

tarpaulin and door curtain?

A I can account for the human blood on the tarpaulin that extends up over the seat, but I can not account for the human blood , if it was any, in the back of the car, on the floor mats.

Q Now, when Mr. Thurman came to you that morning and told you about his wife being missing, or that day sometime, he asked you to go and help hunt her, didn't he?

A No.

Q Did he ask you to take him? A No.

Q What did he say to you? A He says all right when I told him.

Q You know Meade Smeltzer pretty well, don't you?

A I do.

Q You and Meade ever have any trouble?

A Not as I know of, no, sir.

Q Good friends, aren't you?

A I don't know whether we are good friends or not. I know he knows me. I don't know whether he is a good friend to me or not.

Q Didn't you tell Jack Thurman when he spoke to you with him about going/that you would have to clean up that car?

A I did not.

Q And when Mr. Meade Smeltzer came up there weren't you in the front seat of that car with a rag, cleaning it up?

A I was not.

Q Do you know any reason why Meade Smeltzer would

A That is all I knew of.

Q He testifies he saw you drive that car, backing out, back and forth, from that garage out toward the river bank and get out and look it over some four or five times. You tell the jury that is not so?

A I tell the jury that is not so.

Q You know Donald Derrick? A Yes, sir, I do.

Q Another high school boy up there? A Yes, sir.

Q Pretty well acquainted with him? A Yes, sir.

Q Did you ever have any trouble with Donald?

A Not that I know of.

Q You heard him testify, didn't you? A I did.

Q He says that he saw you drive that automobile out of that garage some two or three times, and get out and look it over. Is that so? A It is not so.

Q Do you know any reason, or can you give this jury any reason why Donald Derrick would have sworn to that if it were not so? A I can not.

Q You say, I believe, on direct examination that you are not acquainted with the Sherman Ferguson boy?

A I don't know him.

Q You never had any trouble with him, then, so far as you know? A No.

Q He testified that around twelve-thirty the night Mrs. Thurman was killed on Trace Mountain that he saw you drive this Ford Sedan between the Aracoma and the Pioneer

Hotels in this city. You tell the jury that is not so?

A I tell the jury he is mistaken.

Q You know Mrs. Sid Browning? A I do.

Q She works in the Green Lantern Inn. You have been into her place over there where she works different times, haven't you? A I have been in there about twice.

Q Did you ever have any trouble with her?

A Not that I know of.

Q She testifies that she met you coming into Logan about ten minutes of six o'clock over there near the power house on the morning that Mrs. Thurman's body was found.

Is that so? A That is not so.

Q Do you know of any reason why she would tell that?

A I do not.

Q Do you know Dude Dalton? A I do.

Q How long have you known him?

A Ever since I worked at 22.

Q You worked in the same mine with him, didn't you?

A I did.

Q He was what was called timber man? A No.

Q What did he do? A He run a motor there.

Q Well, run a motor? A Yes.

Q Did you work on the motor? A No.

Q On the train of cars? A No.

Q What did you do?

A I worked on a different motor.

Q On a different motor? A Yes, sir.

Q In the same mine? A In the same mine.

Q How long did you and he work together?

A I never did work with him.

Q I mean in the same mine, Clarence.

A I went over there on the first of November, 1931, and got hurt on the 19th day of January.

Q Tell us, if you can, about how long you worked with him. A I am trying to tell you now.

Q Can't you tell it without those dates?

A I am trying to tell you now.

Q Go ahead. A I got hurt on the 19th day of January, 1932. I had been there, he and I had been working in the same mine all that time, a little better than a year.

Q Ever have any trouble with him? A No.

Q Did he ever have anything against you, so far as you know? A Not that I know of he didn't.

Q You would see him practically every day in 22 Mine or around there, wouldn't you? A I yes.

Q He knew you well, didn't he?

A I think he does.

Q He testified that about a quarter of six he met you coming down Logan Avenue near the Holden store. You tell the jury that is not so, do you?

A I tell the jury that is not true.

Q Do you know of any reason why he would swear that if it were not so?

A I do not.

Q This car that you used, there were only two keys for it, weren't there? A There was three keys for it.

Q I know, but you had one made, you say. Where is that? A I don't know where it is at.

Q When did you see it last? A When I give it to Mrs. Thurman.

Q You have not seen it since then? A No.

Q Did she ever drive a car? A Not that I know of.

Q Did you ever see her drive one? A No.

Q Know of her driving one? A No.

Q Who made those keys? A Bevill Hardware.

Q By a man over there? A Yes, sir.

Q Is he still there? A I suppose he is.

Q Isn't it a fact that the keys he made would not work, would not unlock the ignition switch and the car doors?

A The ignition switch would work.

Q Who kept the other keys? A I had one and Mr. Robertson had one.

Q You would go in that garage any time of the day or night that you wanted to and take that Ford car out, wouldn't you? A Well, yes.

Q When you had it out that night Mr. Robertson said something about the keys lying on the mantel piece occasionally; when you went down on High Street looking for Mrs. Thurman at Fanette Jones you took the keys with you, of

course? A Taken our keys, the keys I used all the time.

Q Then you were not using the ones on the mantel?

A Those were the ones I was using.

Q And you kept them from the time you locked up the car that night until you turned them over to the State Police in Williamson, didn't you?

A From that night? Which night do you have reference to?

Q I mean the night Mamie Thurman was killed.

A No, sir, I didn't have them any more that night after I put the car up.

Q Where did you put them? A Laid them on the mantel.

Q Was it the next day you got them and kept them from that time on? A Next morning, yes, sir.

Q When Jack Thurman spoke to you about taking him out, you say you took the tarpaulins and the floor covering out of this car? A Mr. Jack Thurman never did ask me to take him out, never did speak to me about taking him out.

Q You took him out, didn't you?

A Yes, I took him out.

Q You told him before you took him out you would have to clean the car up? A No.

Q Did you clean it up? A No.

Q You did take out the tarpaulin?

A I told him I would take the tarpaulin out because

it stunk.

Q Mrs. Robertson testified she rode in that car before that time. A Yes.

Q Were they taken out then?

A I don't recall. I didn't drive the car.

Q Mrs. Thurman rode with you on different occasions. Did you take them out then because they stunk?

A No.

Q What did you do with the tarpaulin when you took it out? A I taken the tarpaulin out and started to hang

it on the line in the yard. Mrs. Robertson's wash woman was fixing to use the line. I asked her, "Glenna, are you going to use both lines?" She said yes. I wadded it up and threw it in the door of the basement. I said, "Kick this canvas out of the way as you go down."

Q Who took that canvas off of the door?

A I don't know.

Q Who stuck it in the garage behind a box and the wall of the garage? A I couldn't tell you that.

Q You didn't do it, did you? A No, sir.

Q Don't you know, as a matter of fact, that you took this tarpaulin out of that car that night, and before Jack Thurman got in it next morning?

A I didn't take that canvas off of that door.

Q You admit that as being your shirt-sleeve, don't you? A I admit it looks like one of my shirt sleeves.

Q And the way you account for the blood getting on it, you raked your shirt-sleeve across your nose?

A Something like that. (Illustrating.)

Q Did you have your handkerchief at that time?

A I might have had one.

Q Might have had one? A Yes.

Q You told the jury that the next day about twelve-thirty you went into Mr. Thurman's house--or around twelve o'clock, I believe you said--and that he was in bed. Was he dressed or undressed? A He was undressed.

Q You say Mr. Smeltzer was in there?

A He was in there when I walked in.

Q And they were drinking out of a half-gallon jar?

A Yes, sir.

Q Who went in with you? Anybody?

A Not anyone.

Q What were they drinking? A I don't know what it was. I didn't smell it or taste it or get that close to it.

Q Did you really see it? A I seen it.

Q Did you say Mr. Thurman was dressed or undressed at that time? A He was undressed at that time.

Q You told Mr. Chambers a while ago that you knew nothing about who killed Mrs. Thurman, that you had no part in it. Do you know of anybody else that was hunting for Mrs. Thurman the night she was killed? A No.

Q Isn't it a fact that on that night when you were

looking for Mrs. Thurman with that Ford sedan you picked her up here in the City of Logan and pretended to her that Harry Robertson was waiting for her on Trace Mountain?

A That is not a fact.

Q Wait until I finish the question. And didn't you take her up onto Trace Mountain there and try to force her to have intercourse with you?

MR. CHAMBERS: Just a moment. Now, your Honor, we object to that question and move to strike the question from the consideration of this jury, as being absolutely unfair and improper.

MR. CHAFIN: Your Honor, on cross examination, if he had not gone into that, then possibly we ought not to have gone into it.

MR. CHAMBERS: Gone into what?

MR. CHAFIN: About who killed Mamie Thurman, and that he had nothing to do with it, and wasn't on Trace Mountain that night.

MR. CHAMBERS: I know, but, your Honor, the Prosecuting Attorney or special counsel in this case haven't any right to draw upon their imagination and ask this witness such a question.

MR. CHAFIN: We are doing that in cross examination.

MR. CHAMBERS: There is no evidence tending to show that whatever.

MR. CHAFIN: You tried to show he wasn't up there; we are trying to show he was.

MR. CHAMBERS: I don't object to your showing he was up there, but I am objecting to the form of your question.

THE COURT: I think the Court is going to overrule the objection and let him answer it.

(Exception saved by the defendant.)

BY MR. CHAFIN:

Q (After previous question was read) And she resisted and that you then killed her?

A It is a fact that I never seen Mrs. Thurman that night at all.

MR. CHAMBERS: Now I move to strike the question and the answer because the Prosecuting Attorney is drawing upon his imagination,--

MR. CHAFIN: I am not drawing upon it.

MR. CHAMBERS: --without any evidence to predicate such question upon.

THE COURT: The Court is going to overrule the objection.

(Exception saved by the defendant.)

BY MR. CHAFIN:

Q You had been going out in the car with her several times, as you testified?

MR. CHAMBERS: Don't answer that. We object.

BY MR. CHAFIN:

Q Isn't it a fact--

THE COURT: You have gone into that.

MR. CHAFIN: I know, but I hadn't finished the question.

THE COURT: Go ahead. Don't answer until the Court rules.

BY MR. CHAFIN:

Q Isn't it a fact that on account of your having been out with her on so many different occasions in this automobile at different times in the night, and different places in the mountains, that you made up your mind that you wanted to have improper relations with her?

MR. CHAFIN: Don't answer that. I want to interpose an objection.

THE COURT: I am going to sustain the objection.

BY MR. CHAFIN:

Q Do you know Hobart Gillam? A I do.

Q Did he work in 22 Mine at Holden when you worked there? A He did.

Q About how long had you been acquainted with him before Mrs. Thurman's death? A About the same length of time I had Dude Dalton.

Q Something over a year? A Yes.

Q Were you and he good friends? A I don't know whether you would call us friends or not. I never knew him to have anything against me.

Q He testified here that on Tuesday evening-- well, he said Monday, but he said it was the night of the prize fight, and the day before Mrs. Thurman's body was found-- that he saw you in company with some white man, around six or six-thirty o'clock Tuesday evening drive by his place in a Ford sedan going toward Trace Mountain. Tell the jury whether or not that is true.

A That is not true. I wasn't out there.

Q Do you know of any reason why Hobart Gillam would testify to that if it were not so?

A No, sir, I do not.

Q Clarence, how long was it before the night that Mrs. Thurman was killed that your nose had bled in that automobile?

A Sunday morning before.

Q The Sunday morning before? A Yes, sir.

Q And she was killed on Tuesday night. Can you tell this jury how that blood clot got in that automobile under that rubber matting when the State Police went there?

MR. CHAMBERS: Don't answer that until I object.
I object.

THE COURT: Objection overruled.

(Exception saved by the defendant.)

A I can not account for it.

BY MR. CHAFIN:

Q You didn't have any dogs out in it Monday, did you?

MR. CHAMBERS: I object to that.

MR. CHAFIN: They have tried to account for that blood. I am trying to show it couldn't have come from dogs or dog meat.

MR. CHAMBERS: My objection is that question has been asked not only once, but twice, by Mr. Chafin, and this witness has said he could not explain or did not undertake to explain the blood under the mat. That is the ground of my objection.

MR. CHAFIN: If your Honor recalls, the blood under that mat, according to the evidence of all the State witnesses, was fresh, it was still running, had run about four or five inches, and had clotted. Now I want to see if his nose-bleed caused that.

THE COURT: I am going to overrule the objection and let him answer.

MR. CHAMBERS: I want to move the Court to strike from the consideration of the jury Mr. Chafin's remark. It is not true any witness said that blood was running.

MR. CHAFIN: Said it had run four or five inches.

MR. CHAMBERS: I object to that unfair method of trying a case. Your Honor recalls no witness said that blood was running. That is what I have had to put up with in the trial of this case, and I object.

THE COURT: I don't know whether he said "running" or not. The Court is going to overrule the objection.

(Exception saved by the defendant.)

BY MR. CHAFIN:

Q Did you have any dogs in the car Monday night?

A I don't recall having any in it.

Q Did you have any in it Tuesday night? A No.

Q Did your nose bleed in the car Tuesday night?

A No.

Q Did it bleed Monday night? A No.

Q You told the jury a while ago that in the Summer time you wore your cuff sleeve to your shirt rolled up, didn't you?

A Unless it was cool evenings or cool nights.

Q How was it on the night of June 21st, was it cool or not? A I don't remember the temperature.

Q How was your sleeve when you rubbed your nose on it that night, the shirt sleeve that has been introduced in evidence here, was it rolled up or down?

A It must have been down.

Q I will ask you to examine this large piece of tarpaulin here and tell the jury whether or not that is the same piece of tarpaulin you had in the automobile, with the exception of the piece that has been cut off and sent to the chemist? A That is it or a piece just like it.

Q Is that the piece you took out of the car and told Mr. Thurman it would stink? A That is it or one just like it.

Q On the Saturday night that you were with Mr. Robertson before Mrs. ~~Thurman was murdered~~, I want to ask you

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if you told him anything about Mrs. Thurman not being his equal, and told him he ought to quit associating with her?

MR. CHAMBERS: Objection.

THE COURT: I think he may answer that question.

(Exception saved by the defendant.)

A I don't recall whether I told him that or not.

BY MR. CHAFIN:

Q Did you tell him on that occasion that you had had improper relations with her?

MR. CHAMBERS: I object to that.

THE COURT: I think he may tell the jury.

(Exception saved by the defendant.)

A I do not recall.

BY MR. CHAFIN:

Q Do you tell this jury that you have had improper relations with her?

MR. CHAMBERS: I am going to interpose an objection, for the reason that I asked similar questions, and they objected, and the Court would not permit that evidence, said they wanted to protect the character of this dead woman. Now, for the same reason, I am interposing an objection.

THE COURT: I am going to sustain your objection.

BY MR. CHAFIN:

Q You were asked a while ago about some statements you made; I will ask you if you didn't make one on the 23rd day of June, 1932, in the presence of E. F. Scaggs and

Sara Ferrell, and were sworn at that time by L. W. Hatfield, a justice of the peace. Did you make a statement?

A I wasn't sworn at that time by anyone.

Q I will ask you if you did not in that statement say that you had had improper relations with Mrs. Thurman?

MR. CHAMBERS: Don't answer that. I object.

MR. SCAGGS: It is a matter of contradiction, your Honor. He tells one thing one time, and another time a different thing.

THE COURT: I think I will let him answer that question.

(Exception saved by the defendant.)

A I don't remember whether I did or not.

BY MR. CHAFIN:

Q Well, what do you say now about it? Do you say you did have or didn't have?

MR. CHAMBERS: We object.

THE COURT: I am going to sustain the objection.

BY MR. CHAFIN:

Q You told the jury a while ago that you had not told Mr. Robertson, if I understand, on Saturday night, that you had had improper relations with Mrs. Thurman, and that she was not his equal. Now you say you don't remember whether you did or not; and reading from this statement I will ask you if you did not make this answer: "I told Mr. Harry this on last Saturday night, that he ought to quit this woman,

because she wasn't his equal, and he asked me what did I mean, and I told him that other men had intercourse with her, and that I had, and that she also told me that she had got ten dollars out of it." There is a part there, your Honor, just a word or two, I left out. I don't like to read it here.

THE COURT: Leave it out.

BY MR. CHAFIN:

Q (Continuing) "He asked me did she tell me this, and I told him she absolutely did. He asked me why would I have intercourse with her, and I told him because she rubbed it on and was willing, and he asked me did I know of these other fellows, and I told him I did not, but that I seen her getting into a brown Chevrolet sedan. He asked me if I knew the man, and I told him I did not. He asked me if I would know the car again, and I told him I would not, because there was too many alike. He asked me to get the license number of the car I seen her get in, and I told him I would try to do so. He also told me to kind of watch around and see who she would get in cars with and let him know." Now tell the jury whether or not you made that statement.

MR. CHAMBERS: Just a moment. Your Honor, I don't know that I want to interpose an objection. However, it will do no good, because, although the Court has ruled on it, they have read the statement

and the jury has heard it. I want to interpose an objection for the benefit of the record.

THE COURT: The Court overrules the objection.

(Exception saved by the defendant.)

A I don't remember making all that statement.

BY MR. CHAFIN:

Q I will ask you, then, this question: Did you on that occasion make this part of the statement I have just read to you: "I told Mr. Robertson that she was not his equal, that I (meaning yourself) had had improper relations with her, and he ought to break away from her." Did you make that part of the statement, or anything in words or substance like that?

MR. CHAMBERS: Same objection.

THE COURT: Objection overruled. He may go ahead and answer it.

(Exception saved by the defendant.)

A I don't remember whether I made that statement or not, Mr. Chafin.

MR. CHAFIN: That is all, your Honor.

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REDIRECT EXAMINATION BY MR. CHAMBERS:

Q Well, did you have improper relations with her?

A Yes, sir.

Q Where? A Robertson home.

Q And when was it? A 30th day of May.

Q Was that Decoration Day? A Yes, sir.

Q Did you hear Mrs. E. F. Murphy testify on the stand in this case? A Yes, sir.

Q She testified that on that day Mrs. Thurman went into the Robertson home. Where were the Robertsons?

A Huntington.

Q Who was at the Robertson home? A I was.

Q Were you there? A Yes, sir.

Q How long did Mrs. Thurman stay?

A I don't recall just exactly.

Q And where in the home did you have intercourse with her? A In the living room.

Q Do you know of her being out in other cars with different men other than her husband and Harry Robertson?

A Yes, sir.

Q Who were they? A I don't know their names.

Q Know where they live? A No, sir.

Q Did you see her out with other men?

A I seen her out with two.

Q Do you know where they live? A No, sir.

Q Anybody with them except her? A Not anyone.

Q Was it day or night? A Once in the evening and the other in daylight.

Q You were asked about your gun, your pistol; have you seen that pistol since you left it in the pantry up at Robertson's home?

A I seen it at State Police Headquarters.

Q Have you seen it during this trial?

A No, sir.

Q Have you seen the pistol Harry Robertson had under his bed? A No, sir.

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RECROSS EXAMINATION BY MR. CHAFIN:

Q You heard Mrs. Murphy testify, didn't you?

A I did.

Q She testified Mrs. Thurman came over to the Robertson home on Decoration Day, that you were standing out in the road, or out in the yard, that Mrs. Thurman fastened the screen door and went into the Robertson home, and that you were standing in the yard. Do you mean to tell this jury that you went into the Robertson home after Mrs. Thurman went in? A I don't mean to tell them that. I was already in the Robertson home when she came in.

Q Then Mrs. Murphy is mistaken about that, isn't she?

A She is mistaken about that part of the statement, yes, sir, about me being out in the yard when she went in.

Q What time in the day was that?

A I can't exactly tell you.

Q About what time? A Somewhere around noon.

Q Mrs. Thurman kept her fruit in the Robertson home, didn't she? A I don't remember whether she did or not.

Q You don't remember that? A No.

Q And you tell this jury that there about twelve o'clock in the daytime, in Mr. Robertson's home, you had improper relations with Mamie Thurman? A I do.

Q That was about--you say that was on the 30th of May, and she was killed on the 22nd of June?

A Yes, sir, that is right.

Q You now remember certain parts of the statement I have read to you; don't you now remember that you told Mr. Robertson about it on that Saturday night?

A I don't remember that.

Q Now, you were questioned in the State Police Headquarters just shortly after you were arrested on the 22nd day of June. You were asked then if you had not taken Mrs. Thurman up there on that mountain that night for improper relations, weren't you?

A I don't remember whether I were or not.

Q You remember your nose bleeding, don't you?

A I do.

Q Wasn't it just before your nose began to bleed that night that you were asked if you hadn't taken Mrs. Thurman up on Trace Mountain for improper relations?

A I don't remember being asked that.

Q You didn't tell the State Police or Mr. Scaggs or any other about claiming to have had relations with her until after you had been accused of trying to ravish her, did you?

A I don't remember that part of it.

Q You didn't tell that until the next morning, did you?

MR. CHAMBERS: We object.

THE COURT: I am going to sustain the objection.

BY MR. CHAFIN:

Q Isn't it a matter of fact that it was the morning after you had been asked if you had had any improper relations with Mrs. Thurman that you then told them that you had?

MR. CHAMBERS: Same objection.

THE COURT: He may answer it if he can.

(Exception saved by the defendant.)

THE WITNESS: Read the question.

(The question was read, as reported.)

A I don't recall when it was.

MR. CHAFIN: That is all, your Honor.

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H A R R Y R O B E R T S O N, recalled, testified as follows:

DIRECT EXAMINATION BY MR. CHAMBERS:

Q You are the same Harry Robertson that has been on the stand a number of times before? A Yes, sir.

Q You testified that you knew Mamie Thurman?

A Yes, sir.

Q Now I want to ask you whether or not Mamie Thurman told you about having improper relations with other men.

JUDGE DAMRON: Your Honor, we object to that.

You ruled on that the other day.

THE COURT: He may answer that question.

BY MR. CHAMBERS:

Q Did she give you the number? A Yes, sir.

Q What was that number?

A She gave me a list of sixteen.

Q Was that before you had had any relations with her yourself? A Shortly after.

MR. CHAMBERS: That is all.

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CROSS EXAMINATION BY MR. CHAFIN:

Q How long had you been intimate with Mrs. Thurman before she gave you that list? A Just a short while.

Q Is that the reason why you had Clarence Stephenson down the street that night until eleven o'clock trying to locate Mrs. Thurman? A No, that is not the reason. I never had him down town.

Q Clarence Stephenson says you sent him out on High Street to look for somebody. Whom did you send him out to look for? A I didn't send him out to look for anyone.

Q Then he went on his own accord, is that right?

A If he went he did.

Q He says that you told him around ten-thirty at your home to come down here and watch the Holland Building to see whether Mrs. Thurman went in or out of that building. Did you do that? A I don't remember telling him that.

Q Of course, when she gave you those sixteen names

you speak about, that didn't make you mad or jealous in any way? A Not a bit.

MR. CHAFIN: That is all. Stand aside.

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REDIRECT EXAMINATION BY MR. CHAMBERS:

Q Had you told the defendant, Stephenson, at any time to watch out and see what automobiles Mrs. Thurman got in?

A Clarence told me she was getting in--

THE COURT: Just answer the question.

THE WITNESS: Read the question.

(The question was read to the witness.)

A Yes.

BY MR. CHAMBERS:

Q You were interested and anxious to know what automobile she was going out in? A Yes, through curiosity.

MR. CHAMBERS: That is all.

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RECROSS EXAMINATION BY MR. CHAFIN:

Q Why were you so interested, Harry, in seeing what automobile she got in? A I just wanted to know the other fellows that were running after her, was all.

Q You say she had already told you about different ones. Why were you interested in who they were?

A Just through curiosity. I wanted to know who else it was, that is all.

Q You never broke off with her after she told you

about that? A No, sir.

MR. CHAFIN: That is all, Mr. Robertson.

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C. A. THOMPSON, recalled, testified as follows:
DIRECT EXAMINATION BY MR. CHAMBERS:

Q You are the same C. A. Thompson that has testified heretofore in this case? A Yes, sir.

Q You told about examining the Ford automobile, Ford sedan. A Yes, sir.

Q And you told what you found? A Yes, sir.

Q Now tell the jury whether or not you found any bullet holes in that car. A I did not.

Q Did you examine it for bullet holes? A Yes, sir.

Q Tell the jury whether or not, on any occasions while Clarence Stephenson was in your custody or in your presence under arrest, his nose bled.

A It did.

Q How many different times do you recall?

A Once I remember.

Q Where was that? A Headquarters.

Q Did you see him on any other occasions with a bloody handkerchief in his pocket?

MR. CHAFIN: I am not sure, but my recollection is those things were gone into.

MR. CHAMBERS: Not with this witness.

THE COURT: Let him answer it.

A The next morning we found a bloody handkerchief in his pocket, some of the other officers did, and he must have revealed it to me about his nose bleeding the night before. I told them his nose bled the night before, and I presumed that was the same handkerchief he was using.

MR. CHAMBERS: That is all.

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CROSS EXAMINATION BY JUDGE DAMRON:

Q Where was he when his nose bled, Mr. Thompson?

A In the office at Headquarters.

Q At the time his nose bled or commenced bleeding, was there anything said to him immediately before that as to his having raped Mamie Thurman out on the hill on Tuesday night?

MR. CHAMBERS: We object to that.

THE COURT: I am going to sustain the objection.

JUDGE DAMRON: Your Honor will recall--~~pardon me~~, I don't want to disagree with the Court--but I asked the defendant on the witness stand if that question wasn't asked him up there at Headquarters the night before that he had had intercourse with her, and I just want to couple the two together while he is on the witness stand.

THE COURT: Go ahead and answer it.

(Exception saved by defendant.)

A That question was asked him, but his nose commenced

bleeding and he never did answer it.

BY JUDGE DAMRON:

Q Tell the jury whether or not the next day after that question was asked him if he admitted to you, or in your presence, that he had had sexual relations with the deceased.

MR. CHAMBERS: We object.

THE COURT: I think I will overrule the objection and let him answer it now.

A The next morning we brought him out for some more questioning, and Mr. Scaggs, in my presence--

MR. CHAMBERS: We insist the witness answer the question.

(The question was read to the witness.)

A He did.

MR. CHAMBERS: Motion to strike the question and answer.

THE COURT: Overruled.

(Exception saved by the defendant.)

BY JUDGE DAMRON: Now, if there is any explanation--

A Next morning when we brought him out--

THE COURT: That answers the question, I take it.

JUDGE DAMRON: You don't want the explanation?

All right, that is all.

- o -

REDIRECT EXAMINATION BY MR. CHAMBERS:

Q Do you know whether or not he had had sexual inter-

course with Mrs. Thurman? A I do not.

BY JUDGE DAMRON:

Q Only what he said? A What he said, yes.

- o -

C L A R E N C E S T E P H E N S O N, recalled for further cross examination, testified as follows:

BY MR. CHAFIN:

Q Clarence, at the same time you made the statement that I have asked you about I will ask you if this question was asked you: "Did Harry ever try to get you to frame his wife?" and didn't you answer, "No, sir, Mrs. Thurman was the one who was trying to frame Mrs. Robertson by telling Mrs. Robertson, his wife, that she saw her get into a car down town and said she had the license number and was going to watch the car, and that she thought it was Sam Waddell's car." Was that question asked you?

MR. CHAMBERS: We object.

THE COURT: I am going to sustain the objection.

- o -

THE DEFENDANT HERE RESTED HIS CASE.

- o -

REBUTTAL EVIDENCE

THEREUPON THE STATE, to further maintain the issue on its part, introduced the following evidence, to-wit:

S A R A F E R R E L L, introduced as a witness in rebuttal, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY JUDGE DAMRON:

Q Your name is Miss Ferrell? A Yes, sir.

Q What is your profession or calling?

A Stenographer.

Q Shorthand writer? A Yes, sir.

Q For whom do you work?

A Prosecuting Attorney of Logan County.

Q How long have you been working in that office?

A A little over a year.

Q Miss Ferrell, I will ask you whether or not on the 23rd day of June of this year you took a statement from the defendant on trial, either in the Prosecuting Attorney's office or at State Police Headquarters?

A Yes, sir, at State Police Headquarters.

Q Did you take that in shorthand? A Yes, sir.

Q And did you later transcribe it into longhand?

A I did.

Q Did you do it correctly, to the best of your ability?

A I did.

Q Was the defendant at that time asked certain ques-

tions or examined under his oath? A Yes, sir.

Q I will ask you, Miss Ferrell, whether or not on that occasion the defendant said--and if you want to you can look at this transcript --there that on Saturday night before Mamie Thurman was killed that he told Harry Robertson that he ought to break off relations with the deceased woman because she was not his equal, and that he had had sexual relations with her himself?

A Yes, sir.

MR, CHAMBERS: Just a moment. We object, for the reason that the defendant has said he did not recall whether he made the statement or not.

JUDGE DAMRON: That is what he said, your Honor. That is exactly why we are putting her on to show that he did make it. We laid the foundation for the contradiction.

THE COURT: You may answer.

(Exception saved by the defendant.)

A Yes, sir, I remember his saying that. I don't remember whether it was on Saturday night--

MR. CHAMBERS: Just a moment.

THE COURT: Just answer the question.

BY JUDGE DAMRON:

Q You say that he made the statement?

A Yes, sir.

Q Miss Ferrell, I will ask you whether or not on the

22nd day of June, the day that the body was found on the hill, if you took a statement from the defendant or took down in shorthand the questions and answers that were propounded to him that day.

A I did.

Q Did you take it down correctly, to the best of your skill and judgment? A I did.

Q I will ask you whether or not, Miss Ferrell, at that time, if this question was asked him, and if he made this answer: "What time did you get up? (Answer) At five-thirty, and I came back, took two asperins, and stood there a while and took three, and went back to bed."

A Yes, sir.

JUDGE DAMRON: That is all, your Honor.

- o -

CROSS EXAMINATION BY MR. CHAMBERS:

Q Miss Ferrell, you say you took these statements down the best you could? A I did.

Q Are you sure you did not make a mistake as to the hour? A I don't think I did.

Q I know you took it down the best you could. That is what you are saying now? A Yes, sir.

Q Was the defendant sworn? A Yes, sir.

Q Who swore him? A L. W. Hatfield.

Q Both times? A Yes, sir.

Q And the first statement was made on Wednesday night, wasn't it?

A Yes, sir.

Q What time in the night?

A It was around ten o'clock.

Q Where was it made? A Police Headquarters.

Q Up at Stollings? A Yes, sir.

Q Then when was the next statement made?

A The following morning.

Q Same place? A Yes, sir.

Q Was Stephenson kept up all night?

A Not all night.

Q What time did they turn him loose?

A It was around three o'clock, I believe.

Q Three o'clock in the morning. Do you know what they did with him after three? A Took him back to jail.

Q How? A As far as I know, they took him back to jail.

Q I know, so far as you know. Where did you leave him? A I stayed at Headquarters. They took him back down.

Q You don't know whether they took him out on Trace Mountain or not? A No, I do not.

Q You do know of them taking him out there not only once, but many times, don't you?

A Yes, they took him out there.

Q You were up there at State Police Headquarters the Saturday that Bob Jeffrey and Emmett Scaggs beat him up,

weren't you?

JUDGE DAMRON: We object, your Honor.

THE COURT: I am going to sustain the objection.

MR. SCAGGS: As far as I am concerned, she may answer that.

THE COURT: Stand aside.

- o -

D R. J. I. J U S T I C E, called as a witness in rebuttal by the State, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CHAFIN:

Q Tell the jury your name.

A J. I. Justice.

Q What is your profession? A Physician.

Q Regularly licensed to practice in this state?

A Yes, sir.

Q Graduate of any medical school? A Yes, sir.

Q Which one? A University of Maryland.

Q Do you know the defendant, Clarence Stephenson?

A Yes, sir.

Q Do you remember about the 22nd of last June when Mrs. Thurman's body was found on Trace Mountain?

A Yes, sir, I recall it.

Q You have been practicing your profession here for several years, have you, Doctor? A Yes, sir.

Q There is some evidence here that you gave the