the amount of those?
- A The American Express were a little over three thousand dollars, and the others, after checking up, were found to be a little below three thousand dollars, those of the Mellon National.
- Q Mr. Bolt, I show you here some American Express Company travelers' checks; I don't know what you call these after they are paid and cancelled as ordinary checks; do you call them vouchers then?

- probably cancelled vouchers.
- Q Nevertheless, whatever they call them, I ask you to look them over and indicate whether or not from their appearance you could tell that they are American Express Company travelers' checks that have been paid by the American Express Company?
- A These have been paid by the American Express Company, apparently.
- Q And can you identify those American Express Company Travelers' checks by their numbers and the list of numbers that you have, as to whether or not those are the American Express Company travelers' checks that were taken from your bank on the 18th of August, 1935, by the bank robbers?
- A They are the ones that the American Express Company charges us with having in our possession at the time of the robbery.
- Q And from that record and the fact they were missing after the robbery, you know that these are American Express Company travelers' checks that were stolen from your bank on that day? A Yes, they show in our records.

MR. DETMERS: There is quite a number, I don't know how we should proceed to mark these, that is, to mark each one of them, or put a rubber band around them, or mark the whole bundle.

THE COURT: It seems to me that would do.

(Bundle marked Peoples' Exhibit 4)

MR. DETMERS: I ask to introduce this.

MR. PARSONS: I would like to ask what is claimed for them. Is it claimed this respondent had these in his possession; are you going to prove that?

MR. DETMERS: I will say this, before I will offer them, I will proceed with some other fact, then I will clear the whole thing. For the purpose of identification mark this.

MR. LARSON: I suppose it is competent to prove those things were stolen from that bank, and that it is competent to prove they were cashed.

MR. DETMERS: On that ground we will ask they be received, and further, we will have a stipulation.

THE COURT: I understand you agree both of those should be received?

MR. DETMERS: They should be received in evidence.

MR. LARSON: Yes, as part of the property that was stolen from the bank, as part of this robbery.

Q I show you there a letter from the Mellon National Bank, signed by Theodore E. Horton, Assistant Manager of the Travelers' Checks Bureau, and ask you if that is a letter you received from the Mellon National Bank? A It is.
Q And that letter sets forth the numbers of the travelers' checks that you were supposed to have in your possession on the date of the robbery, is that correct? A Right.

MR. LARSON: Is it you claim, Mr. Detmers, you had some arrangement with Mr. Ostorhous, whereby it was not going to be necessary to produce this witness to prove these checks, is that right?

MR. DETMERS: It is the claim of the people that we had an agreement to this effect: Well I don't know as I should state this before the jury until I know that you are going to approve of it.

THE COURT: You better not.

MR. LARSON: Before we go any further we will settle that.

MR. DETMERS: All right, I think that would be a good idea, to settle that, not in the presence of the jury. I ask that the jury be excused. (Jury excused)

(Jury not present)

MR. DISTRICT: May it please the Court, the People have here a number of American Express Company travelers' checks, together with a letter from the American Express Company, setting forth the numbers of the American Express checks which this bank had at that time; likewise a number of photostatic copies of Mellon National bank checks, together with a letter indicating the numbers of the Mellon National Bank checks, travelers' checks, that the bank had on that date. Now the People claim that an agreement was entered into between myself as the prosecutor, and Mr. Osterhaus as attorney for respondent, that it would not be necessary to obtain as witnesses the officials of the American Express Company, nor the Mellon National bank to come here and identify these checks as having been the checks that were allotted to the Peoples Savings Bank of Grand Haven; nor to testify that these had been cashed and paid; and further that it would not be necessary for the People to bring here witnesses from the State of Indiana who had cashed a few of these checks and who identified this respondent as the person who cashed those checks. The understanding with Mr. Osterhaus was that the respondent would admit that he had cashed them, and although not part of the agreement, the understanding was that the fact that the respondent had those checks in his possession and had cashed them would be explained, and so with that understanding the People did not bring here witnesses from the Mellon National Bank of Pittsburg, nor from the American Express Company of Chicago, nor witnesses who cashed them, from Indiana, although we have here now and brought in today one of the witnesses from Indiana who cashed one of these checks. That is the matter of agreement which we claim we had with Mr. Osterhaus, and that I assumed would still be in force and effect.

MR. PARSONS: I probably would be bound in the trial of this case by any agreement which was had with Mr. Osterhaus in connection with the proofs that might be introduced in lieu of the witnesses that the prosecutor mentioned, and I feel that under those circumstances I should not object to the testimony relative to matters which would otherwise be incompetent.

MR. BETHERS: I will say this, your Honor, that it is a rather embarrassing thing for me to have to make my statement in general language here, what the agreement was without Mr. Osterhaus present to corroborate it. I would much prefer if he could be reached, because sometimes we lawyers think we have agreements and what we have is misunderstandings. So if he can be reached I would like to have that done. I wouldn't want to assume the responsibility of things on my say-so.

MR. PARSONS: I am perfectly willing the prosecutor should proceed with the evidence on the statements he makes as to the understanding he had with Mr. Osterhaus.

THE COURT: Well of course the situation is this; Mr. Osterhaus has withdrawn from this case; he is not connected with it at all, and agreements or anything else that you had with him are not binding on the respondent now, and Mr. Parsons is responsible for the conduct of the defense of this case now.

MR. PARSONS: Well in view of the nature of the proof in question, that it consists of testimony of witnesses to identify particular documents, and in view of the fact that it will be necessary for the people to ask for a continuance if I refuse to live up to this agreement, and that a continuance may make it necessary for me to have at the trial, when resumed, certain witnesses whose presence here is voluntary, I

feel that I should consent to the arrangement that Mr. Osterholm make. I do consent to it.

THE COURT: Well you better talk it over with your client. We don't want any misunderstanding about these things afterwards or talk about them.

MR. PARSONS: I will say, if the Court please, I will waive the production of the witness from the Mellon National Bank. What else do you want me to waive, Mr. Bethmers? You can introduce that letter in lieu of the witness.

MR. BETHMERS: My understanding was that it would be agreed that these American Express travelers' checks were the checks that were stolen from the Peoples Savings Bank of Grand Haven, and that these photostatic copies are photostatic copies of Mellon National Bank checks that were stolen from the Peoples Savings Bank of Grand Haven on the day in question.

MR. PARSONS: All right; it is so agreed.

THE COURT: That is admitted is it, Mr. Parsons?

MR. PARSONS: Yes.

MR. BETHMERS: The agreement went further than that, but I am willing to stop at that point, because we have a witness here from Indiana.

THE COURT: Of course, you will have to go over this again before the jury, but it is admitted?

MR. PARSONS: Yes.

(Recess)

MR. BETHMERS: May it please the Court, I understand then that it is agreed that this bundle of American Express Company travelers' checks which have been marked Peoples' Exhibit 4, and this bundle of Mellon National Bank travelers' checks,

marked Peoples' Exhibit 5, that it is admitted that the Travelers' checks contained in those two respective bundles and constituting those two respective exhibits, that those were travelers' checks or photostatic copies of travelers' checks in the possession of the Peoples Savings Bank of Grand Haven, on August 10, 1933, and that they are checks or photostatic copies of the travelers' checks that were stolen from that bank on that day by the bank robbers who perpetrated the robbery of the bank on the 10th day of August.

MR. PARSONS: That is admitted.

MR. LUTHERS: You may take the witness.

CROSS EXAMINATION BY MR. PARSONS:

Q Mr Bolt, you didn't see the fourth one of these robbers?

A That is correct.

Q How many of the robbers did you see? A I saw three.

Q You didn't see the first two that came in together?

A I didn't see them come in at all.

Q Didn't see them come in at all. Where was the first standing that you saw? A That proved to be the bandits, were two men in overalls coming in just as I lay the telephone down, between the front wall of the bank and the front door, and in about one second the one was inside with his gun.

Q And the other one that came in with him, he went where?

A Then I started to move towards the back where he told me to get.

Q And the other overalled bandit that came in with this one, where did he go? A I don't know where he went or what he did. Later on he was the one that had hold of my shoulder from the time I got up off the floor and came to

the back door, with one hand, the other one had hold of a gun, opened the back door, and shoved me through it; from then on many things happened.

Q Which one was that one, was that Doyle?

A That was the one that had his hand on my shoulder, in overalls.

Q And the third, where did you see him? A The third one stood alongside of me, as I was lying down, after I came out of the vault after three unsuccessful attempts to open the safe, after they called the cashier.

Q This third one you saw did not come in with the two, that one of them held you up? A What do you mean, the third one?

Q You say one stuck a gun against you, was that Doyle?

A Not the first one; the first was Ed Bentz.

Q The first was Ed Bentz. You saw Ed Bentz and saw Doyle and saw a third one? A Yes.

Q Where did you see the third one? A Standing outside the vault door to the north west corner.

Q Was he a short man? A He was a short man.

Q You didn't see this man at all then? (Indicating respondent)

A I did not. I was watching my step when I had that other fellow's gun in my back, to get into the door without making a mistake.

Q You wasn't interested in making the identification of anybody? A I was interested in getting in the vault door.

Q Where was Mr. Lindemulder? A At the time this robbery occurred Mr. Lindemulder was at his window, which is the first window next to the front office.

Q Nobody went up to his window; no bandits went up to his window so far as you know? A Not as far as I know.

Q Whether he was lying down on the floor or not?

A He did afterwards, they told me.

- Q Did you see him? A No, he was back of me; I stepped through the aisle behind him before he did.
- Q Whether he had an opportunity to see and get a good look at these bandits? A I don't know what all he saw.
- Q When they got outside you were mostly occupied with this man Doyle? A He was occupied with me, I was watching that gun he had alongside my ear pretty close, or in that neighborhood.
- Q Well you didn't pay attention to the others? A I did not.
- Q And do you know where they went? A No, for the reason the other three bandits went down the sidewalk towards Franklin Street, because they were meant for me, their disappearance depended upon what was going to happen next.
- Q Well now at what part of your body did this man point this gun, you say the middle?
- A The first one, Ed Bentz?
- Q Yes. A I would say he would take me through the middle just as slick as a whistle.
- Q Then Doyle had a gun and was pointing it at your head?
- A Doyle had me on the shoulder and on my side; I made a good effective shield for him, coming out the back door, when we came out of the back door he shoved me through. He saw Link, and I presume he saw him, it didn't take him but a second to bring his gun up past my ear.
- Q So far as what happened to the rest of them, you say they disappeared down Franklin? A The three got out toward Franklin Street beyond the bushes, then there was an opportunity to take care of Doyle.
- Q Have you identified at any time the picture of this man Ed Bentz? A I did.
- Q And Doyle of course you saw. Did you see the other employees of the bank lying on the floor? A Yes, I lay between

Miss Correll and Mr. Welling, and I happened to jump over Mr. Welling to get over to the vault, and Miss Keschke was lying alongside the grill.

Q And you didn't see at that time these four bandits?

A I did not. I had seen enough.

Q This man Ed Bantz, how large a man was he as compared to this respondent?

A He was a pretty good sized fellow when he came in with a pair of jumpers on, we didn't know until afterwards he had a steel vest on, that is what Doyle had; you can't tell a man's size some times; of course when they came in and ther hunched over he looked like a rather good sized man. I think if he walked straight he would be in the neighborhood of six feet or weigh in the neighborhood of a couple hundred pounds.

Q How did he compare with the first respondent?

A Not a whole of a lot of difference, there is some difference, they weren't exactly the same build, not while he was going through the operations he was engaged in during the hold-up.

Q You had a pretty good chance to size him up?

A I had a dandy chance to size him up.

Q He was the biggest one in the bunch?

A Well I am telling you just about how he appeared.

MR. PARSONS: I think that is all.

MR. DETMERS: That is all.

MR. GEORGE EVANS, being first duly sworn by the Clerk,
testified as follows:

DIRECT EXAMINATION BY MR. DETMERS:

Q Mr. Evans, where do you live? A I live at Calumet City,
Illinois.

- Q Where are you employed? A I am employed in Hammond, Indiana, the firm of Rothschild & Hirsch, clothing store.
- Q Were you employed there last fall? A I was employed there last fall, yes.
- Q I show you here, taken from Peoples' Exhibit 5, a photostatic copy of Mellon National Bank Travelers' check, being number D751292 in the amount of \$20.00, payable to Rothschild & Hirsch. A Yes.
- Q Is that the name of your employer, Rothschild & Hirsch? A Yes, it is.
- Q I will ask you whether you have seen the original travelers' check of which this is a photostatic copy? A I accepted it, yes.
- Q And how did you happen to accept that travelers' check? A Well a man walked into the store, he wanted to buy a hat, so I sold one to him, took about fifteen minutes to do it, and in payment of the hat he offered this check.
- Q This twenty dollar travelers' check? A Yes.
- Q And did you see him sign that name to the check? A He did right in front of me, yes, sir.
- Q It bears the name A. F. Kruse. A That is the name, I believe, but I am not sure.
- Q You saw him write that? A I saw him write that in Rothschild & Hirsch.
- Q And did you fit a hat on to this man? A Yes, sir, I did.
- Q What operation did you have to go through to do that? A Well when a man comes in for a hat we usually find out what size he wears, he wanted a gray one to match the gray suit he had on, and I got a very good opportunity to size him up, and see his face and contour, etc.
- Q Have you seen that man since that time? A Yes.

- Q When? A Today; this morning is the first time.
- Q Do you see him here now? A Yes, that is the man over there.
- Q The man seated at the table here? A Right.
- Q Are you sure he is the same man? A Positive.
- Q Any doubt in your mind at all? A Not a doubt.
- Q And at that time you had some conversation with your employer about whether you should accept the travelers' check? A Yes, we did, we have a rule in the store in which I work that any checks, money order or personal check or travelers' check, has to be o.k.'d before I accept.
- Q Do you remember about when it was you received this travelers' check from Mr. Bantz? A Well it was about the last of August, 29th or 30th.
- Q And do you remember receiving any other Mellon National bank travelers' checks?
- A That is the only one I received.
- Q In how long a time would you say? A I don't remember ever having received one before or afterwards.
- Q This is the only one you ever remember receiving?
- A That is right.
- Q And you received that from Mr. Theodore Bantz? A That is right.

MR. DITMERS: Take the witness.

CROSS EXAMINATION BY MR. PARSONS:

- Q What size hat does he wear, do you remember?
- A The size was seven and three eighths, I believe, but it might be a quarter; three eighths, I am sure it was.
- Q And what kind of hat was it? A The make of the hat is

unknown. We put our own labels and particular band on.

The price was three dollars and a half.

Q You never saw the man before? A No, I didn't.

Q And you never saw him since, until today?

A That is right.

Q And that was about a year ago, at what date?

A The last of August when I sold the hat to him.

Q Little over a year ago? A Little over a year.

MR. PARSONS: I think that is all.

MR. DETMERS: Is this witness excused now?

MR. PARSONS: He is so far as I am concerned.

MR. DETMERS: I don't know whether we have asked that this Peoples' Exhibit 5 be received in evidence or not, but it is offered.

MR. PARSONS: No objection.

MR. DETMERS: And Exhibit 4 has already been received; I believe that is correct.

THE COURT: All right, both are received.

MR. DETMERS: I will call John Lindemulder.

JOHN LINDEMULDER, being first duly sworn by the Clerk,
testified as follows:

DIRECT EXAMINATION BY MR. DETMERS:

Q Mr Lindemulder, you are an employee of the Peoples Savings Bank of Grand Haven? A I am.

Q What is your official capacity in that bank? A Auditor.

Q And were you working in that bank on the 16th of August, last year? A I was.

Q And do you remember the bank robbery that occurred there?

A I do.

Q What was the first you saw of it? A The first I saw?

Q Of anything unusual, that you remember?

A I was working, I was waiting on Mrs. Sargent.

Q I show you here people's exhibit 1. I ask you to indicate to the jury which window you were standing at.

A (indicating)

Q And you were waiting on Mrs. Sargent, you say? A Yes, sir.

Q And then what did you notice. A Well I happened to be working out a little rent problem for her and I had my head down, and I didn't notice anything until somebody yelled "back up."

Q Then what did you notice? A Then I saw a bandit hold up Mr. Bolt, and the first thing I knew--

Q Where did you see this bandit on this chart?

A Well I was standing here at my window, and I looked through the glass, there is a glass here; I saw a large man come crawling through here, pointing a pistol at Mr. Bolt, and the next instant there was one pointed at me.

Q Where was the man standing that pointed one at you?

A Right here. (indicating)

Q And then what happened after that? A Well then they ordered us to put up our hands, and lie on the floor.

Q Where did you lie on the floor? A I lay right here. (indicating)

Q Did you see the two men that came in and go to Mr. Melling's window? A No, I did not.

Q Have you ever identified Mr. Bantz here?

A No, I have not.

Q Did you see him that day? A I did not.

Q How many of the robbers did you see? A I saw four, that is, no, I didn't see four, I saw one, two, I saw two of them.

Q And where did you see them?

A I saw them as they came in, and I saw them again when I was outside.

Q And have you identified some pictures of any of those you saw?

A Yes, sir.

Q And whom did you identify? A I identified a man by the name of Edward Bentz, and of course, Doyle.

Q Those are the only two you saw? A The only two.

Q You say you do not identify Mr. Theodore Bentz. Is that because of uncertainty in your mind as to whom you saw, or because you didn't see the others that day? A I didn't see him.

Q These other two men, did you have a good opportunity to see them? A Yes, sir.

Q The two, that is, Mr. Doyle and Mr. Edward Bentz, you had a good opportunity to see them? A Yes, sir.

Q Did you have a good opportunity to see the other two?

A No, I didn't have an opportunity to see them.

MR. DEFENSES: That is all.

CROSS EXAMINATION BY MR. PARSONS:

Q These other two, you know from what you have heard since, the two you didn't see, were the first ones that came in, is that right, Mr. Lindenulder?

A I don't know if they were the first ones that came in; they were the first ones I saw.

Q I mean that two you didn't see were the two that came into the bank first, you understand that now, do you not?

A I believe, yes.

Q And you think possibly the reason you didn't notice them is because you were engaged in business with a lady at the window? A Mrs. Sargent was standing in front of me, and

- it just happened she had to pay eight days rent; when you take eight thirtieths of fifteen, it made quite a problem, and that took my attention, of course.
- Q And you didn't hear this transaction or see this transaction that Mr. Welling had at all? A I did not.
- Q Did you see Mr. Welling lie down on the floor?
- A No, I don't remember of seeing it.
- Q How far would Mr. Welling be from you in the bank there?
- A Oh I would say about ten or twelve feet.
- Q To your right? A To my right.
- Q Straight down? A That is not straight down. His window is - there was Mr. Welling and here was I. (indicating)
- Q There would be a counter here, a counter here, and this grill would be sort of in the way? A Yes.
- Q You would have to look through the two grills in order to see what was going on at the Welling place? A That is right.
- Q You didn't notice anything that happened down here at the savings window here? A No, that would be beyond my vision.
- Q Did you see the four robbers at all, any more of them, after you got outside? A No, I didn't.
- Q Did you see these two that you had previously seen?
- A Yes, I did.
- Q That is, you saw Doyle and Ed Bentz? A Yes, sir.
- Q And where the others were at that time you couldn't say? Did you know at that time that there were two others?
- A Well I know there were others because I could see the backs of them as they were filing out in the rear.
- Q And you did see that there were more than just those two, but not so as to identify them or tell what they looked like, or to be sure they were bandits? A That is right.
- Q But you thought at that time that there were more than just

those two you had encountered? A Yes, sir.

MR. PARSONS: That is all.

RE DIRECT EXAMINATION BY MR. DECHMERS:

Q Mr. Lindemulder, it is correct is it not, you have lost the sight of one eye in the war? A Yes, sir.

MR. DECHMERS: That is all.

MR. LAWRENCE DE WITT, being first duly sworn by the Clerk, testified as follows:

Q Mr. DeWitt, you are Chief of Police of the city of Grand Haven, and were last year in August? A Yes, sir.

Q And did you go to the State of Maine in the interest of the extradition proceedings to bring Mr. Bantz to this state?

A I did.

Q And have you had some conversations with Mr. Bantz about this case, about certain travelers' checks involved in this case? A Yes, sir.

Q Did Mr. Bantz make any statement to you about the travelers' checks that were taken from the Grand Haven bank?

A Yes.

Q And such statements as he made to you, were they the result of any promises or threats made by you to him? A No.

Q Were such statements voluntarily given? A Yes, sir.

Q And what statements, if any, did Mr. Bantz make to you concerning travelers' checks that were taken from the Peoples Savings Bank of Grand Haven?

A Well in our conversations at various times we asked him how much of the Grand Haven checks, American Express Company checks they got in the Grand Haven State Bank, and he said something like between nineteen hundred, and two thousand of the Mellon National Bank travelers' checks.

Q And how did he tell you that those travelers' checks, stolen from this bank in Grand Haven, came into his possession?

A He claims he got them from his brother Ed.

Q Ed Bentz? A Ed Bentz, yes, sir.

Q He has never admitted to you he came to the bank here and got them himself? A No, sir.

Q But has stated that his brother, Ed Bentz, gave them to him, is that right? A Yes, sir.

(Peoples' Exhibits marked 6 and 7 respectively)

Q Mr. Dewitt, I show you here Peoples' Exhibit 6 and Peoples' Exhibit 7; I will ask you if you have seen them before?

A Yes, sir; I have.

Q Where did you first see these? A These were found about nine or ten miles south of the city of Grand Haven.

Q Where? A On Sheldon road, the old lake shore road, under the eaves of a barn, together with a machine gun and rifles.

Q Where were they in the barn? A They were on the outside of the barn, laying right against the side of the barn, covered up with some boards and some roofing paper, in a vacated barn.

Q It was a vacant barn? A Yes, sir.

Q When was that that you found those there? A I am not positive about the date unless I go and look at my records.

Q Do you know about how long after the robbery occurred?

A Yes, it was, I think the week of the 15th of October.

THE COURT: What date?

A The week of the 15th of October.

Q That would be about two months after the robbery? A Yes, sir.

Q What were those covered with, did you say?

A Some old boards and a piece of roof.

- Q And what else did you find besides these two exhibits?
A There was a machine gun there and two rifles and an automatic pistol.

MR. DETHMERS: I don't know whether to offer them or not; it is pretty remote.

MR. PARSONS: I don't think they have anything to show some bearing on this robbery.

MR. DETHMERS: Well at least for the time being I won't offer them, until I can find out more about them. You may take the witness.

CROSS EXAMINATION BY MR. PARSONS:

- Q Now Mr. DeJitt, you are Chief of Police of the city of Grand Haven, are you? A Yes, sir.
Q And you say this respondent told you that Ed Bentz gave him these checks, these Mellon travelers' checks?
A Yes, sir.
Q And did he say what for, how he came to give them to him? What the reason was? A Why he claimed that Ed owed him some money.
Q He claimed that Ed owed him some money and that he gave him these checks in payment of that? A Yes.
Q You are still looking for this man Ed Bentz, one of the bandits in question, are you not? A Yes, sir.
Q How did you happen to suspect the respondent here of being one of the robbers? Was it through these travelers' checks? A No, he was identified before any of these travelers' checks were returned.
Q His picture was identified by some of these witnesses who have testified, is that right? A Yes, sir.
Q And that was before anything about the travelers' checks came up?

A That was before any of the travelers' checks had been cashed.
Q Did they also identify the picture of Ed Bentz at the same time, these same witnesses? A No, I think Mr. Bolt identified Ed Bentz.

Q Now did you interview the people whose car was taken by the bandits after the robbery? A You mean at the robbery of the bank, the car that was taken at the bank?

Q Well there were two cars taken were there not, in the get-away? A Yes.

Q And have you interviewed the people whose cars were taken? A I interviewed one party whose car was taken.

Q You made a very thorough investigation of this matter in an effort to locate anybody that could identify any of the robbers, is that right? A Yes.

Q And so far as you have been able to locate them, Mr. Welling, Mr. Kellegrom, and Miss Meschke, and Mr. Bugelski are the only people that identify this respondent, is that right?

A Yes, sir, to my knowledge.

MR. DISTRICTER: What is that?

A To my knowledge.

Q To your knowledge. There were a great many people about there on this date? A I think there were a lot of people present.

Q You were not in the city on the occasion that the robbery occurred? A No, sir.

Q So also with the sheriff, Mr. Rosema, was he out of town that day? A I heard he was.

Q You don't know? A I don't know.

Q Did you get a description from the people that work in the bank, Mr. Welling, Mr. Kellegrom, Miss Meschke, did they

give you any description of these robbers shortly after the robbery? A Yes, sir.

Q Were these descriptions verbal, or were they written up and signed? A They gave a description and I wrote them down on a piece of paper.

Q You wrote them down. Did you preserve those descriptions?

A Yes, sir.

Q And have you got them now? A I have them at my office; I haven't got them with me.

Q Have you examined them lately? A No, I haven't seen those.

Q Do you remember how they tally with the descriptions that you now have of the bandits in question? A Yes.

MR. DISTRICTER: I will say that if counsel desires, we can have the witness go and get these. We would be glad to have them introduced.

MR. BARBON: Well I don't think it is excessively important. They are general descriptions of the people, as to their height, weight, complexions and clothes they were wearing and so on, is that right?

A Yes, sir.

Q General descriptions of that kind are not of a great deal of value in identifying individuals of that general class are they? In other words, if you describe a man weighing two hundred pounds and six feet tall, light complexion, and at the time wearing a derby hat, that description might fit ten hundred men might it not? It isn't of very much value except as to specify the particular shape and features of the man, that is true, isn't it?

A No, I think the descriptions are very valuable.

Q Well they can't describe features? A Well, facial features may be hard to describe, but a man's height, and

color of his hair, and general complexion can be described very easily.

MR. PARSONS: I think that is all.

RE DIRECT EXAMINATION BY MR. DETMERS:

Q Now Mr. DeWitt, I understood in response to Mr. Parsons' question that you say you did interview a woman whose car these bandits took on Franklin Street, just away from the bank? A No, I didn't interview her. I interviewed the people that had their car taken out on U. S. 31, south of the city.

Q And did you show them some pictures? A I did.

Q Were they able to identify anybody? A They were not.

Q Have you learned anything about that woman's condition or anything like that?

A Yes, Mr. Thompson told me--

MR. PARSONS: I object to what was told him. I think they asked him if they made any effort to see other witnesses that could identify these bandits and that question is all that is competent, that is all I am interested in. I object to any hearsay.

THE COURT: Objection will be sustained to what somebody told him.

Q Was she able to give you any description at all? A None. The only thing that she saw was a gun about that long (indicating), and somebody got her by the arm and jerked her out of the car.

MR. PARSONS: I object to that as hearsay and ask it be stricken.

THE COURT: Objection sustained. It is stricken.

Q Was her husband able to give you any description?

A He was not. Her husband was on a farm.

Q And you didn't interview the person who had the car here

in town, this woman with her child?

A I did not. I understood some other officer was interviewing her from some other department.

Q In your conversation with Mr. Theodore Bentz, the respondent here, did he ever make any statement to you about his brother Ed Bentz, aside from the fact that his brother Ed had given him those travelers' checks? A Yes. He told me that on the 14th, and 15th, or the 15th and 16th of August, 1933, he went to his brother Ed's cottage at Long Beach, Indiana, and when they got there Ed wasn't home; and they stayed there in the afternoon, and when his brother Ed came back in the evening, why in the adjoining cottage he looked through the window and there he saw Earl Doyle, also was introduced to a man by name of Homer, and also a man named Jimmie, and he seen a man there by the name of Roy Nelson, I think a brother in law; that in his conversations with his brother Ed that Ed had told him they were going to pull a job in south west part of Michigan, and also told him later to pack up and get out because they were going to take a ride.

Q Did he make any statement to you concerning his brother Ed, in relation to this bank robbery here? A Yes, that Ed had got the checks, the Mellon National Bank checks from the Grand Haven Bank.

Q So this respondent here has told you that his brother Ed was in this bank robbery, is that correct? A Yes, sir.

MR. DATHMERS: I think that is all.

MR. PARSONS: I think that is all.

MR. DATHMERS: May it please the Court, the people have endorsed on the information other witnesses, including the sheriff, Mr. Benjamin Rosenz, whose testimony will be

largely cumulative, the same as Mr. Devitt's in substance, I think. He is present in Court and can testify if counsel for respondent wishes to call him. Then there is endorsed on the information the names of two other witnesses concerning whose testimony we have made a stipulation for the sole purpose of identifying these travelers' checks. They are not present in Court; they are in Pittsburg.

MR. PARSONS: Matheson and McCoy?

MR. DAYHARRIS: No, Mr. McCoy is another witness whose testimony would have been to the same purpose and to the same effect, if we could obtain him, as Mr. Evans, but he is outside of the state and we are unable to obtain him; so that is the Peoples' case, and we rest.

THE COURT: All right, Mr. Parsons, take the case.
(Opening statement for the defense)

D E F E N S E

MR. PARSONS: May it please the Court and Gentlemen of the Jury: The defense in this case will resolve itself simply into this, that it is the claim of the respondent that the peoples' witnesses are mistaken in their identification of the Respondent and the evidence will be introduced to establish that claim, that on that day in question he was, at the time of the robbery was being committed here, in the city of Chicago, at an apartment, which the witnesses will identify and testify to; that he was not in the city of Grand Haven but was in that place in the city of Chicago, and therefore could not have committed the robbery in question. I think that briefly, gentlemen, is the sum and substance of the defense, and to establish that defense the Respondent will produce witnesses who will testify here before you.

I would like to call as the first witness, Mr. Bailey.

I would like to add to my opening statement one other thing, and that is that we will show not only that the respondent was in Chicago and therefore could not have committed the crime, but we expect to show by another witness who was present at the robbery and participated in it, that this respondent was not one of the gang, and had nothing to do with the robbery.

MR. LONNIE BAILLEY, being first duly sworn by the Clerk, testified as follows:

DIRECT EXAMINATION BY MR. PARSONS:

Q Mr. Bailey, you are a resident of the City of Chicago, are you? A Yes, sir.

Q And what is your present business or occupation?

A Present business, interior decorator and upholsterer.

Q Were you living in the city of Chicago in August, 1933?

A Yes, sir.

Q On the 18th day of August, 1933, were you living there?

A Yes, sir.

Q Do you know this respondent, Mr. Craig, or Mr. Bentz?

A Yes, sir; I do.

Q And when did you first -- or where did you first see him in Chicago in August, 1933? A Well the place I seen him in Chicago, was on August 18th, in the afternoon.

Q And at what place in Chicago? A 7905 Luell Avenue.

Q What kind of place is that? A Apartment building, kitchenette apartment.

Q What is downstairs under that apartment? A Drugstore.

Q Who runs that drug store, or who ran the drug store at that time, if you know? A Who ran the drug store at that time? The druggist name is Mr. Shugan.

Q And who were some of the people that worked in there at that time? A I don't know his name but he is here.

Q What were you doing in that apartment on the 18th day of August, 1933? A Cleaning.

Q When did you begin to clean there? A I stopped work at 12, and went back quarter to 1 and quit at 4:30.

Q And who employed you? A Mrs. Rhodes, she is the agent of that building.

Q She had charge of that particular apartment? A Yes, sir.

Q Did she employ you? A Yes, sir.

Q What was the nature of the work you were doing there?

A Nature of the work was cleaning floors, cleaning walls, cleaning tile in the bathroom giving a general cleaning of windows and things like that.

Q How many rooms are there in the apartment? A Well we have some from two to three to four room apartments.

Q Do you remember how many there were in this one?

A Bedroom and a living room and a dinette and kitchen all combined.

Q When you came there to begin work that day, who did you find in possession of the apartment? A Mrs. Craig and her husband.

Q Is that this man who sits here? A Yes, sir.

Q And did you announce to them that you had come to clean the place? A Yes, sir, me and Mrs. Rhodes came up together.

Q And did you start in working? A Right away, immediately.

Q In what room? A First I started in the closet, you know, where it goes in the next room, first I tried to clean the tile.

Q Did you see the respondent here, there at that time?

A Yes, sir.

Q Where was he? A In the living room.

Q State whether or not he left the apartment while you were there that afternoon, and if so, at what time? A I was working around in the apartment; he was kidding me along while I was working there, up from quarter after three, I started, until 4:30.

Q You say that this man, the respondent, and his wife were there? A Yes, sir.

Q During the afternoon, before you left, what were they doing? A She was fixing lunch.

Q What was she doing the rest of the time? A The rest of the time?

Q Yes, did you see what she was doing? A I didn't notice any of it because I was busy.

Q Did the respondent talk to you while you were working?

A He did, he talked with me a lot, kidding me along.

Q You say three o'clock. What variety or kind of time did you have in Chicago in 1933, in August? You know there are several kinds of time, standard time, do you know what the practice of Chicago was with regard to the time in August, 1933, whether it had Eastern or Central or Western Standard time there?

A Well I couldn't say; all I go is by my time.

MR. DATHMER: I will make a concession on the record on that.

Q Same time that we have is it not? A I go by my own time.

Q Whatever it was in Chicago then? A Yes, sir, any time we have, that is what I have to go by.

Q And you say you left there about, I should say reached there about three o'clock, something after three, and you worked there until about four? A Yes, I have to work to 4:30 to make my day's work up.

Q Then you left? A Yes, sir.

Q The lady who was in charge of this apartment and for whom you worked, does she live in the apartment? A Yes, sir; she lives down stairs.

Q Did you get your pay that day? A No, sir; Saturday.

Q And this day of the 18th, was that - what day of the week?

A That was on a Friday.

Q And you say you got your pay the next day? A Yes, sir.

Q And what was the amount of the pay and the sum of it?

A \$7.12.

Q And where did you cash that check? A Right downstairs in the drug store, I had the pay right down stairs.

Q Now after that did you see the respondent at any time?

A After that?

Q Yes. A Not after that time I didn't see him any more.

Q But whoever was in possession of the establishment at that time, that was the man that stayed around there and you identify him as this respondent? A Yes, sir.

Q And could you identify his wife? A Yes, sir.

Q Have you seen her since? A Sure.

Q You saw her here did you today? A Yes, sir.

Q Any question in your mind about these two people that were in the apartment there? A No.

MR. PARSONS: Take the witness.

MR. DETMERS: May it please the Court, at this time I will ask that all other alibi witnesses be excluded from the court room.

MR. PARSONS: I object to that on the ground that I haven't asked for any witnesses to be excluded, and I have proceeded on the theory that the witnesses were not to be excluded. I allowed all the prosecutions' witnesses to sit here.

THE COURT: Well you didn't have to; you could have made the motion.

MR. PARSONS: I could have but I didn't care to.

THE COURT: I think I will grant that motion. Everybody that is a witness here from Chicago will step out into the hall and stay outside until you are called to testify.

MR. PARSONS: Now that I may not risk losing the testimony of those witnesses from Chicago, the respondent's wife is going to be a witness too.

MR. DETMERS: I don't ask that she be excluded.

MR. PARSONS: There are just two of them that want out, is that right?

MR. DETMERS: Yes.

CROSS EXAMINATION BY MR. DETHMERS; .

Q Mr. Bailey, how old are you? A 27.

Q Are you a married man? A No, sir, never had a chance to marry.

Q Didn't have a chance? A I never had a chance; I had to make money for my grandmother and mother, that is why I couldn't marry.

Q And you say that the owner of this apartment is Mrs. Rhodes?

A No, she is not the owner; she is the agent of the building.

Q She is in charge of the place? A Yes, sir; Mr. George Hailback is the owner.

Q And she acts for the owner in the conduct of the apartment?

A Yes, sir.

Q And you were in reality working for her? A Well I couldn't state definitely how long, but ever since she has been in that building I have been taking care of it. You see the building is in the hands of a Receiver.

Q When did that go into the hands of a receiver? Or strike that. When did she start taking care of that building?

A I think she had the building just about a year.

Q About a year ago now? A I think so.

Q So that you think that she got charge of that building some time in September, 1933? A Something like that, yes.

MR. PARSONS: Just a minute, September, 1933?

MR. DETHMERS: That would be just about a year he said.

MR. PARSONS: This happened, he testified, in August.

MR. DETHMERS: I know, I realize that, but the witness has testified she had that building about one year.

Q Is that right? A Yes, sir, I think; also I am not sure now, about a year now, because I didn't keep up a record of that.

- Q How long have you worked in that building, cleaning up apartments, as you have described? A I have been working for the owner six years.
- Q For six years? A Yes, sir.
- Q In other words, you were mistaken when you said you started working there when Mrs. Rhodes got charge of the place? A When she started the place it was in the hands of a receiver, when she took charge of it, but I don't know what date she took charge of it.
- Q When I asked you when you started working there and you said you started when Mrs. Rhodes took charge of the building, you were mistaken about that? A I have been working for the man--
- Q Answer the question: You were mistaken about that? A Yes, sir.
- Q When did you start working then? A What do you mean, how long I been working for the owner?
- Q How long did you work cleaning up those apartments in that building concerning which you testified, and which is located at 7905 Luella Avenue, Chicago? A I said I been working for him for six years.
- Q You have been cleaning apartments in that building for six years? A He has three apartments.
- Q And you have been employed in cleaning those apartments for the past six years? A Yes, sir.
- Q And during that time from whom did you receive your pay? A From Mrs. Rhodes, she paid.
- Q When did she start paying? A I can't definite the date I first started to work for her, I can't definite the time.
- Q Who paid you before Mrs. Rhodes paid you? A Before Mrs. Rhodes had the building George Heilbach used to pay me.
- Q At any rate you have been working there right along for six years? A Yes, sir.

Q And during that time you have been receiving your pay once a week, or how have you been paid? A Well just like now, if they give me work two or three days I come, sometimes I have a whole month, or some times I have no work at all in that building, then he has work right across the street and he pays me.

Q You usually get paid on Saturday? A Yes.

Q Ever since you did any work you got paid on Saturday?

A Every time I done work for him I got paid on Saturday.

Q Now this check that you say you cashed in the drug store, concerning which Mr. Parsons asked you, who gave you that check? A Mrs. Rhodes.

Q And has she given you any checks since that time?

A Well we haven't had very much work; I mean this year, so far.

Q Has she given you any checks since that particular one?

A Well I have had some other checks since then, but I don't know what time of the day it was, I don't know the date.

Q Have you had checks from Mrs. Rhodes since that? A Yes, sir.

Q Had you had checks from Mrs. Rhodes before that?

A Yes, sir; because I was working for her.

Q Now do you remember Friday, the 11th of August, 1933, You remember that, don't you, Friday, August 11, 1933?

A I didn't keep track of all the dates.

Q You don't remember Friday, August 11, at all, do you?

A They had me down there for working?

Q What is that? A They had me down there for working?

Q I don't know; I am asking you do you remember that date?

A I haven't kept track of everything I did.

Q Why did you keep track of this? A I keep track of my other business, I work at different places, but to come down to dates or the buildings, I don't keep track of.

Q What dates have you kept track of? A To the present time?

Q Yes? A 5324 Mason.

Q What about that? A That is some work I did there later.

Q Later? A Yes, sir.

Q Never mind addresses. Do you have any particular dates in August of last year in mind, as to where you were those dates? A I haven't got no particular dates, but the agent has all the different dates, has all the records.

Q So you don't know what days you were in that apartment? Do you? A Well she keeps the records.

Q Well do you know? Do you know what dates in August last year you worked in this apartment? A Well Mrs. Rhodes keeps the--

Q Do you know? A I say she keeps those for me.

Q I say could you tell this jury now what days you worked in August, last year, that you worked in that apartment building? A I couldn't say definitely because I don't keep the dates; she keeps the dates.

Q So you don't know of your own knowledge, do you? A She kept the dates.

Q Then answer my question: You don't know of your own knowledge do you what days in August of last year you worked in that apartment, do you? A I tell you the fact that--

Q Answer that, do you, yes or no? A Well I don't know.

Q That is what I thought. For how long a time did you say Mr. And Mrs. Bentz were in that apartment? A How long?

Q Yes. A I seen him once, I haven't seen him anymore.

Q Only that one time you saw him there? A Yes, certainly.

Q You didn't see him the day before? A No.

Q Did you work there the day before? A Worked there a couple days, made \$7.12.

Q And you worked there after that too? A Didn't work, just fiddle around is what you would call it.

Q So only once you saw Mr. Craig there? A Once.

Q Did you work there on Thursday?

A Thursday and Friday.

Q You worked there both those days? A Yes, different apartments around there.

Q Did you work there Wednesday? A No, I don't think I did work there Wednesday.

Q Where did you work Wednesday? A Not in that territory at all.

Q Do you know where? A No, I don't.

Q How did you see Mr. Bantz there on that Thursday?

A I was in another apartment that day.

Q You say you worked in that apartment Thursday and Friday, don't you? A Different apartments there.

Q How do you know which apartment you worked in on Thursday and which one you worked in on Friday? A How I know?

Q Yes. A Because I finished up the last apartment-- finished up in their apartment last, I know that.

Q Finished up there? A Yes, sir, the last one.

Q What date was that? A 16th.

Q How do you know? A How I know?

Q Yes. A Because 19th is when I got paid.

Q How do you know it was the 16th you worked there?

A I started there on the 17th, Thursday and Friday.

Q Well didn't you work there the week before on Thursday and Friday? A I said I couldn't keep all dates, she keeps the dates.

Q How do you happen to know it was this particular date?

A How do I happen to know?

Q Yes. A Well I got paid that Saturday.

Q Well you don't know whether you worked there the week before or not, do you? A I said before I didn't keep all the dates like she does; she kept the whole record.

Q Sure so you may have worked there the week before, on Thursday and Friday for all you know, isn't that right?

A I couldn't say positively because I don't keep dates.

Q For all you know you may have? A I couldn't say that.

MR. DISTMERS: I will ask the Court to instruct the witness to answer my questions.

THE COURT: Don't you understand the prosecutor is asking you now about the week before?

A Well Judge, your Honor, I didn't keep track of all the dates.

THE COURT: Well do you know you did work the week before or not?

A Well Judge, your Honor, you know it is pretty hard.

THE COURT: Well you answer the question. You answer the questions the prosecutor asks you from now on.

A Yes, sir.

Q For all you know you may have worked Thursday and Friday of the week before too? A Yes, sir.

Q And if you did you would have been paid on that Saturday before, wouldn't you? A Yes, sir.

Q If that is true, how do you know which one of those Fridays it was you saw Mr. Bentz in that apartment?

A Well I talked with him.

Q How did you know which date that was?

A How I know the date?

Q Yes. A Well the date was the 18th.

Q How do you know? A Looked at the calendar.

Q When? A See, when I am working I always look at the

calendar, and the next week, and some weeks I don't work, and then we start to ask Mrs. Rhodes--

Q When did you look at the calendar? A When I looked at the calendar?

Q Yes. A At my home that day.

Q That day? A Yes, sir.

Q How did you happen to be looking at the calendar that day?

A How did I happen to be looking at the calendar that day?

Q Yes. A I always look at the calendar.

Q What is that? A I look at the calendar every day.

Q All right, you look at it every day. You may have worked in that apartment the week before, isn't that right? A Could have been.

Q Did you look at the calendar that time too? A Every day.

Q Then how do you know it was the 18th you talked to Mr. Bentz? A Well he was kidding me along.

Q Yes, and what about that? A Well, kidding me about my work and different things.

Q And you would say because he kidded you you happened to look it up and see what date it was? A No.

Q Then explain to the jury how you know it was the 18th you saw Mr. Bentz there in that apartment?

A How I saw? Well I was working in the apartment.

Q How do you know it was on the 18th? A I was working on that day, that is why I know it was on the 18th.

Q For all you know you were working the Friday before, that was August 11th. How do you know it wasn't August 11th you saw him in that apartment?

A That could be true.

Q And you only saw him there once, isn't that it?

A Just once.

MR. DETMERS: That is all.

RE DIRECT EXAMINATION BY MR. PARSONS;

Q Witness, have you made any effort to find out from this woman that paid you, what day it was you worked there and when you saw the respondent? Did you go and ask her to see the record or check up in any way? A No, I didn't because I figured she should send the record up here.

Q And the only record you have on that question is your recollection? A Yes, sir, I figured she would send the record up here, that is why I didn't see it.

Q You haven't the record yourself? A No, I trusted her to send the record up here.

MR. PARSONS: That is all.

RE CROSS EXAMINATION BY MR. DEFENDERS;

Q Do I understand you have never seen Mr. Bents any other place? A That was the first time.

Q And is that the last time too, until today? A Yes, sir.

Q Now did you have a chance to get a good look at him that day? A When I looked, just once, that is all.

Q Answer the question: Did you get a good look at him?

A Once, I know him from now on.

Q And you are sure this is the man you saw? A Sure.

Q You are sure about that? A Sure.

Q You saw him here, you never saw him again, after that day?

A No, not after that day.

Q You didn't know him when you saw him that day?

A Didn't know him when I go in the apartment the first time I looked at the person's face.

Q Did you know him when you saw him then? A Know him by name?

Q Yes. A No, I didn't.

Q You never had seen him before? A No.

Q You are sure from having seen him that one time, you are sure that is the same man? A Yes, sir.

Q Even though that is over a year ago, is that right?

A Yes, sir.

MR. DETHMERS: That is all.

MR. AARON SHUGAN, being first duly sworn by the Clerk,
testified as follows:

DIRECT EXAMINATION BY MR. PARSONS:

Q Your name is Shugan? A Yes.

Q You live in the city of Chicago? A Yes, sir.

Q You lived there in August, 1933? A Yes, sir.

Q Speak a little louder please. What is your business or
occupation? A Druggist.

Q Was that your profession or occupation in August, 1933?

A Yes, sir.

Q At what place were you employed in August, 1933?

A That was my store at 2233 79th.

Q Is there an apartment above over that store?

A It is the same building, 7905 Louella.

Q Do you remember of Mr. Bentz or Craig coming there in
August, 1933? A Yes, sir, I remember the day he moved in.

Q Remember what kind of car he had? A Well it was a new
car, it was a British Columbia license, that is all I noticed
of it.

Q Did you notice how long he stayed there and when he moved
out? A He was there about three weeks or a month.

Q And during the time that he occupied that apartment did
he come into the store downstairs with any frequency?

A Yes, sir, every day.

Q And what did he do there when he came in on those days?

A Well he - do you mean on the--

Q Come into the store, what did he do, buy anything?

A He would buy a paper every day.

Q What paper would he buy? A The American.

Q The Chicago American? A Chicago American.

Q You say you remember when he moved in there. What date was that? A The 16th of August, 1933.

Q Have you made some effort to refresh your recollection since coming here as a witness? A Yes, I have gotten the information as to what date from the manager of the building.

Q And your remembrance of when he first came there, did that check with that information? A That checked.

Q Does that refresh your recollection? A Yes, sir.

Q Of the date it was. What date do you first recall? A 16th of August.

Q Then on the 16th of August he would have been there two days, is that right? A Two days.

Q And what day was the 16th of August? A On a Friday.

Q Friday. Do you remember his coming in there on that day? A I remember him coming in.

Q And remember what time of the day it was? A In the afternoon, about 1:30, to be exact.

Q Did he have any habit as to about the time of day he came in after the paper? A Well he could talk around, shin around.

Q You say you remember he came in there? A He came in there that day.

Q And that was in the afternoon? A In the afternoon, 1:30.

Q How long a time did you see him during the afternoon? A Well I remember selling him some medicine that afternoon, he wanted something for his wife, and I mixed something up and he went upstairs.

Q Was that what he got a counter prescription? A Counter prescription.

Q Do you keep any record of those? A No, I can tell you

- what it was if you want to know.
- Q And what? A Hayden's Viburnin compound; it is a dark green color, very bitter, hard to take.
- Q You remember making that up for him? A Yes, sir.
- Q Do you remember the witness Bailey, this colored man, from Chicago? A Yes, I do.
- Q Do you remember his being there on that day or on the next day? A Well I remember him coming in at noon time usually, came in for root beer.
- Q Did he come in on Friday, on the same day? A Yes.
- Q Did you see him the next day? A I saw him the next day.
- Q And what did he ask you to do for him if anything, the next day? A He owed me a little bill, I cashed a check for him for seven dollars and some change, I don't remember definitely what it was, seven dollars, took out what he owed me and gave him back the change.
- Q Whether or not you remember positively that that was the week end that these people moved in there?
- A Absolutely.
- Q First week they moved in? A Yes, sir.
- Q Did you see them around there frequently while they stayed there? A Quite frequently.
- Q Who else was in the store with you at that time?
- A My clerk, Mr. Knuth.
- Q Knuth. Are you related in any way to this man, the respondent? A Not at all.
- Q Can you now identify him as the man who was there in that apartment at that time and came in there and got the prescription? A Yes, sir, absolutely I remember that.
- Q And did you see him after that a number of times?
- A Quite frequently every day.
- Q And saw his wife also? A Yes, sir.

Q Do you know the colored boy, Bailey, that came in there?

A I have known him for three years.

Q Did he work in that apartment there at that time?

A Yes, sir.

Q Have you any interest whatever in the outcome of this case, any personal interest? A No interest whatsoever, perfect stranger to me.

Q You weren't interested in the apartment? A Not at all.

Q You are not related to them in any way? A Not related.

MR. LARSON: You may cross examine.

CROSS EXAMINATION BY MR. LARSON:

Q How long has this Lonnie Bailey, the colored boy, worked in those apartments? A About three years I imagine.

Q How long have you been in the drug store there?

A Three years.

Q And who at that time was in charge of those apartments?

A Mrs. Rhodes.

Q And for how long has she been in charge of those apartments?

A Well at least a year, might be a little longer, might be less, but about a year.

Q You don't know how long? A Not exactly.

Q For how long did Mr. Bentz stay in that apartment?

A Three weeks or a month.

Q And during all that time he came into your place every day?

A Every day for a paper.

Q And you saw him every day? A I saw him every day.

Q Now on Friday, August 25th, at what time did Mr. Bentz come in your store? A Friday August 25th, he come in at noon time.

Q And what time did he come in the following Friday?

A I wouldn't remember the following Friday off hand, I have to figure it out.

Q You would have to figure that out? A Yes, sir.

- Q How would you figure it out? A If I had some way of figuring or remembering the different things that led up to it.
- Q At what time did he come in on Thursday, August 24th?
- A At noon time.
- Q At noon time. A I seen him practically every day at noon time.
- Q In other words, you say that because you saw him practically every day at noon time? A Because he used to come in for the early edition of the Chicago American; that comes about twelve o'clock.
- Q So you make that statement, not from your memory of that particular day, but because of the fact that you know he usually came in at noon? A No, from my memory.
- Q The Thursday, August 23rd, do you remember that particular day, or August 24th, I should say, Thursday, August 24, do you remember that particular day? A I don't remember off hand.
- Q But you remember his coming in on that day?
- A I remember him coming in every day.
- Q So you remember he came every day about noon?
- A Yes, sir, I remember that.
- Q But you don't remember that particular day, Thursday, August 24? A Not that particular date.
- Q So that your statement that he came in that day about noon is based on the fact that you recollect he came in every day about noon, that is the reason for your saying that? A That is not the only reason.
- Q What other reason have you then? A I remember the date he moved in.
- Q I am talking now about Thursday, August 24th.
- A The day he moved in was the 16th, I absolutely remember

he came in every day.

Q What time did he come in on Thursday, August 17th?

A At noon time.

Q Then what happened, he bought a paper? A Well I don't know what happened every day. Usually talked to my man in the back.

Q Do you know what he talked about that Thursday, August 17th? A I didn't talk to him then.

Q Did he buy any medicine on Thursday, August 17th?

A No, he bought it on Friday.

Q None on Thursday? A None on Thursday.

Q Do you remember an occasion of his coming in on Saturday, August 19th? A Not definitely.

Q You don't remember that definitely? A Not definitely, no.

Q Well do you definitely remember his coming in on Thursday, August 17th? A What was the last question?

Q Do you definitely remember his coming in on Thursday, August 17th? A Yes, I remember the 17th.

Q But you don't remember definitely August 19th, which was Saturday? A I don't definitely remember that.

Q But you do very definitely remember all those dates, Friday-- A Those three dates, the 16th, 17th and 18th.

Q Those three you have in mind particularly, and you remember his coming in? A Yes.

Q What time did he come in on Wednesday, August 16th?

A Wednesday, August 16th? I saw him in the evening, that is the first time.

Q So he didn't come in at noon? A He didn't come in at noon time that day.

Q But you just particularly remember that he moved in on August 16th in the evening? A Yes, sir.

Q And the next two days you can remember those two visits.

to your store with great particularity?

A Coming there at noon time, yes, sir.

Q And especially August 18, and Friday, you remember that day? A Yes, sir.

Q That day you remember particularly? A Yes, sir.

Q Have you got any record with you to show that is the date you sold him the medicine? A Well --

Q Answer that; have you? A Not with me.

MR. PARSONS: He testified they do not make records of those counter prescriptions.

Q The fact is that you have no record of that sale that date. A No.

Q That is just from your memory? A That is just from my memory.

Q When were you first asked about this prescription?

A About ten days ago.

Q That is the first that you knew that you were to come here as a witness on this matter? A Yes, sir.

Q And that is the first time you were asked to think back about August 18th? A Yes, sir.

Q Of last year? A Yes, sir.

Q And all the rest of that time, since August 18th until about ten days ago, you never gave another thought to anything that happened on August 18? A No.

Q And in particular that sale of medicine that day, you didn't give that much thought, did you? A Before that?

Q After that and before ten days ago.

A Well I remember selling the medicine, that is how I -- remember the date.

Q But you first called that to your mind again some ten days ago, when you learned you were to come here to testify? A Yes, sir.

- Q How many prescriptions as a general rule do you fill in a day? A Oh, sometimes none and sometimes two, and sometimes three.
- Q What would you say, as an average?
- A About three a day.
- Q Now what other prescriptions did you fix up on Friday, August 18th of last year? A I fixed up, I remember filling one prescription, I can't recall.
- Q Remember who it was for? A Yes, I think I do.
- Q Who was it? A I know where she lived, Paxton Avenue.
- Q What did you fix up for her? A It was a patent that I have to take the label off from salts.
- Q In other words, it wasn't anything you mixed up; patent mixtures, you took the label off it and put your own on?
- A That is what I remember.
- Q Do you know of any others on that day? That is all.
- Q What prescriptions did you fix up on Saturday, August 19th?
- A Well I remember fixing a hospital prescription.
- Q On Saturday, August 19? A Yes, sir.
- Q How do you know you did that on Saturday, August 19?
- A Prescriptions are very few, that is why I can remember.
- Q How do you remember that it wasn't Saturday, August 25, or 26th rather? A Where the prescriptions are not plentiful, I happen to recall that, the next day.
- Q In other words, this prescription you fixed up for Mrs. Bentz, that was quite an unusual event in your life, and for that reason it stood out and you remember everything you did the next day as well? A That brings everything to my memory, the prescription.
- Q All right; what prescription did you fix up the day before, Thursday, August 17th? A I don't think I filled any at all.

Q You don't remember one? A I don't remember filling any.

Q What did you do on the 4th of July of last year, 1933?

A I worked in the store.

Q You remember that day, don't you? A Yes, sir.

Q That was enough of a celebration so it stands out in your mind? A Yes, sir.

Q If that is true, do you remember what prescriptions you filled out the next day, July 5th? A No. The 4th of July is just an ordinary day to me, I had to work anyway.

Q So you don't remember what prescriptions you filled July 5th? A No.

Q In other words, the 4th of July wasn't of significance to you that it helps you to remember what prescriptions you filled out on the 5th? A No, the 4th don't mean anything to me.

Q But Bentz moved up in that apartment on the 16th, and that is such a significant fact that you remember everything you did for the next three days? A I put my mind on it.

Q Did you anticipate there was going to be a case like this at that time? A No.

Q Why did you put your mind on it? A Well I have to recall.

Q How many apartments are there up there?

A About eighteen or twenty.

Q And at that time had most of those people lived in there for a year or more? A No, there were a lot of people moving in and out on account of the Fair in that particular summer.

Q In other words, people moved in and out almost every day?

A Not every day, no.

Q But frequently? A Every three weeks and every month. They would stay for a month at least.

- Q During that summer you had eighteen different apartments that were being filled or emptied? A No, some were residential. Some stay there for years. There were only about five or six apartments available for tourists.
- Q And now one would be moved into and one would be moved out? A About six.
- Q And every time somebody moved into one of those apartments was that quite a significant event in your life?
- A Well I remember I would be anxious to get more business and I would want to make their acquaintance.
- Q And every time somebody would move into one of those apartments would you remember what happened the next few days in your drug store? A I would think so, if I recall.
- Q Well do you recall? A If there was anything came up that I have to remember, have come back to remember, I imagine I would.
- Q In other words, if it is necessary you can go back and remember most anything for any date, is that what you mean?
- A When thinking, yes.
- Q Yes, that is what I thought too. What time did you get up on the morning of August 16th?
- A I got up about ten, ten-thirty.
- Q What did you have for breakfast? A Coffee.
- Q What else? A And a roll.
- Q And what else? A That is all I eat.
- Q In other words you eat that each morning?
- A I eat that each morning.
- Q That is how you know that is what you had for breakfast?
- A That is true.
- Q Do you remember a Mr. J. J. Becker that lived in one of those apartments there? A Yes, sir.

Q Where is he now? A I don't know.

Q What is the last you heard of him? A He moved out.

Q That is all you remember. Remember Mr. James Barry?

A Barry, yes.

Q When did he live there? A Previous to Mr. Becker.

Q When did Mr. Barry move in? A In the summer time.

Q What was the date? A Of the year before, that is the year before, I don't remember two years ago.

Q You don't remember the date? A No.

Q Did you get any prescriptions the next day after he moved in?

A Mr. Barry?

Q Yes. A Yes, he got some - it wasn't Mr. Barry, Mr. Becker.

Q What date was that? A That was a year and a half ago, that was in February.

Q What was the date in February? A The middle of February, I don't know exactly the date.

Q You don't remember whether the 14th or 15th?

A No, no incident leading up to it.

Q Well he moved in just the day before? A Who, Mr. Becker?

Q Mr. Becker? A No, he didn't get one the next day, I can't say that.

Q How many days was it after he moved in that he bought a prescription? A About a week after.

Q Where is Mr. Becker today, do you know? A I can't tell.

Q Do you know where Mr. Barry is? A No.

Q Do you know what happened to either one of those two gentlemen? A No.

Q You haven't had to testify for them have you?

A No.

Q What did you have for lunch on Friday, August 18th, 1933?

A I had a sandwich in the store.

- Q What kind of sandwich did you have?
- A I usually like a toasted cheese sandwich, I must have had that.
- Q In other words, you don't remember the sandwich today, you are just going by the fact you usually have it.
- A Yes.
- Q And what did you have for supper or dinner, or whatever it is you eat in the evening? A That is hard to remember.
- Q You don't remember that at all? A I never gave that a thought.
- Q Did you work that evening in the store? A I worked that evening.
- Q Until what time? A Until closing time, 12.
- Q And where did you go from there? A I went home.
- Q You are sure of that. You always worked until closing time? A I always work until closing time.
- Q Do you have any record with you as to what the prescription was you sold to Mr. Craig?
- A Do I have a record?
- Q Yes. A Well I remember that --
- Q Well do you have a record of what you sold to Mr. Craig?
- A No, that is a counter prescription, don't have a record. I remember it in my mind.

MR. DETMERS: That is all.

MR. PARSONS: That is all.

THE COURT: Just a moment. One question I wasn't very clear on; did I understand you to say that you went to the owner of the apartment to find out what date that Mr. Craig moved in?

- A Yes, sir.
- Q Did he have a book?
- A Not the owner, the manager.

Q The manager, this manager's name--

A Rohrer.

Q That is Mrs. Rohrer? A I phoned her.

Q And she told you what date it was? A She told me the date.

Q When did you phone her? A Last Friday.

Q You did not remember what date it was and that is why you called her up? A I wanted to be sure, positive.

Q She isn't here? A No, she is in Chicago.

THE COURT: All right.

RE CROSS EXAMINATION BY MR. DEFENDERS:

Q From whom did you get that information?

A Mrs. Rohrer.

MR. PARSONS: I will say, if the Court please, we have made an effort to get that witness and that record. I have correspondence showing we can't get it. I have a copy of what purports to be a copy of the record and a letter which accompanied it, that is all I have in my files; I find I have lost it, carelessly or recklessly left it in my office.

MR. DEFENDERS: I will be willing to agree you can make use of that.

MR. PARSONS: I will bring it tomorrow and offer it in evidence, together with the letter accompanying it. We made an effort to get the witness here. They say they haven't got the money to make a photostatic copy.

THE COURT: What I wanted to find out from you is this: You got this information, did you, as to when they moved in, you got it from Mrs. Rohrer?

A Yes, sir.

THE COURT: Would you pretend to remember without having gotten that from her?

A I remember the middle of the month; I didn't know exactly on the 15th, I wouldn't be positive in other words.

THE COURT: You would not have been positive unless you had called her up would you?

A I remember the incident, I remember they come down, I remember the 16th positive.

THE COURT: I wanted to ask you, could you remember it positively without having called up Mrs. Rohrer?

A Yes, there is a way I could remember.

THE COURT: That is all.

MR. CHARLES E. KNUTH, being first duly sworn by the Clerk,
testified as follows:

DIRECT EXAMINATION BY MR. LAWSON:

Q You reside in the city of Chicago? A Yes, sir.

Q Did you so reside in August, 1933? A Yes, sir.

Q Where were you employed at that time? A In the South Shore Pharmacy.

Q Was that in the same pharmacy with Aaron Shugen?

A Yes, sir, he was the owner.

Q He is the owner, you were employed by him? A Yes, sir.

Q Do you remember in August, 1933, seeing this respondent coming to the drug store there? A Very well, yes, sir.

Q And do you remember about what part of the month, as to whether it was the middle or near the first or latter part of the month that he came there first?

A Well I - there was a very little episode and I noticed just about the time he came there, about the middle of the month.

Q About the middle of the month? A Sure about the 15th, I believe the 16th.

- Q Have you made, or did you make an effort at any time recently to refresh your recollection on that subject, to find out when it was that they moved in? A Yes, sir.
- Q What was that effort; what did you do to refresh your recollection?
- A I went to Mr. Shugan and we checked up from - Shugan checked up with Rohrer, Mr. Shugan checked up with Mrs. Rohrer, I knew about that time indefinitely, that is the lady I mean who managed the building.
- Q Did you check with her to find out when he moved in?
- A Mr. Shugan. I didn't do it personally. I looked up the calendar and Mr. Shugan checked up and I knew, I remember very distinctly the time he moved there.
- Q And this was on, I want to be certain as to the week, as to the week in August, whether it was the week of the 18th or not? A Yes.
- Q And do you remember seeing Mr. Bentz or Craig in the store that Friday? A Yes, sir.
- Q What time of day? A About the middle of the day, about 1:30.
- Q And did he buy anything from anybody in the store?
- A Yes, sir.
- Q What? A He came--consulted, I heard the consultation, it was, about in regard to a strong mixture, in regard to his wife.
- Q And who waited on him? A Mr. Shugan furnished it.
- Q Talk to you about it first? A I heard the conversation, it was his mixture.
- Q What did Mr. Shugan do for him? A Well he compounded it for him, if I remember right, I guess he charged him one dollar.

- Q Can you swear now positively that occurred on Friday of the week that they moved in? A Yes, sir; absolutely.
- Q Did you see the car that they drove over in there? A Yes, sir.
- Q What kind of car was that as to the license number, make, color? A I couldn't just exactly tell the license number, but had a British Columbia B. C. license on it, and if I remember correctly it was, must have been rather late model Whippet, but I won't be sure.
- Q Did you see this respondent after that for some time there? A Yes, sir, daily.
- Q Did he come in the store? A Yes, sir.
- Q How are you any relation to this respondent? A No, sir.
- Q Or his wife? A None whatsoever.
- Q And have you any interest in this case personally? A No, sir.
- Q Had you ever seen this respondent before he moved into the apartment? A No, sir.
- Q And after they moved away from there did you ever see him again until today? A Today is the first time, I saw him, yes, sir; the time he lived there I know him about three or four weeks.

MR. PARSONS: That is all.

CROSS EXAMINATION BY MR. DEFENSE:

- Q Did you see Mr. Bentz there every day while he was there? A Practically every day, yes, sir.
- Q What was that? A Practically every day.
- Q And where would you see him? A Sometimes he got a paper during the day, and in the evening, around evening, him or his wife come down and I served them at our fountain, and they had a refreshment; naturally, they lived overhead in the same building, and they come down in the evening.

many times he would come in, and have quite a chat with Mr. Craig.

Q Where would you do that? A He would come in the store, you see, sometimes ten, fifteen minutes, or longer.

Q Did you see him in the middle of the afternoon quite often?

A Yes, sir.

Q Or in the middle of the morning? A Yes, sir.

Q In other words, he wasn't going somewhere to work was he?

A I couldn't tell you that, because I know I saw him most generally during the day, when he picked up- I think he read the American paper.

Q You say you would see him during the middle of the afternoon quite often? A Yes, see him around lunch time.

Q And would you say you saw him during the middle of the morning quite often? A Not so often in the morning.

Q Sometimes? A Once in a great while.

Q Did you understand he was employed at that time?

A No, I didn't.

Q In other words you understood he was not employed? A No.

Q What did you understand? A All I knew, he was living there, that is all I knew about it, and carried a little brief case with him once in a while when I saw him, when he came home.

Q What name did you know him by at that time? Ted Gray?

A Ted Craig.

Q What is that? A Ted Craig. Did you understand me? I said Craig, I didn't say Gray.

Q What did you say? A C r a i g. I can't pronounce it.

Q Now what day of the week did Mr. Bentz move into this apartment? A About the 16th.

Q What day of the week did he move in about?

A About Friday.

Q Moved in about Friday? A No, not Friday, it was the 16th, that was Wednesday.

Q Well to start figuring this all out, what day of the week was it, do you remember? A About the middle of the week.

Q Oh about the middle of the week. You are sure it wasn't Monday? A No.

Q What day would you say it was? A Wednesday.

Q You would say now it was Wednesday?

A Yes, sir, middle of the week.

Q Well the middle of the week couldn't be Thursday, could it?

A I don't think so.

Q What day do you call the middle of the week?

A Six days in a week, and, of course, Sunday.

Q Which is the middle day of the week to you? A Wednesday.

Q That is the middle of the week. That is the day he moved in, are you sure about that? A Yes, sir.

Q How do you know that? A Because I was right there in the store.

Q What? A Because we happened to be in the store there when his wife came in the store the very afternoon they moved there.

Q And you kept track of it ever since that was Wednesday?

A Yes, sir.

Q And isn't it a fact you learned of this date, the 16th, from Mr. Shugan, and then went to work on the calendar to see what day of the week that was, is that what you did?

A No.

Q What did you mean when you testified that you had Mr. Shugan check it up on the calendar, what did you mean by that?

A To get the exact date, I knew it was the middle of the week when they moved in there.

Q What did you have to look at the calendar for after Mrs.

Rohrer told you what date it was?

Q To make positive, to know what time of the day it was.

Q What time of the day it was? A Yes, sir.

Q Did you have that on the calendar?

A No, I knew he moved in the afternoon some time.

Q You didn't have to look at the calendar then to find out what time of the day it was? A No, sir.

Q What did you look at the calendar for?

A Get the exact date when he moved in.

Q Did it say anything on the calendar when he moved in?

A No.

Q Then how could you tell from the calendar?

A I could check up and knew it was the middle of the week, when he moved in there, that was on Wednesday.

Q Yes, so what did you have to look at the calendar for?

A I never looked at the calendar until about two weeks ago, week ago.

Q What did you look at the calendar for then?

A To get the exact date.

Q For what? A The time they moved in.

Q Was that on the calendar? A No, sir.

MR. PARSONS: Just a minute; if the Court please he has been asked that a half dozen times.

MR. DISTHMER: He hasn't explained it yet.

MR. PARSONS: I object to it.

THE COURT: You have been over that; he says it wasn't on the calendar.

Q Well then why did you look at the calendar?

MR. PARSONS: He has told him why.

THE COURT: You may answer it, why did you look at the calendar, you may answer that.

Q To get the proper date, get the exact date.

Q And how would you get that from the calendar?

A Well by looking at it, looking up the exact date, because he moved in the first - the middle of the week.

Q How do you know it wasn't the week before?

A I know that.

Q How? A Through checking up on Mr. Shugan.

Q In other words, that is how you discovered the date then, not from the calendar, isn't that right?

A I know, I knew the people the first day they moved there, and I knew that was there after that every day.

Q And you remember now what date it was they moved in?

A Yes, sir, just by his coming down.

Q And would you have known that date even if Mrs. Rohrer hadn't informed Mr. Shugan and you?

A Justabout, couldn't tell exactly.

Q What was the date that they moved out?

A About three or four weeks later.

Q What day of the week did they move out?

A I couldn't exactly tell you.

Q You don't remember that? A Not exactly.

Q You don't remember the day of the week nor the date do you? A They was there about four weeks.

Q Do you remember the day of the week or the date they moved out? A Not exactly the date they moved out, but I know the date they moved in.

Q What were your hours in the store last August?

A Right in the morning, some times stayed to closing, to ten at night.

Q Every day? A Every day.

Q Do you remember seeing Mr. Bentz on Thursday, August 27th? A Yes, sir.

Q What time of day did you see him?

A Well it was in the evening, he most generally came in in the evening.

Q You "most generally" saw him in the evening?

A No, he came mostly about, when he goes out in the evening and middle of the day, he most generally called for his American paper.

Q What time would he "most generally" call for that?

A Around lunch time.

Q Well when you say "most generally", you mean he didn't do it every day? A Yes, practically, just as regular, every day.

Q When you say "practically", do you mean that he missed some days? A Well I know he called there pretty nearly every day.

Q When you say he "called there pretty nearly every day", that means he missed some days, doesn't it; is that right?

A Well naturally I know he was there.

Q What was that - "naturally," did you say?

A He was there.

Q For all you know he missed some days? A No.

Q During those four weeks he lived there?

A No, he got his paper every day.

Q Why did you say "practically" every day then, and why did you say "most generally"? How do you happen to remember that it was on August 18th that he got this prescription?

A Well because he came down and said his wife was sick; well I can tell you what the illness was.

Q How do you know that was August 18?

A Because it was right a couple days right after they moved in there.

Q That is how you know, because it was shortly after?

A Yes, sir.

Q How do you know it wasn't the 19th?

A No, it wasn't.

Q How do you know? A I know it wasn't the 19th.

Q How do you know it wasn't? A Because the gentleman was right there.

Q What? A The gentleman was right there in person.

Q Well how do you know it wasn't the 19th; he was there in person? A No, it wasn't the 19th.

Q How do you know? A I know because I was there.

Q He was there on the 19th in the store wasn't he?

A At noon for the paper.

Q What time of day was it he got this medicine?

A That was about 1:30.

Q How do you know that wasn't August 19th he got the medicine? A Because this colored boy was working there the same day.

Q Did you have a talk about this thing with the colored boy?

A No, the colored boy was down in the store that day.

Q What day? A On Friday.

Q Was he there on Thursday? A No, sir.

Q Was that colored boy - the colored boy was in the store on Saturday, wasn't he? A Yes, sir.

Q What time of day was he there on Saturday?

A I don't just recall, about the middle of the day I believe it was.

Q And how do you know that wasn't the day that Mr. Bentz was in there for the medicine? A No, Mr. Bentz was in there the day before that.

Q How do you know it wasn't the 19th? A I know it.

Q How? A I can't remember that.

Q You just remember it, that is all? A Yes, sir.

Q How do you know it wasn't on the 17th?

A No, sir.

Q How do you know it wasn't? A Well I am positive it wasn't because---

Q In other words you don't know how, but you just know?

A Yes, sir.

Q Do you fill prescriptions too? A Absolutely; I am a registered pharmacist.

Q You didn't fill the prescription for Mr. Bentz did you?

A No, I was right there.

Q Did you fill any for anybody else that day?

A Not that I know of, no.

Q You don't remember whether you did or not? A I don't remember.

Q How do you happen to remember this particular one?

A Well I counter prescribe quite a little, and I knew the time of his moving in there, I knew the people, got acquainted with them when they moved in there and he called for that medicine, I knew that.

Q And you remember it was the 18th because it was a couple days after they moved in? A Yes, sir.

Q Did you ever fill any prescription for Mr. Bentz?

A Only tonic orders here and there.

Q How many times did you fill a prescription for Mr. Bentz?

A I couldn't tell you. He got medicine from me once in a while.

Q How often? A Well when he happened to need it.

Q All right, give us the dates of these times you gave him a prescription? A I couldn't give you the exact dates.

Q You don't know those dates. Do you remember how many days after he moved in you gave him a prescription?

A I didn't give him a prescription that day; he just

- called and had a conversation and he gave him the medicine.
- Q Did you give him a prescription on another occasion?
- A Not regular practice; I counter prescribed when he called for medicine.
- Q I don't care what he gave him, what did you give him?
- A Well toothpaste and gargle and so forth.
- Q All right, what was the date you sold him toothpaste?
- A I don't recollect the exact date.
- Q How many days was it after he moved there?
- A He came in on different occasions.
- Q How many times did he buy toothpaste of you during the time he was there those three weeks? A I couldn't tell you.
- Q You don't know; do you remember the first tube you sold him? A I couldn't tell you what date it was.
- Q And what kind was it you sold him?
- A I don't remember that either. Leisodent.
- Q Leisodent; that is the kind Amos and Andy advertise, isn't it? A Must be.
- Q And do you remember how many days after Bentz moved in it was that you sold him the Leisodent?
- A No, I couldn't tell you.

MR. DETMERS: That is all.

RE DIRECT EXAMINATION BY MR. PARSONS:

- Q Now on your cross examination, is there any doubt in your mind at this time that on Friday of the week that Mr. Bentz moved into that apartment, that he was down there in that store in the afternoon?
- A Yes, sir.
- Q Is there any doubt about that in your mind at the present time at all? A Not at all; I know he was.
- Q And the mere fact that you aren't able to tell everything that happened on each and every other day all the rest of

that summer, hasn't shaken your belief in the correctness of that statement? A No.

Q And I think you testified that you have no interest whatever either in Mr. Bantz, his wife, or in this lawsuit? A Absolutely not.

Q You are here at some inconvenience to yourself, are you?

A Some.

MR. PARSONS: I think that is all.

RE CROSS EXAMINATION BY MR. DISTENFELD:

Q In other words, that particular Friday is the only day that you do remember anything about that whole summer?

A No, sir.

Q What other day? A Well I know he dropped in every day, and then his wife and himself dropped in in the evenings for a sociable talk, sit there and talk a while or for their refreshments.

Q You remember that because it happened every day?

A Yes, sir, and he always called for his paper every day.

Q But this particular Friday out of a whole summer is the only date you can give as a particular date that something in particular happened on that day? A It happened on Friday right in the beginning, I know that truthfully; I know that is the truth.

MR. DISTENFELD: That is all.

MR. EARL DOYLE, sworn by the Clerk, testified as follows:

THE COURT: You may step in the jury room five minutes.

DIRECT EXAMINATION BY MR. PARSONS:

Q Mr. Doyle, you are brought here as a witness in this cause by the officers here, from Jackson? A Yes, sir.

- Q And you are one of the men who was involved in this bank robbery on the 18th of August, 1933, here in Grand Haven? A Yes, sir.
- Q And you know, do you not, and are acquainted with the identity of all of your associates in that robbery?
- A Yes, sir.
- Q You had known them for a sufficient length of time previous to the robbery so that there would be no doubt of your ability to identify them, all of them, at any time or any place where you might see them, is that right?
- A That is right.
- Q You see this man who sits here. Stand up. (Respondent stands)
- A Yes, sir.
- Q Was this man one of your associates in that bank robbery on the 18th day of August, 1933?
- A He was not.
- Q Have you any personal interest in this man or any reason for testifying to protect or assist him?
- A No, sir.

MR. PARSONS: You may cross examine.

CROSS EXAMINATION BY MR. DETHMERS:

- Q Have you ever seen Mr. Theodore Kentz before today?
- A No, sir.
- Q This is the first time you ever saw him?
- A To my knowledge; yes, sir.
- Q How many accompanied you on this robbery? A Four.
- Q Four? A Yes, sir.
- Q So that there was five of you all together?
- A That is right.
- Q Who were the other four?

A Well that I refuse to reveal.

Q What is that? A I refuse to reveal that.

MR. DETMERS: That is all.

MR. PARSONS: That is all.

MR. DETMERS: I just want to ask you:

Q You were captured at that time, at the scene of the robbery, were you not? A Yes.

Q And you were later sentenced by this Court to life imprisonment in the State Penitentiary in Jackson?

A Yes, sir.

MR. DETMERS: That is all.

RE DIRECT EXAMINATION BY MR. PARSONS:

Q You say you refuse to reveal, you wouldn't want to say whether the man named Edward Bentz, who has been identified by certain witnesses as one of the robbers, as the brother of this man?

A I didn't get the question.

Q You say you refuse to tell who they were. Do I take it that means you also refuse to say whether or not a man by the name of Ed Bentz, who has been identified by witnesses as one of the robbers on that occasion, and who is a half-brother of this man, whether or not he is one of the robbers, that also includes him?

A Yes, sir.

Q You don't care to say whether he was one or not?

A No, sir.

MR. PARSONS: Very well, that is all. I have one more witness, if the Court please, but the testimony will take some little time for cross examination.

THE COURT: You will have them here tomorrow morning?

MR. PARSONS: Yes, that witness will be here tomorrow morning.

THE COURT: I will say to the jury, as you know this case has been more or less discussed publicly, and it is important that you decide this case yourselves. No other person has any right to help you decide it, and you have no right to allow them to. For that reason I am saying to be careful not to discuss the case with anybody tonight, nor let anybody talk to you about it. Don't talk about the case nor anything connected with it. You are excused until nine o'clock tomorrow morning.

PROCEEDINGS OF SEPTEMBER 25, 1934, 9 A. M.

MR. JOHN DEKOSTER, being first duly sworn by the Clerk,
testified as follows:

DIRECT EXAMINATION BY MR. PARSONS:

Q Mr. DeKoster, you reside where? You say you reside in Grand Rapids? A Yes, sir.

Q You are acquainted with various officers and officials of the Peoples Savings Bank of Grand Haven?

A I know them by sight, yes, sir.

Q You call on them in a business way? A Yes, sir.

Q You had been calling on them in a business way for some time before August, 1933? A Yes, sir.

Q Do you remember hearing about the robbery of that bank which occurred in August, 1933? A I read it in the paper, yes, sir.

Q And did you talk with anybody in the bank, employed there, about the robbery after it occurred?

A Yes, I was in there about two or three months after it happened.

Q And whether or not anybody there in the bank made any statement to you relative that you showed resemblance to one of the robbers? A Yes, sir.

Q Who was that? A This gentleman right here I think.
(indicating)

Q Mr. Bolt? A Well, it was one of the cashiers.

Q One of the officers in the bank? A Yes, sir.

Q And what did he say to you?

A Well I walked in there and asked him if - how the stapling machines were working, that was the first conversation, and he says "there is a slight resemblance", he says, "to you and the man that held up the bank, although you are not quite as fleshy and not quite as tall as that."

Q Did he tell you which man? A No, he did not, sir.

Q Was any statement made to you at any time as to which one of the robbers you were supposed slightly to resemble?

A No, sir.

Q Did you have a talk afterwards about it with the Chief of Police of this city, DeWitt?

A Well that was about four months later.

Q And were any of the bank officials present at that time?

A Why the gentleman that I talked to in the first place, yes, sir.

Q Was any statement at that time made by that gentleman or in his presence by anybody, as to your possible resemblance or slight resemblance to one of the robbers?

A No, sir.

Q What was the conversation? A Well the Chief of Police came down and asked me how tall I was and how much I weighed and that is about all that was said.

Q And was anything said about your resemblance to the robbers at that time? A No, not at that time.

Q And you don't know now then and never have known which one of the robbers in question you were supposed to have slightly resembled? A No, sir.

Q Of course this gentleman knew who you were and it was just a question of fixing some known person that slightly resembled one of the robbers?

A I imagine that is what it was.

MR. PARSONS: Well I think that is all.

MR. DISTELBERG: No questions.

MR. CHRISTINE CRAIG, being first duly sworn by the Clerk,
testified as follows:

DIRECT EXAMINATION BY MR. PARSONS:

Q Mrs. Craig, you are the wife of the respondent in this case, Theodore Craig? A I am.

Q Do you remember when you and your husband came to Chicago in 1933? A Yes, I do.

Q What date was it? A We got to the outside of Chicago on the 13th of August.

Q Where had you come from? A We come from the west, British Columbia.

Q How long had you been in British Columbia?

A Well practically all my time, from the time I came from Scotland.

Q And you say you arrived near Chicago on the 13th of August? A Yes, I do.

Q And when did you establish a residence, as it was, or I take it a temporary residence in Chicago?

A On the 16th of August.

Q At what address? A 7905 Louella Avenue, Apartment 3-A.

Q Whom did you see, or your husband, about arranging for that apartment? A The Manageress, Miss Rhodes,

Q Was she located in the apartment, residing there?

A Yes, she had an apartment there as the Manageress, she had an apartment.

Q Was your apartment on the ground floor?

A On the ground floor.

Q What other person or place if any was located on the ground floor? A Well along the front there was a meat shop, there was a cleaner's shop, and there was a National Tea Store, and there was a drug store, and a hair dresser.

Q Did you make the acquaintance of the people in the drug store? A Yes, sir, with all the people in all the shops I was acquainted with.

Q Did you make the acquaintance of this gentleman who testified here yesterday, Mr. Knuth, and Mr. Shugan?

A Yes, I did.

Q And where were they and in what business were they engaged?

A Mr. Shugan, he owned the drug store at the time, or owned the business rather and the time we rented the apartment.

Q What did the other gentlemen do?

A He was just a clerk there.

Q Did you see this colored boy Bailey who testified here as a witness? A Yes, sir, Mistress Rhodes brought him up when I was about, around one or half past one.

Q Which day was that? A Friday the 16th of August.

Q You say you moved into the apartment on the 16th of August?

A I do.

Q That would be what day of the week?

A That was on Wednesday.

Q Whether or not the apartment was in a condition that it required some cleaning? Aardon?

Q Whether or not the apartment was in a condition such that it required some cleaning?

A Oh yes, it was, well it wasn't awfully dirty, but as a general rule they clean apartments when new tenants come in.

Q And so you say this colored boy Bailey came there to work on Friday after you moved in, is that correct?

A Yes.

Q And was he there working at any other time while you were in the apartment? A I saw him on the Thursday cleaning another apartment down in the hallway.

Q I am speaking now of your own apartment that you occupied?

A No, he only cleaned it on Friday, that is all.

Q On that date whether you were in the apartment, and whether Mr. Craig, the respondent, was in the apartment when this colored boy Bailey came there and started cleaning?

A Well he came out there a little after one o'clock, and Mrs. Rhodes brought him up and she said "you don't mind this fellow working in the apartment, around the apartment," and I said "no", and he came and started in the apartment; I was making lunch at the time, and she went downstairs, and Ted was there.

Q And whether or not either you or your husband left the apartment that afternoon? A Yes, we did leave it, but it was after three o'clock we left.

Q Did you leave it together?

A Yes, both of us left together.

Q And whether or not the colored boy was there working at the time you left?

A Well he must have because - I suppose he must have because when we come back it was shortly after five; I would say around about half past five we come back to the apartment.

Q Did you notice he was there still working at the time you left?

A Yes, he was, because I left him in the place because my husband said to him, he said "if you like something to eat, just go to the ice box and you will find it." One of the meat men, I got an affidavit from him. That is all right, we can only use here the witnesses that are brought here to testify.

MR. PARSONS: I will say at this time, if the Court please, that it is my understanding that the prosecutor consents to the introduction of this paper which I hold here, as a copy of the record from this apartment house, relative to the receipt that was given or signed by this colored boy Bailey. There are certain circumstances relative to inability to procure the original that would justify the request that this be received.

(Document marked Exhibit A)

Owing to the tabulated form of part of the exhibit, I will not read it into the record. It can be copied and used on the argument.

MR. DISTRICTER: Well the people will consent to the introduction of this paper for the purpose of showing that this purports to be a record of the fact as alleged, that the lease by F. Craig of the apartment at the address which they have described is dated August 16, 1933. For that purpose we will admit it and nothing further.

MR. PARSONS: It also shows that it ran at least as far as August 24.

MR. DISTRICTER: That is right.

MR. PARSONS: And so far as the receipt that is on the--

MR. DISTRICTER: I don't care for all the information about occupation and all that stuff.

Q Where did you go after you left; you say you and Mr. Craig left three o'clock to go some place in Chicago.

A We just drove up to 73rd and 71st street, I don't know Chicago very well, but I know some of the streets, and we drove along the parks by the drive around South Shore park, then come back again, and we did some driving along 71st, and then we came right back home again, and Ted-- we came to the apartment and he stopped the car right outside of the apartment, and there was a policeman setting there with his car, and Ted, he had seen Ted when he first got there, and they got pretty well acquainted and Ted sat in his car and I was upstairs first, and I was in the apartment, and Ted came up a little later, he had been talking to the policeman because Ted was interested in radios, and he was talking about his radio in the car.

Q Then Mr. Craig was with you in the city of Chicago all of the afternoon of the 18th day of August, 1933?

A Yes, we were.

Q And excepting in August, 1933, I take it you never lived or had been in Chicago?

A No, except - pardon me, except on one visit only, and that was when I was visiting my sister in Toledo.

Q When was that? A Three years ago.

MR. PARSONS: Cross examine.

CROSS EXAMINATION BY MR. DETMER:

Q Mrs. Craig, when did you marry this respondent, Theodore Craig? A I married him in November.

Q What year? A Last year.

Q November, 1933? A Yes, I did.

Q How long a time had you been living with him before that?

A I wasn't living with him before that; I just come with him from British Columbia.

Q So you were not--

A Because I was making a trip home to see my mother at present in Scotland.

Q You were not living with him on the 16th day of August, 1933, in this apartment? A No, I was not.

Q Where were you living? A I was living in 7905 Luella Avenue, in Apartment 3-A.

Q Where was Mr. Craig? A He was there too.

Q He was? A Yes, he was.

Q He lived in that same apartment? A He did.

Q So you were living in the same apartment? A Yes.

Q On the 16th of August? A Yes, we were.

Q So you were mistaken then when you said you were not living with him? A You said living in the same apartment.

Q Were you together or weren't you? A Well we were living in the same apartment.

Q Was there any one else living in that apartment besides you and Mr. Craig? A No, just Mr. Craig and I.

Q Do you remember the afternoon of Friday, August 25, 1933?

A Yes, I do.

Q What did you do on that afternoon?

A Well we went to the Fair.

Q Where? A The World's Fair.

Q How many days did you go to the World's Fair?

A Well we went one, two, we went three days, and then we went back again.

Q Which three days? A Because I remember that was the sole purpose we came to Chicago was to see the world's Fair.

Q Which three days did you go to the World's Fair?

A Well the whole of that next week we didn't go.

Q The whole-- A At least not until the end of the week,

and I remember some day around that too we went to the Fair, and--

Q Just a moment; what three days did you go to the World's Fair? A Well just let me think a minute, just the same as you would have to think too.

Q Think as long as you wish.

A Yes, it was just around that time I was to the Fair the 25th.

Q Which three days did you go to the Fair, Mrs. Craig?

A That would be around the next Friday I went to the Fair, because I know, because I wasn't well, I wasn't feeling well at all.

Q Then that was the day you had to have a prescription, was it? A Yes, on the 15th I was very sick in the morning.

Q What day did you go to the World's Fair?

A Well we must have gone around about Wednesday, Thursday and Friday, and I know after that we went.

Q Which week? A The next week following after we arrived in Chicago.

Q So that you say then that you went to the World's Fair on the Wednesday, Thursday and Friday following Friday the 15th? A Yes, that is around that time I went because one afternoon I remained at home.

Q Do you remember what you did the afternoon of Tuesday following Friday the 15th? A Tuesday following Friday the 15th?

Q Yes. A Well, just let me think. Well we didn't do very much. I know I slept late and by around about maybe eleven before I got up, and--

Q You mean that was the usual rule? A Yes, in the apartment, yes, because I had nothing to do, and then I would get up and make some breakfast.

Q Will you tell us what you did the afternoon of that Tuesday following the 18th of August? A Well I suppose we went out, I know that I wasn't long there and we went out to see the Zoo.

Q On that Tuesday? A Yes, because I hadn't seen Chicago and it was quite interesting to me to see those large--

Q Was that Tuesday afternoon you went to the Zoo?

A Well I couldn't quite definitely state.

MR. DETMERS: No further questions.

MR. PARSONS: All right; that is all. Respondent rests.

THE COURT: Anything further, Mr. Detmers?

MR. DETMERS: Yes, in rebuttal we call Mr. Rosema.

(Here follows the rebuttal testimony on behalf of the People)

R E B U T T A L

JAMIN ROSE, being first duly sworn by the Deputy Clerk,
testified as follows:

DIRECT EXAMINATION BY MR. DETHMERS:

Q Mr. Rose, were you here in court when Mr. Earl Doyle testified yesterday? A I was.

Q And did you hear him testify that he had never seen this respondent Theodore Craig before yesterday?

A Yes, sir.

Q Now do you remember when you had Mr. Earl Doyle in custody in the county jail here, almost a year ago now?

A Yes, sir.

Q Or a year ago? A Yes, sir.

Q And did you have any conversation with Mr. Earl Doyle at that time about this respondent Theodore Bantz?

A I did.

Q And will you state to the jury what that was?

MR. PARSONS: Just a minute, I object to it; this isn't impeachment.

MR. DETHMERS: It is for the sole purpose of impeachment.

MR. PARSONS: It isn't proper then.

THE COURT: You didn't call Mr. Doyle's attention to that yesterday, to that statement, or to that conversation.

MR. DETHMERS: No, I didn't.

THE COURT: You didn't call Mr. Doyle's attention to that when he was on the stand yesterday, did you, to the conversation?

THE COURT: What is your objection to it?

MR. PARSONS: Well the witness Doyle wasn't asked anything about it yesterday; he said he never saw this

man, that is a fact, but he wasn't asked about any conversation that he had with this witness, so this isn't proper rebuttal.

MR. DETMERS: MY theory is that the witness in response to direct examination testified before this court he had never seen this respondent before. The purpose of this testimony is to show that by conversation, with this witness, or my purpose is by showing that conversation, to refute the statement of Mr. Doyle.

MR. PARSONS: Not proper impeachment. If he had asked Mr. Doyle if he had told this witness something, he might go into it.

THE COURT: Objection sustained to it.

MR. DETMERS: No further questions. The people will rest your Honor.

MR. PARSONS: May it please the Court, I desire to request at this time that the Court instruct the jury as to the law relative to the right of the respondent not to testify in his own behalf, and the consideration or lack of consideration of that fact which the jury have a right to give; this instruction to be in such form as the Court feels it ought to be.

MR. DETMERS: And is it your request that that instruction be given at this time?

MR. PARSONS: No, in connection with the general instructions. I haven't submitted a formal request along that line.

(Arguments by counsel to the jury)

(During arguments)

MR. PARSONS: I don't think there is any evidence

to the effect as to what Mr. Bethmers is arguing and I want to object to that argument..

MR. BETHMERS: The fact itself that he sits here on trial is evidence of that.

THE COURT: Just a moment.

MR. PARSONS: I ask that it be stricken out and the jury instructed to disregard it.

THE COURT: I didn't get the argument prior to your objection. What was the nature of that argument? Mr. Parsons made an objection to your argument a moment ago.

MR. BETHMERS: Well, your Honor, my argument was this, that Mr. Parsons raised the question that the pictures which the witnesses had identified were not here placed in evidence, and therefore there was some question as to whether the pictures identified by the Peoples' witnesses were the pictures of this respondent. In answer to that I stated that the significant fact remains that after identification was made by pictures this respondent was arrested, and such identification of the pictures evidently led to the arrest of this Respondent.

MR. PARSONS: I object to that. There is no evidence of that fact.

THE COURT: Well I think that is a legitimate argument. You may proceed.

(Arguments concluded)

CHARGE OF THE COURT

Gentlemen, in this case the People claim that the Peoples' Savings Bank of Grand Haven, in this county, was robbed on the 18th of August, 1933; that is a matter ordinarily that would have to be proven just like any other part of the case. But so far as the robbery is concerned, a number of employees of the bank have testified to it, and the respondent has brought here a witness on the defense who has testified to it, and that he took part in it, so the first question that the bank was robbed, we may say is both proven by the People and admitted by the respondent. That is not a matter in dispute. You have no objection to that statement, have you, Mr. Parsons?

MR. PARSONS: That is a correct statement, your Honor.

THE COURT: The People further claim that on that day four men entered the bank and took part in robbing the bank; and they claim that the respondent, Mr. Theodore Craig or Theodore Bentz, as the name under which he is prosecuted here, was one of those four men. The People claim that this respondent was one of the four men that entered the bank and took part in robbing the bank on the 18th day of August.

Now the respondent claims that he is not guilty; he claims that he was not in the bank at that time or any other time. He claims that on the day in question he was in Chicago and he claims that he has an alibi, that is, that he was not there, but was in Chicago at the time the bank was robbed, and has brought here witnesses to establish his claim that he was not present.

Now the law of this state provides that any person who with intent to commit the crime of larceny, that means with intent to steal, shall threaten to kill, injure

or wound, or shall put in fear any person for the purpose of stealing from any building, bank, safe or other depository of money, bonds or other Valuables, or shall by intimidation, fear threats compel or attempt to compel any person to disclose or surrender the means of opening any building, bank, safe, vault or any other depository of money, bonds or other valuables, or shall, whether he succeeds or fails in the perpetration of such larceny or felony, be guilty of a felony. So that law provides that if a person goes into a bank such as the institution here described, and by threats or putting anybody in fear in the bank, attempts to or does commit larceny in the bank, steal goods, the property of the bank, whether they succeed or not, if they just try it, then they are guilty of the crime that this respondent is accused of; whether they succeed or not.

But in this case the people claim that the bank was actually robbed and the property was stolen, and they did succeed. Now everybody that takes part in committing a crime, a felony like this, that everybody who takes part in it is equally guilty. Every person concerned in the commission of an offense, whether he directly commits the act constituting the offense, or procures, counsels, aids or abets in its commission, may hereafter be prosecuted, indicted and tried and on conviction punished as if he had directly committed the offense.

So under the testimony in this case, if four men came into the bank, regardless of what part they took in it, if they were working together, four of them, then each one of those men are equally guilty of the crime here charged against the respondent.

The burden of proof in this case of course is

on the people, to prove that the respondent was there and took part in the robbing of this bank, and the burden of proof means that the party having it, that is the people in this case, must prove their case. The people have made the accusation; the people must prove by evidence sufficient to remove a reasonable doubt, every essential element of the offense charged. The burden of so proving is on the People. The Respondent is not required to prove anything; he is not required to offer any testimony or any evidence.

You are instructed that the respondent in law is presumed to be innocent and that it devolves, the burden is upon the people to prove by evidence, to the satisfaction of each of the jurors, beyond a reasonable doubt, that the respondent committed the crime as charged in the information and explained in these instructions, and if upon a view of the whole case you have a reasonable doubt of the respondent's guilt, you will give him the benefit thereof and acquit him.

But a reasonable doubt to authorize an acquittal on that ground must be a substantial doubt of the respondent's guilt, formed from a careful consideration of all the facts and circumstances proven in the case, and not a mere possibility of the defendant's innocence. The burden of proof is upon the people in this case to show the guilt of the respondent, and all of the presumptions of the law, independent of the evidence, are in favor of his innocence. The law presumes the respondent to be innocent until he has been proven guilty beyond a reasonable doubt; and in this case the Court instructs you that if after you have considered all the evidence in the case you then have a reasonable doubt as to the guilt of the respondent, then the respondent is

entitled to the benefit of that doubt and you should acquit him. The burden of proof never shifts from the people to the respondent, but it upon the people throughout to establish every essential element of the offense.

Now there are only two elements in this case; First, that the bank was robbed, which is admitted; and the second, that the Respondent was present and was one of the robbers. Now in this case the people have offered here the testimony of three of the employees of the bank to the effect that they saw the respondent in the bank and that he was one of the robbers and that they positively identify him. They have also offered the testimony of a man working across the street in the McClellan Store; he testifies that he saw the respondent and the respondent is one of the men that took part in robbing the bank. Mr. Dewitt, the Chief of Police in this city has been called to testify, and he testifies in substance that the respondent told him that the respondent's brother was in the bank, was one of the robbers, and that his brother was indebted to him and in order to pay him off, turned over to him some nineteen hundred or two thousand dollars in cash of this bank. Mr. Evans, from Hammond, Indiana, testifies he cashed one of the checks in the store where he was employed in Hammond where he claims the respondent bought a hat.

Now the respondent here has offered the testimony of some six witnesses. He has offered the testimony of Mr. Bailey, Mr. Shugan, Mr. Knuth, to the effect that he was in Chicago at a certain apartment on this day in question and was not here at all. Now it appears that these witnesses testified positively that he was there in Chicago, and they claim that before testifying that they talked or called up, one of them did, Mrs. Rhodes or Rohrer, who had charge of the apartment.

Of course, if they rely upon what she told them that is hearsay and should not be considered by you, because Mrs. Rhodes would be the only person who could testify as to what her records show; but of course, if they remember the matter distinctly and remember it independent of their discussion with her, if you find that they do have such memory, then of course their testimony may be considered by you, and if you find that their testimony as to the date rests entirely upon the information that they got from Mrs. Rhodes, then I would say to you that their testimony is of no value and should not be considered by you.

Now Mr. Doyle, another witness, as you understand is imprisoned in the State Prison in Jackson, one of the men admittedly who had part, took part in the robbing of this bank; he testifies here that this respondent was not one of those that took part in the robbery. He refuses to give you the names of any of those that did take part in the robbery, and it would appear to me that his testimony is not entitled to great weight. However, his testimony is a matter for you to consider. You are to pass upon it; you are to give it such weight as you think it is entitled to, and regardless of what I think about it, doesn't have anything to do with it, you are the sole judges of what weight his testimony is to receive.

The testimony of Mr. DeKoster of course has no bearing, as I see it, on the matter at all. He was in the bank, was acquainted with the people of the bank, and one day when he was in there, he was there to show in some way that he had a resemblance to one of the robbers, but that in no way connects this situation with this respondent.

Now besides the testimony of these witnesses, Mrs. Craig has taken the stand; she testifies that although

she was not married to the respondent she lived in the same apartment with him at that time in the city of Chicago, that she was married to him later in November of that year, but in the month of August she was living with him and they were going to the Fair, they had come there from British Columbia, and she says she remembers they were living there on the 18th of August. Now, gentlemen, those are the witnesses that testified on behalf of the respondent. You are to weigh their testimony and consider what weight you think it is entitled to receive. You have these facts here that they testified to. Do they remember those things? Independent memory? If they do, are they telling the truth about it? These are matters for you to consider.

Another matter that I am requested to charge you concerning is the fact that the respondent did not take the witness stand. I think perhaps it is unnecessary to say anything about that. I have told you that the People must establish the case and all of the elements of the case beyond a reasonable doubt, and that the respondent doesn't have to prove anything. A Man accused of crime comes into Court clothed with the presumption of innocence; he doesn't have to prove a thing. He can testify, he has a right to take the witness stand and testify in his own behalf; he has a right not to take the witness stand and not to testify, and the jury have no right to consider why he did not take the stand. It is a matter that you are not to consider at all. You are to decide whether the people, from the evidence, the evidence offered in this case, have established the guilt of the respondent beyond a reasonable doubt, and you are not to take into consideration the fact that the respondent did not take the stand.

no inference can be raised or considered against him on that account; so I say to you, obey the law. Do not think about it, do not talk about it, why Mr. Craig didn't take the witness stand. It isn't a matter for you to consider. The law forbids you to consider it; so you and I are sworn here to give this man an absolutely fair and impartial trial, without fear or favor, from any source. Now let us do that; and under the law, the fact that he hasn't taken the witness stand is not a matter to be considered by you at all. No inference may be drawn from his failure to take the stand; it is not a matter for you to consider at all or to weigh at all against him. It is a matter not to be considered in any shape, manner or form. The respondent is entitled to the independent judgment of each juror. We have twelve jurors. The People must satisfy each one of you twelve men beyond a reasonable doubt of the respondent's guilt or else the respondent is entitled to a verdict of acquittal. If any of you have a reasonable doubt of the respondent's guilt it is the duty of that juror to vote not guilty.

If there are two theories, one of which points to the respondent's guilt and the other one points to his innocence, and if you have a reasonable doubt of which is true, then it is your duty to adopt that theory consistent with the respondent's innocence. You are to decide the case here on the testimony produced here in open court and the instructions I have given you. A man would never have a fair trial if he was to be tried upon rumors on the street or the statements in the newspapers, however accurate they may be at times. The testimony or statements made in newspapers are not evidence. Here in the court room every witness has to appear and testify, and his testimony is sifted by

the examination of the attorneys and the cross examination of the other attorneys, and you are not to consider any testimony nor any facts nor anything you have heard or seen outside of what appears right here in the court room. That is the right of the man on trial, and you are to accord that man, every man accused of crime, that right. So don't pay any attention to what has been said or written or that you have heard outside of the court room.

Also you are not to pay any attention to, nor consider what may be the result of your verdict. You have nothing to do at all with the question of punishment. You have nothing to do with that. You are to determine whether the respondent is guilty. If he is guilty of the crime here charged against him and you so find from the evidence, then the question of what must be done about it and what punishment he must receive, if any, is left entirely to the Judge. That is not one of your burdens. That is the load that he must carry and you cannot assist him in it. So you simply determine the question of whether he is guilty or not guilty. On the other hand, you are not to consider how people around the community will feel toward you if you should find him not guilty. You go into the jury room and study the question of whether he is guilty or not, and if you find from the evidence and beyond a reasonable doubt that the respondent took part and assisted in the robbing of this bank in question at the time and place here in question, then your verdict will be guilty; in accordance with the facts as you find them to be; and on the other hand, if you find in this case that the people have failed to establish the respondent's guilt beyond a reasonable doubt, beyond all reasonable doubt, your verdict will be not guilty.

Now an officer will be sworn and then you will go with the officer to dinner; your dinner will be paid for by the county, and you will stay under the control of the officer until you have decided this case and brought in your verdict. The officer may be sworn.

(The officer was thereupon sworn at 12 o'clock noon)

Just a word. The respondent will not need to be brought back here until the jury are ready to announce their verdict. That is why I had the officer sworn before dinner.

(The jury goes to dinner and thereafter return to the jury room)

(1:45 P. M.)

THE COURT: I understood, gentlemen, there was some question you wanted to ask. What was it?

THE FOREMAN: The date of issue of these Mellon National Bank certificates is August 30, 1933. We couldn't understand why that should be August 30, 1933, when they were stolen August 18, 1933. We would like to have that explained.

THE COURT: Well probably there is no harm in my explaining that to you. It is admitted here on the record by agreement of the attorneys that those are the checks that were stolen, you see. That is part of the record here. Now those were checks of the Mellon National Bank, were they?

THE FOREMAN: Yes.

THE COURT: Of course, I might just explain this much about a travelers check. You go to the bank and you buy the check, you buy those checks if you are going traveling and you sign your name at the top of the check in the presence of the banker where you buy them, and then any time that you

want to cash one of those checks you go-- you take the check down when you want to cash it, you take it and fill in the name of the man that you-- fill in the name of the man you want to pay it to and then you sign your name at the bottom in the presence of the man that you are issuing the check to, and he looks to see if the name at the top corresponds with the signature you have given at the bottom. Now so much for a travelers' check in general. Of course, it is claimed here by the people when those checks were stolen that they were all blank, the date was blank and everything was blank. They were just travelers' checks. They are not supposed to go out of the bank until the banker that you buy them of sees you write your name on the top. You write your name in his presence, and you pay your money for the checks when you get them. Now you take, when you want to pass them of course you must write the name on the bottom, and the man to whom you give the check is assumed then to see if the signature is the same as the one on top. Supposing they were stolen-- I am not saying they were-- suppose they were stolen on the 18th of August. Of course they wouldn't date that check until they wanted to pass it. Is that the idea of what you wanted?

THE FOREMAN: Judge, your Honor, I don't think you understand quite what we say. These checks are all marked, dated as August 30, 1933. All these Mellon checks are marked August 30, 1933, and they were cashed at different times. We can't understand why they should be marked a date of issue August 30, 1933, before the date they were stolen.

THE COURT: It is agreed here on the record they were stolen August 18.

THE FOREMAN: Yes.

THE COURT: They are all dated August 30.

THE FOREMAN: The date of issue.

THE COURT: Yes, well maybe I can make that a little plainer. Of course, these checks never were issued at all, you understand that?

THE FOREMAN: I understand.

THE COURT: They never were issued at all by this bank. Whoever had possession of these checks filled the whole thing out, he filled the date out and he could put any date in there he wanted to.

THE FOREMAN: Judge, I would just like to show these to you, probably that would be plainer to you.

THE COURT: I think I know what it is. All right.
(Foreman hands exhibits to court)

THE COURT: Is that typewritten on it? Well, I want to make a little further statement about that. Now you understand, gentlemen, there is no evidence here that this respondent, Mr. Craig, passed any of these checks except that one check that Mr. Evans said he passed, you understand that. There is no evidence here that Mr. Craig had possession of any of these checks except that one. These checks were offered in evidence for the sole purpose of showing the property, some of the property that was stolen from the bank. These checks were stolen from the bank, that is in evidence here, but that doesn't prove or doesn't show that this respondent stole them. It doesn't show that he dated and passed them. But it only is to show that property stolen from the bank, this is property of that bank. Now I am going to reopen this case for the purpose of letting-- I don't consider it very material, but inasmuch as the question is asked, I think I was mistaken when I stated a while ago

that the man that passes the check puts in the date, but that isn't so I think. Whenever the check is bought in the bank, travelers' checks, and the man that buys them writes his name at the top, I think on that day the banker puts in the date, and they put in the same date on all of them. At any rate, you may call Mr. Bolt to the stand, Mr. Dethmers.

MR. DETHMERS: Will you be sworn, Mr. Bolt?

MR. PARSONS: He has been sworn.

MR. FREDERICK C. BOLT, recalled, testified as follows:

RE DIRECT EXAMINATION BY MR. DETHMERS:

Q I show you here, Mr. Bolt, one particular photostatic copy of a Mellon National Bank travelers' check, bearing number 1751292, payable to Rothschild and Hirsch, and this photostatic copy is one of a bundle that was received into evidence as peoples' exhibits 4 or 5, if you will check that up, and I show you or indicate to you that portion of this photostatic copy of such check which reads: "Date of issue, August 30, 1933." I ask you this: At the time you receive such blank travelers' checks and received this particular blank travelers' check of which this is a photostatic copy, is such date of issue filled in when you receive such blank checks?

A There is never any date on it.

Q And when such travelers' checks are sold in due course of business by the bank to some purchaser of travelers' checks, when is that date of issue filled in?

A There is a difference in practice. Some put it in at the time they are sold, and others do not, leaving it for the maker to fill it in when he cashes it.

- Q What has been the practice of your bank?
- A We would say uniformly do not date them. However, certain tellers might and certain others might not.
- Q As to those Mellon National Bank travelers' checks that were in the possession of the Peoples Savings Bank of Grand Haven on the 18th of August, 1933, that were stolen from the bank on that date by bank robbers, were the dates of issue or was the date of issue filled in on any of those blank travelers' checks?
- A Not on any of them.
- Q And so if this is, as agreed on the record, a photostatic copy of a travelers' check stolen from the Peoples Savings Bank on the 18th day of August, then this date of issue as it appears on this check, August 30, 1933, was filled in at some time after the time of the robbery?
- A That is correct.
- Q And that August 30, 1933, as it appears here, is not part of the printed form? A No, it is not.

MR. DETMERS: That is all.

MR. PARSONS: No cross examination.

THE COURT: Mr. Detmers, there is one other check there that the juror shows me, with no date on it at all; it has evidently been cashed, but isn't dated. I think that is a different kind, the American.

JUROR: American Express.

- Q (By Mr. Detmers, resuming) I show you here an original American Express Travelers' check, bearing number A-9954768, which bears no date whatsoever. I ask you that same question relative to these travelers' checks. Is it usual to fill in that date at the time the bank sells those checks?

A Usual to leave the banker or teller do it himself. That shows the carelessness with which these things are handled. They are taken ordinarily as money; a ten dollar check passes as a ten dollar bill; the main thing being that the signature on the lower left hand corner compares with the upper left hand corner.

Q However, it is true that that date on those travelers' checks never appears on them before at least the time of sale? A Never.

MR. DETMERS: Does that clear up the question?

(No response)

MR. PARSONS: No cross examination.

THE COURT: Now is there any other question, gentlemen? (No response) All right. (Jury retire to the jury room.)

(3:45 P. M. Jury report)

FOREMAN: The verdict is "Guilty."

MR. DETMERS: May it please the Court, in this case in view of the verdict of the jury, the evidence as it developed before the jury in the trial of this case, the fact this case has already extended for some time and that the prisoner has been in the custody of the local officers for so great a length of time, I believe it would be wise that the sentence of the court be imposed upon the respondent. I so move the sentence be imposed upon the respondent at this time.

THE COURT: Any objection, Mr. Parsons?

MR. PARSONS: No objection that I know of. I haven't any in behalf of the respondent.

THE COURT: Do you understand that, Mr. Bentz?

MR. BENTZ: Your Honor, I have an objection.

THE COURT: What is your objection?

MR. BENTZ: I would like to talk to you first.

THE COURT: Well of course ordinarily I have tried to have a conversation with a man charged with crime, but here we have had a trial in open court. You and the sheriff together may step in, however, in the office. I would be glad to talk with you.

(Respondent and Court and officer step out)

THE COURT: You may stand up here with the Sheriff. Anything you want to say on the record, Mr. Craig, why the sentence of the Court should not be pronounced in your case?

MR. BENTZ: What I have got to say is that I am innocent of this offense, and it will be on your conscience, boys, all your lives. I never robbed this bank, and it will be proven sooner or later. That is all I have to say.

THE COURT: Well of course, you have, as I stated to the jury, you had an opportunity to testify in this case; you didn't have to, and the jury didn't have any right to use any presumption against you because you didn't, and they probably didn't, but you saw fit to trust your case without denying that you were here. Now the law provides certain things for a man's protection. One is that the question of his guilt or innocence must be determined by 12 men, all men must agree upon your guilt or else he cannot be convicted. This case has been presented here to twelve men. Your witnesses have all testified. The witnesses for the people have testified.

I believe you had a fair trial by a jury of fair and honorable men. The testimony has convinced them and it has convinced me of your guilt beyond any doubt whatever. If I had a doubt of your guilt I would set the verdict aside and tell the jury I didn't believe you were guilty, and would set it aside, but I haven't any doubt of your guilt, and now as to what I should say to you I shall say very little. I do not believe that I ought to take advantage of you. You cannot talk back. You have nothing to say here. And I shall not take advantage of you. I believe in being a good sport on these matters. You boys with guns that go out and hold people up, you hadn't ought to sob when you get caught and get convicted, you shouldn't sob, you shouldn't whine like a child, you should take your medicine like men. That is my view point.

MR. BARTZ: Judge, I never robbed this bank.

THE COURT: That is what you say, briefly,

but you haven't sworn to it, and besides all that, I think we are justified in holding you did. The jury believe you did. Four people here looked you in the eye and tell you they saw you there without any doubt. Anyway, the sentence of this Court is that you be imprisoned in the branch of the Michigan State Prison at Marquette during the remainder of your life. That is all.

MR. BARTZ: Judge, couldn't you send me to Jackson?

THE COURT: I am not going to do that.

Now gentlemen, I believe you have done your duty fairly, and justice in this case. You stayed out a long time, that shows you have given earnest consideration to the

testimony in this case. The testimony seemed to me to be very clear and convincing, but you went over every phase of it and considered every opportunity that there might be a question of doubt, and you did the right thing. I do not think you need worry a minute about this case. After the testimony was in, from the matters that were presented to me as to the history of this man, I don't think you need to worry at all as to the possibility of his being not guilty in this case.

State of Michigan)
County of Ottawa)

I, Herman Vander Noot, Official Stenographer of the Twentieth Judicial Circuit, do hereby certify the above and foregoing to be a true and correct transcript copy as taken and transcribed by me.

Signed Herman Vander Noot
Official Stenographer

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Office Memorandum • UNITED STATES GOVERNMENT

KCW:IA

TO : MR. ROSEN

DATE: October 13, 1944

FROM : K. C. WEST

Time of Call: 11:50 A.M.

SUBJECT: TED CRAIG BENTZ
Marquette Penitentiary #46144
BANK ROBBERY

This is for record purposes only.

In connection with the letter addressed by the subject to the Director on October 1, 1944, in accordance with your instructions, I phoned Assistant SAC Olsen at Albany to determine whether Ted Bentz testified at Burlington, Vermont during June of 1940 in connection with the prosecution of Clyde Hamilton Nimerick. While Bureau files showed Eddie Bentz testified at this trial, apparently for the defense, there was no indication Ted Bentz did testify although a review of the files indicates he would probably have been in a position to testify to the friendship of Nimerick with Eddie Bentz. ASAC Olsen said he would check into the matter immediately and call me back.

At 12:10 P. M., ASAC Olsen phoned to advise he had talked with Agents who handled the case and also checked the Albany files and that Ted Bentz was brought to Burlington, Vermont, on a writ of habeas corpus in connection with Nimerick's trial. Ted Bentz identified Nimerick as an individual he had seen in Portland, Maine, with Eddie Bentz shortly before the pertinent robbery. Ted further told the Court how he had been in business and that Eddie Bentz had asked him if he, Ted, would like to help "knock off a bank."

Olsen stated it was the consensus of opinion among the Agents who handled the case that this testimony, while pertinent and of value, was not indispensable.

ACTION REQUIRED

None. These data have already been incorporated in a memorandum to the Director.

RECORDED & INDEXED

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EX - 33

RECEIVED

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Office Memorandum • UNITED STATES GOVERNMENT

TO : THE DIRECTOR

DATE: October 12, 1944

FROM : A. ROSEN

SUBJECT: TED CRAIG BENTZ
Marquette Penitentiary #46144
BANK ROBBERY

98507

Reference is made to the attached letter addressed to you by captioned subject dated October 1, 1944, in which he requests you to write the Chairman of the Michigan Parole Board in his behalf.

BENTZ' CLAIMS

It is noted Bentz' letter makes three general claims:

- (1) that he furnished information to Bureau Agents at Portland, Maine, which was directly responsible for our location of John Dillinger.
- (2) that he voluntarily furnished important testimony in the "Limerick" case at Burlington, Vermont, during June, 1940.
- (3) that Bureau records prove he is innocent of the Grand Haven, Michigan bank robbery for which he was prosecuted in State Court and is presently serving time, since our records show he was in Chicago, Illinois, on August 18, 1933, when the robbery was committed.

ANSWERS TO BENTZ' CLAIMS

- (1) As you know, Dillinger was located solely on the basis of information furnished our Chicago Office by Mrs. Anna Sage, commonly referred to as "the woman in red." (62-29771-3233) While Bentz did furnish considerable information to former SAC C. D. McKean and other Agents of the Boston Office when questioned at Portland, Maine, which information he claimed to have obtained from his brother, the well-known bank robber, Eddie Bentz, (62-29771-2845), this played no actual part in Dillinger's apprehension. As a matter of fact, investigation proved at least some of the data furnished by Bentz was apparently untrue. You will recall Agents spent considerable time looking for a "Buman Island", which Bentz described as being located in a body of water near Hammond, Indiana, which island is apparently non-existent. (62-29771-3104)
- (2) No "Limerick" case was handled by the Bureau at Burlington, Vermont, during June, 1940. Tom Limerick was killed at Alcatraz Penitentiary on May 23, 1938, and Earl Limerick, his brother,

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EX-22

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was sentenced to serve ten years in Nebraska Penitentiary during 1936 on State bank robbery charges. There is no indication either of the Limerick brothers was ever arrested in Vermont.

It appears Bentz is referring to testimony which he furnished at Burlington, Vermont during June of 1940 in connection with the prosecution of Clyde Hamilton Nimerick. The Albany Office has advised Ted Bentz was brought to Vermont to testify in this case on a writ of habeas corpus and that he identified Nimerick as an individual he had seen in Portland, Maine, with Eddie Bentz shortly before the pertinent robbery. Ted further told how he had been in business and that Eddie Bentz had asked him if he, Ted, would like to help knock off a bank. The Albany Office states this testimony was pertinent and of value but probably not indispensable.

- (3) Our files fail to reflect Bentz' whereabouts on August 18, 1933, or to give any proof of his innocence of the State crime for which he is serving time. He has, however, been trying to find out what our files show regarding his whereabouts on this date and get us to assist him in preparing an alibi since at least September 5, 1937, when he addressed a letter to former SAC McKean. (91-1-900). At that time Bentz was advised by a letter over your signature that the Bureau is prohibited by Departmental regulation from furnishing any official information except at the specific request of the prosecutor interested in the case. The Albany Office advises Bentz is very prolific in his correspondence and writes to everyone who might be able to help him. He continually corresponds and sends such things as Valentines to the U. S. Attorney in Vermont.

With reference to the robbery of the Peoples Savings Bank in Grand Haven, Michigan, on August 18, 1933, for which Bentz is serving time, it appears that certain traveler's checks were found in his possession when he was arrested at Portland, Maine, by Bureau Agents which were traced directly to this robbery. The loot of the robbery was approximately \$23,000 in cash, \$6,300 in traveler's checks and \$1,000 worth of bonds. Bentz was turned over to local authorities after he established an alibi in connection with the robbery of the Caledonia National Bank, Danville, Vermont, (6/4/34), in connection with which Nimerick was sentenced to 20 years.

RECOMMENDED ACTION

There is attached for your approval a letter instructing Grand Rapids to have an experienced Agent interview Bentz and straighten him out. Bentz will also be told that he knows information from our records can only be furnished to duly constituted law enforcement agencies.

Attachments

Name Mr. J. Edgar Hoover

Post Office Washington, D.C.

Rural Route or Street No. 412 Seward Square

Relationship Business Date Oct. 1, 1944

Name Ted Big Bentz

No. 46144

All correspondence from friends of inmates is subject to examination by the Department of this institution before delivery. All mail must be addressed with full name and register number of inmate. For example: JOHN DOE, No. 12345, BOX 778, MARQUETTE, MICHIGAN. Correspondents should sign their full name at the bottom of letters and on the upper left hand corner of the envelope. Addresses of prison matters shall be written in any letter, newspaper, book and other must come direct from the publisher. Magazine subscriptions must not be from outside sources. Manuscripts or letters that feature stories on crime detection, communication shall positively not be allowed. All money sent inmates should be by order only. Stamps may be enclosed in letters received for inmates. Inmates are to receive timely newspapers and photos.

Marquette, Michigan

995:1

Dear Mr. Hoover: Re: Ted Bentz, #46144, Sent 9/25/34
Crime: Robbery Armed. Term: Life.

On two different occasions I helped out you and your department. So now how about giving me a little help?

How did I help you? You recall when I was in custody of your agents in Portland, Maine, during July, 1934, they questioned me at length concerning certain people and things. They asked me about a certain party whom you wanted to catch despite anything. I did not even know the man, nor where he was. But I did know other facts which would, by logical thinking, bring your men close to where he could be found. I was talking to Chief McKean of the Boston territory of the F.B.I. and Mr. Keefe and Mr. Williams, agents. I told them it was my theory that the man they wanted could be found at a certain place in a certain district in Chicago. Having reached this conclusion, I explained why I thought he would be there.

Your men flew to Chicago, or telephoned; at any rate, the very next day you had your man. The woman in red took the rap for fingering him. But the truth of the matter is, your own agents located him merely by following my suggestions which was based upon my own theory only. I never met D in my life. By right I should have gotten a cut of that reward. However, I had no desire to become mentioned in connection therewith so said nothing. Money isn't everything. I have no desire for it myself. It is merely useful to buy what one needs.

Well, anyway, the other occasion is when I voluntarily went to Burlington, Vermont, during June, 1940, to testify for the Government in the Limerick case. My testimony was important. In other words, I have cooperated with the Gov't, showed my desire to do my duty as a citizen. So I don't think it is asking too much to ask you to intercede for me with the Michigan Parole Board.

I have ten calendar years served. am eligible now for a parole under the new ten-year lifer law. You know I am innocent of the crime for which I stand convicted. Your records show it show that I was in Chicago on Friday August 18, 1933, when the Grand Haven, Mich., job was pulled by Edward Bentz, Earl Doyle, Lester Gillis, alias Baby Face Nelson, Tommy Carroll, alias Tom Murray, and Charles Fisher, not mentioning the driver of the "get away" car whom Ed says was a fellow named "Freddie". I have two confessions, one from Ed and one from Earl Doyle, exonerating me. I have a good job offered me out in Nevada in the mountains, and an executive police officer for an employer. So there is no reason why I can't make good. How about writing to the Michigan Parole Board, Mr. A. Ross Pascoe, Chairman, on my behalf? I think your office owes me that much. I shall be very grateful for it.

Respectfully yours,
Ted Bentz, #46144

(over)

memo
for the
Director
letter
to
Bentz
10/1/44
Kew

EX-22 RECORDED 91-57-17

REF:DS

98500

October 14, 1944

SAC, Grand Rapids

J. Edgar Hoover - Director, Federal Bureau of Investigation

Ted Gyp, Bents, with aliases
Bank Robbery

There are attached copies of a letter dated October 1, 1944, received at the Bureau from the above subject who is number 46144 at the Michigan State Penitentiary, Marquette, Michigan, together with copies of a memorandum analyzing and answering Bents' claims.

It is desired that you have an experienced Agent of your office interview Bents at an early date and advise him that the information furnished by him did not in any manner contribute to the apprehension of John Dillinger. Bents should be further informed that the Bureau is without any authority whatsoever to take any action designed to secure his release from the Michigan State Penitentiary.

Attorneys

71-57

Mr. Tolson
Mr. E. A. Tamm
Mr. Clegg
Mr. Coffey
Mr. Glavin
Mr. Ladd
Mr. Nichols
Mr. Rosen
Mr. Tracy
Mr. Egan
Mr. Gurnea
Mr. Harbo
Mr. Hendon
Mr. Jones
Mr. Quinn Tamm
Mr. Nease
Miss Gandy

COMMUNICATIONS SECTION

M. A. 100 E. 3rd St. C

OCT 14 1944 P.M.

FEDERAL BUREAU OF INVESTIGATION

U. S. DEPT. OF JUSTICE

61 OCT 27 1944

RECEIVED
OCT 14 1944
RECORDED
EX-10

91-57-18
16 OCT 28 1944

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COPY:OD

Name: Mr. J. Edgar Hoover Name: Ted Craig Bents No. 46144
Post Office: Washington, D. C.
Rural Route 412 Seward Square
or Street No. 9850
Relationship: Business Date: Oct. 1, 1944

Marquette, Michigan

Re: Ted Bents, #46144, Sent 9/25/34
Crime: Robbery Armed. Term: Life.

Dear Mr. Hoover:

On two different occasions I helped out you and your department.
So now how about giving me a little help?

How did I help you? You recall when I was in custody of your agents in Portland, Maine, during July, 1934, they questioned me at length concerning certain people and things. They asked me about a certain party whom you wanted to catch despite anything. I did not even know the man, nor where he was. But I did know other facts which would, by logical thinking, bring your men close to where he could be found. I was talking to Chief McKean of the Boston territory of the F.B.I. and Mr. Keefe and Mr. Williams, agents. I told them it was my theory that the man they wanted could be found at a certain place in a certain district in Chicago. Having reached this conclusion, I explained why I thought he would be there.

Your men flew to Chicago, or telephoned; at any rate, the very next day you had your man. The woman in red took the rap for fingering him. But the truth of the matter is, your own agents located him merely by following my suggestions which was based upon my own theory only. I never met D in my life. By right I should have gotten a cut of that reward. However, I had no desire to become mentioned in connection therewith so said nothing. Money isn't everything. I have no desire for it myself. It is merely useful to buy what one needs.

Well, anyway, the other occasion is when I voluntarily went to Burlington, Vermont, during June, 1940, to testify for the Government in the Limerick case. My testimony was important. In other words, I have cooperated with the Gov't., showed my desire to do my duty as a citizen. So I don't think it is asking too much to ask you to intercede for me with the Michigan Parole Board.

I have ten calendar years served, am eligible now for a parole under the new ten-year lifer law. You know I am innocent of the crime for which I stand convicted. Your records show it, show that I was in Chicago on Friday August 18, 1933, when the Grand Haven, Mich., job was pulled by Edward Bents,

COPIES DESTROYED

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Name: Ted Craig Bents No. 46144

October 1, 1944

93504

① Earl Doyle, Lester ① Gillis, alias Baby Face Nelson, Tommy Carroll, alias Tom ① Murray, and Charles Fisher, not mentioning the driver of the "get away" car whom Ed says was a fellow named "Freddie". I have two confessions, one from Ed and one from Earl Doyle, exonerating me. I have a good job offered me out in Nevada in the Mountains, and an executive police officer for an employer. So there is no reason why I can't make good. How about writing to the Michigan Parole Board, Mr. A. Ross Pascoe, Chairman, on my behalf? I think your office owes me that much. I shall be very grateful for it.

Respectfully yours,

Ted Bents, #46144

P.S. While your men were in Chicago they investigated the fact that I claimed I was in Chicago, Illinois, all day during the 18th day of August, 1933, a Friday. When they returned to Portland, or got the report back, the F.B.I. agents verified that fact. That was the day the bank was robbed in Grand Haven, for which crime I stand convicted. I produced plenty of alibi evidence proving my innocence. I never robbed a bank or anyone else in my life.

Ted Bents

Memorandum • UNITED STATES GOVERNMENT

TO : Director, FBI
FROM : SAC, Grand Rapids
SUBJECT: TED CRAIG BENTZ, with aliases
BANK ROBBERY

DATE: November 10, 1944

Reference is made to Bureau letter dated October 14, 1944. On November 10, 1944 Special Agents DAVID E. BURGESS and ARCH K. SCHUCHER, JR. interviewed BENTZ at the Michigan State Penitentiary, Marquette, Michigan.

BENTZ was advised that the information furnished by him did not in any manner contribute to the apprehension of JOHN DILLINGER. He was also informed that the Bureau is without any authority whatsoever to take any action designed to secure his release from the Michigan State Penitentiary.

BENTZ stated that he realized at the time that he directed his letter of October 1, 1944 to the Director it would probably be impossible for him to intercede. He stated he believed the Bureau had established his alibi in connection with the offense for which he is now serving time. He was furnished with no information whatever relative to the contents of the files of the Bureau. He was further advised that in any event it would be impossible for the Bureau to assist him in obtaining his parole.

BENTZ reacted favorably to the interview, stating that he had the greatest respect for the Director and Agents of the FBI. He seemed to be fully cognizant of the Bureau's position in this matter.

AKS:RAF

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NOV 15 1944

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A full of person to whom letter is to be

Mr. J. Edgar Hoover

Washington, D.C.

Rural Route 412 Seward Square

Relationship Business Date Nov. 19, 1944

Put your name and address here.

Name

T. Bantz

No. 46144

All correspondence from relatives and friends of inmates is subject to censorship in mail department of this institution before delivery. All mail must be addressed with full name and register number of inmate. For example: JOHN DOE, No. 23456, LO BOX 778, MARQUETTE, MICHIGAN. Correspondents should sign their full name address at the bottom of letters and on the upper left hand corner of the envelope. Discussion of prison matters shall be written in any letter. Newspapers, books and magazines must come direct from the publishers. Magazine subscriptions must not be sent from outside sources. Magazines or books that feature stories on crime detection, etc. shall positively not be allowed. All money sent inmates should be by order only. Stamps may be enclosed in letters received for inmates. Inmates are allowed to receive family snapshots and photos.

Marquette, Michigan

Dear Mr. Hoover:

Just a note to let you know that two of your men called upon me and explained the situation in connection with my matter. Although I am disappointed, I am very grateful to you for sending emissaries to define your exact position. I was hoping you could at least tell the Board that I have cooperated with your department, indicating that I would make a good parole risk. However, thanks anyway.

By the way, I have read with interest your numerous articles in the American Magazine. Being a sort of a writer myself, I can appreciate good writing. Your stories are positively entertaining, well written. Let's have more of them.

With my best wishes for your continued success and happiness to you and yours, I am

Respectfully yours,

Ted Bantz, #46144

31 DEC 7 1944

62 DEC 18 1944

McMAHON and COOK
ATTORNEYS AT LAW
Lowell, Michigan

Roger O. McMahon
George R. Cook

February 24, 1951

Lowell Office
Phone 482

Grand Rapids Office
Phone GL-4-8544
GL-4-8586

Federal Bureau of Investigation,
Department of Justice,
Washington, D. C.

Gentlemen:

I represent Theodore Craig Bentz, No. 46144, who was convicted of bank robbery before the Circuit Court for the County of Ottawa in Michigan in 1934. He has since that time been in prison.

We understand that the Federal Bureau of Investigation files contain certain evidence showing that Mr. Bentz could not have been in Grand Haven at the time the bank was robbed in 1932.

We are, at this time, attempting to secure his release either before the parole board or by moving for a new trial in Ottawa Circuit Court. Would it be possible for your Bureau to forward to us any pertinent information you might have relative to this case, particularly in so far as it might show that Mr. Bentz was not in Grand Haven the day the bank was robbed.

Thank you for your courtesy and consideration in this matter.

Very truly yours,

RECORDED - 119
INDEXED 119

George R. Cook
George R. Cook

GRC/mr

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MAR 1 1951

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MAR 29 1951

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XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET4

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Information pertained only to a third party. Your name is listed in the title only.



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March 5, 1951

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611 - DECEMBER 11

McMahon and Cook
Attorneys at Law
Lowell, Michigan

LA-27

Attention: Mr. George R. Cook

Gentlemen:

I am in receipt of your letter of February 24, 1951, wherein you advise you understand that the files of the Federal Bureau of Investigation contain certain evidence showing that your client, Mr. Theodore Craig Bentz, could not have been in Grand Haven at the time the Grand Haven, Michigan, Bank was robbed in 1932.

As you undoubtedly know, the information contained in the files of the Federal Bureau of Investigation is confidential in nature and cannot be divulged, under a regulation of the Attorney General. For your further information, the robbery of the Peoples Savings Bank, Grand Haven, Michigan occurred on August 18, 1933, and the Federal Bank Robbery Statute was not passed until May 18, 1934. Since this Bureau had no investigative jurisdiction prior to the passage of the Federal Bank Robbery Statute, no investigation of the Grand Haven, Michigan, robbery was conducted by the Federal Bureau of Investigation.

Sincerely yours,

John Edgar Hoover
Director

COMM - FBI

APR 6 1951
MAILED 19

DVS: jr

cc: Detroit (with copy of incoming)

Theodore Craig Bentz, was.,
BANK ROBBERY
(Bufile 91-57)

files fail to reflect Bentz's whereabouts on August 18, 1933, or to give any proof of his innocence of the State crime which he is serving time for. With reference to the robbery of the Peoples Savings Bank in Grand Haven, Michigan, on August 18, 1933, certain travelers' checks were found in Bentz's possession when he was arrested at Portland, Maine, and these checks were traced directly to this Peoples Savings Bank robbery. Theodore Bentz is a brother of the more notorious Eddie Bentz and Theodore (Over).

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Bentz has been corresponding with the Bureau since 1937 attempting to obtain information to prove his innocence.

U. S. DEPT. OF JUSTICE
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