MRS. ANNIS THREATENED WITH DEATH BY HAINS, CHARGE BY STATE

break to one of your members the fact that his father has just died. A relative is here with the details and he will be permitted to confer with Juror Jardine during the recess. Court will adjourn until 1.30."

Eleven of the jurors promptly filed out with the Sheriff's men. Jardine was met by a stockily built and well-dressed man, who was said to be his cousin, and they withdrew to a corner of a room, where they talked together earnestly for fifteen minutes.

Presently the cousin, whose name was Edward Jardine, and who lives at No. 282 Van Sicklen avenue, Brooklyn, left the half-breed juror and came to where the reporters waited. He made this statement:

"Christopher Jardine, the father, died night before last at Port Jervis, N. Y., where he lived. He was 76 years old and had been in poor health for some time. He was a retired sugar planter, formerly in business at Honolulu. His funeral will take place to-morrow afternoon, but the son will not go. He tells me he will stay here and do his duty to the State, and leave his kinspeople to bury the father."

Hains Made No Effort to Restrain His Brother, Eye Witness Declares

As soon as Justice Crane had mounted the bench for the afternoon session Mr. Andrews returned to the stand and Mr. McIntyre started the examination.

"How often did you go to the club?"

"Frequently."

"Were you an intimate friend of Mr. Annis?"

"No. I had known him many years and often sailed with him. But we were not close friends."

"Did you know his wife?"

"Yes."

"Did you know anything about his private life?"

"No."

"Have you any ill feeling against Thornton Hains?"

"No. At the time of the shooting I expressed strong feeling against Hains while talking with club members. But as the effect of the tragedy wore off my mind I have rid myself of my ill-feeling toward him."

"Did you discuss the shooting freely?"

"Oh, yes; I talked with the other eye-witnesses."

"Did you go to the club after the shooting with Mr. Darrin and others?"

"Yes, about a week after. We went over the facts in the case."

"Didn't you go to the float and rehearse the shooting?" "No, I think not."

No Rehearsal of Murder.

"Didn't one of you impersonate Annis and others impersonate the Hainses?" "I didn't see any such thing."

"Didn't the club retain Mr. Dayton to help in the prosecution?"

"We did retain Mr. Dayton, but only as individual friends of Annis, not by the club. This was about three weeks after the shooting."

McIntyre finally brought out that Andrews, acting on the District-Attorney's advice, had refused to tell the lawyers for the other side what he knew. By such devices and obscure stages as this McIntyre finally reached Andrews's account of the shooting.

"You didn't see Thornton Hains fire a shot, did you?"

"No, only Capt. Hains."

"Were not the shots fired in rapid succession?"

"Not so very rapidly."

"Don't you know that the entire contents of Capt. Hains's automatic revolver could be fired in one and five-eighths seconds?"

"I do not."

After causing the witness to describe with great circumstance the dimensions of Annis's boat and the way it was rigged on Aug. 15, together with the prevalent direction of the wind, McIntyre undertook to compel him to assume that conditions conformed to McIntyre's own theory. Up jumped the lean and bearded District-Attorney.

"I submit your Honor"—he began.

Court Rebukes Lawyer.

"You won't submit anything," said Justice Crane, who apparently does not value legal embroidery a penny's worth. "Sit down, Mr. District-Attorney. Mr. McIntyre, you will confine yourself to the facts and not undertake to draw any deductions of your own that are not warranted by the evidence and then put those assumptions in this gentleman's mouth. I understand him, and I think the jurors do."

"When did you see John Tonning, the boatman, last?" asked McIntyre, referring to the missing witness.

"About a week after Labor Day. I haven't seen him since, and have no idea where he is."

"When did you first learn that Tonning had disappeared?" "This morning."

"Who told you?" "Mr. Leavitt."

"Was Mr. White, of the prosecution, at the Bayside Club the last time you saw Tonning there?" "I think not."

"Would you swear that Tonning was not on the float?" "I would not. I didn't see him there, but he may have been on the float."

"Was Mr. Bichfield there?" "I didn't see him. He may have been there."

"How many shots did you hear?" "About eight, I think."

Not Allowed Near Captain.

"How were they fired?" "With perceptible intervals between the reports—very noticeable intervals. I leaped from my son's boat at the first shot."

"How near did you get to Capt. Hains?"

"About six feet. I took only about two steps across the float in his direction."

"Did you say anything?" "No."

"Were your fists clenched?" "No."

"Were your hands uplifted?"

"I think not."

"Can you say you were not moving forward, with your hands up in a threatening attitude?"

"I was not in any threatening attitude—I cannot say as to the exact position of my hands."

"Tell us about the shots."

"The first three were fired very rapidly, and very close together before I left my son's boat. The others, I think, were slower."

"Can you tell which shot caused death?" "Certainly not."

Hains Suggests Questions.

Mr. McIntyre wasted minute after minute causing the witness to repeat the same answer a dozen different ways. Several times Thornton Hains prompted the lawyer in his questions.

"Was there yelling and screeching at the time of the shooting?"

"I only heard one person scream."

"What did Hains do after he quit firing?"

"He stepped backward with his pistol in his hand."

"Don't you know he dropped the gun instantly?"

"I do not."

"Did you see Roberts pick up the revolver?"

"No, I saw him after the shooting with Capt. Hains's revolver."

"Did he point it at Jenkins Hains?"

"He did not."

"When Roberts had the revolver what were the two Hainses doing?"

"Sitting on an up-turned rowboat."

"As Capt. Hains stepped back did he throw his hands upward in the air?"

"He did not. He fired one shot through the sail, and that was all."

"Why didn't you tell before about the firing through the sail?"

"You didn't ask me."

"Are you trying to argue with me?" roared McIntyre.

"Not at all," put in the Judge, coolly. "On the contrary, Mr. McIntyre, you are trying to argue with him."

Heard No Plea for Captain.

"Didn't Thornton Hains say to you when you rushed on his brother, 'I'll arrest him—I'll take charge of him—he's my brother—don't hurt him?'" "I didn't hear any such statements."

"Did you hear Thornton Hains shout at the top of his voice—'Get an officer—I will hold him.'"

"I did not."

"Did you notice that Thornton Hains held his brother by the wrist while they were sitting on the upturned boat?"

"I noticed that Thornton Hains felt Peter Hains's pulse."

"Did you hear Thornton Hains say while they were sitting there that he was as sorry as any one for what had happened?" "I did not."

"Didn't the defendant say that he had been trying for a long time to dissuade his brother from harming Annis?"

"He made no such statement in my presence."

"Did you hear statements by others at that time?"

"Yes. By Mr. Roberts and by Mr. Stevens."

"Did Capt. Hains say 'Annis stole my wife while I was in the Philippines?'"

Court Wakes Up Prosecutors.

"If he did, I didn't hear it. I heard no such words."

"Did you ever tell Mr. White that Thornton Hains said 'I am managing this?'" asked Mr. McIntyre.

There was a long pause. Then, as neither White nor Darrin made a move to arise, Justice Crane snapped out:

"Are you asleep, you two, that you do not object? That question is clearly objectionable. I do not want improper testimony to get into the record. But I'd like to have a little help from the State."

Mr. White and Mr. Darrin rose together, mumbling in deep confusion. A titter went around the court room.

Miniature Stage With the Mannikin Actors Introduced by the Defense

"Did you hear Thornton Hains discussing real estate with any one before the shooting?" "Yes, with Mr. Birchfield."

"Did he ask Birchfield about two certain lots near the clubhouse?" "I only heard him mention a Mr. Jesperson. He mentioned real estate."

"Did you hear Thornton Hains say 'Jesperson is not here, captain, let us go back?'" "I did not."

The lawyers for the defense now proceeded to rig up their much-talked-of model of the scene of the tragedy. The float, the dock, the runway, the miniature sloop and the pigmy figures of the various actors to the shooting were all fitted in place on the counsel table with a lot of care and detail. Thornton Hains, old Gen. Hains and Major Hains all joined in the task of setting the stage.

The witness said this exhibit represented, fairly, the landing dock of the club with the exception that the real runway didn't look much like the little counterfeit which McIntyre was now offering. All of a sudden Justice Crane went hight to the centre of the argument by saying that it would be impossible to correctly depict the picture because he model and its proportions had not been drawn to scale.

Muddled the Jurors.

"You purport to present a twenty-foot boat lying alongside a forty-foot dock, and yet you show a boat here that is longer than the dock. The proportions should be preserved."

But no objection coming from the prosecution, the lawyers for the defense were permitted to go on, causing Mr. Andrews to assign places to the various dolls that represented the Hains brothers, Annis, Mrs. Annis, Birchfield, Roberts and the others who figured in the killing. This took a long time, and the net result of it was that the jurors appeared to be considerably muddled.

Finally, Mr. Darrin made an objection along the line at which Justice Crane had hinted. He discovered that the dummies bore about the same relation to the runway that a red ant would to the pyramids of Egypt, and that the "sloop" which Mr. McIntyre had introduced as a model would carry a cargo of at least fifty of the dolls which were assumed to correctly represent men and women.

But Justice Crane permitted McIntyre to go ahead. The witness described the positions of the various principals and Mr. Shay placed the little mannikins in their relative locations on the model.

Hains Builds a Boat.

While this was going on Thornton Hains was busy cutting out a little pasteboard boat to be used in the demonstration. He appeared to be having a very good time. The model of Annis's boat produced by the defense had been declared by the Court to be too large. Hains's model had a little sail and most of pasteboard and was in much better proportion than the other omdel. Major Hains, his brother seated beside him, assisted in the construction.

Grill for a Witness.

The cabman who drove the Hains brothers from the Bay Side Railroad Station to the Yacht Clubhouse on the eventful day in last August is said to be in for an unpleasant time on the stand when he is called. This man on the evening of the day of the shooting made an affidavit that the Hains brothers, upon leaving the train at the Bayside station, inquired for a certain real estate man doing business in the town. They found the office closed and he then drove them to the yacht club.

It is said that when this witness was later found by the police and taken to the District-Attorney's office he made a second statement which differs materially from his former one. In this he said that he heard threats against the life of Annis made by the occupants of his cab.

When this witness takes the stand he will be confronted by his affidavit made to certain friends of the accused man.

When Supreme Court Justice Crane entered the ancient chamber where this notable trial is now well under way the prisoner, the lawyers and the jurors were all in their places, and the benches behind the railings were filled with a small audience that included probably fifteen or twenty women.

Mother Not in Court.

Of T. Jenkins Hains's immediate family only his brother, Major John Hains, U. S. A., of Chicago, was on hand. Neither his father, Gen. Peter Hains, U. S. A., retired, nor his aged mother had braved the ordeal of hearing the lawyers for the State accuse their son of complicity in what the unhappy old pair knew would be called a cold-blooded and premeditated crime.

They stayed at their stopping place in Flushing, caring for T. Jenkins Hains's little daughter, who is to be brought into court later.

Before the District-Attorney's specially retained assistant arose to outline the case for the people there was a discussion between the Judge and the lawyers on both sides regarding the exclusion of witnesses from the proceedings. At the request of John F. McIntyre, of the defense, His Honor said he would exclude all witnesses who had seen the tragedy at the Bayside Yacht Club of Aug. 15.

Then Mr. Darrin made an unusual move. He had been told, he said, that the attorneys on the other side expected to bring their client's mother into the chamber and give her a prominent place immediately before the eyes of the twelve jurors. He objected to such a thing. Justice Crane ruled that no one not actually connected with the case could sit at the counsel table of either side. This barred the aged Mrs. Hains from the space within the railing, but not the room itself.

Prosecutor's Outline of Evidence On Which He Asks Hains's Conviction

At 10.20 o'clock, after half an hour had been wasted in bustling about, Elmer S. White, of Brooklyn, stood up to open for the prosecution. In a full, round voice Mr. White read his speech. He had hardly started when Mr. McIntyre objected, saying White was quoting the law, a province belonging solely to the trial judge. Justice Crane decided to let White go ahead. In the course of his address he brought out strongly the prosecution's side. He said:

"On the morning of that Saturday in August, Annis came to the yacht club building. Shortly after 1 o'clock, having donned his bathing suit, which was the usual garb of those engaged in the Saturday afternoon races in which he was to be one of the competitors, and accompanied by Mr. Harway, a fellow member, he went out for a preliminary sail to tune up the boat.

"To join her husband at the yacht club Mrs. Annis came to Bayside on a Long Island train. On the same train were members of the club with their wives and guests. Mrs. Annis, some of these club members and ladies entered the stage which regularly plies between the railroad station and the clubhouse.

Hackman Saw Revolver.

"After the train pulled out a hackman was driving to the station looking for patronage. He was stopped by this defendant, who asked him if he would drive him to the Bayside Yacht Club. The defendant said there was another man with him, and, turning, motioned to Capt. Hains, his brother, who was standing on the easterly end of the station platform.

"The defendant and Captain entered the surrey, and, as they did so, the hackman observed a revolver. The hackman drove north toward the clubhouse, the stage being some little distance ahead. The surrey passed the stage, and the defendant told the hackman to drop back behind it.

"We've Got Him Now."

"The defendant said to Capt. Hains, 'We've got him now,' and told the hackman to keep about a hundred feet behind the stage. The defendant and the Captain several times spoke together in low tones, inaudible to the hackman. About half way to the clubhouse the defendant inquired of the hackman if there was any good property in Bayside Park for sale and was informed by him that there was and that there was an agent at the yacht club who knew about real estate.

"Then the defendant asked him if he knew Annis. The driver told him he did not. The defendant asked him if he knew where Annis lived, and the hackman did not answer. When the surrey turned into Shore avenue, the stage was about fifty feet ahead, and the defendant told the hackman to drive faster and catch up close to the stage. This the hackman did.

"As the surrey followed the stage into the yacht club grounds, the defendant told the hackman to hustle up to the stage and get close to it as he could. The hackman obeyed and the stage and the surrey stopped at the front door of the main reception room of the club at the same instant.

"Without waiting to pay the hackman the defendant and Capt. Hains entered the reception room and the defendant inquired of a waiter in the club-house if a certain real estate company owned lots around there. The waiter thought not. The defendant asked the waiter if he knew a man named Annis, and was informed that he did.

After describing the incidents of the float, Mr. White continued:

Threatened All, He Says.

"As Annis's boat touched the easterly edge of the float at its southeast corner Birchfield grabbed her forestay, and, facing east, threw his weight against her to fend her off. Capt. Hains with his right hand drew from a holster concealed in his left breast an automatic magazine pistol of .45 calibre, in deadly weapons the acme of human invention, loaded with a magazine full of cartridges, knelt down, facing east, put his left hand on the boom of the yacht, near the mast, lowered his face a trifle below the boom, thrust the pistol in the face of Mr. Harway, who sailed with Annis in the tunning up trip, turned the pistol toward Annis, sitting in his bathing suit in the stern, at the right of the tiller, and said 'Annis' and fired, and the bathing suit of Annis was stained with blood.

"At that instant this defendant drew a revolver of .38-calibre, loaded with cartridges, from a holster concealed on his right side, and, still facing the people on the float, extended the revolver in his right hand toward them.

"As the voice of death's messenger rang out of the captain's gun the horror-stricken bystanders started forward to stop the deadly work.

"Menacing with his revolver each who started to interfere and threatening them with death if they persisted in their efforts, this defendant, while his brother emptied the contents of his gun into the defenseless body of unwarned Annis, addressed himself to them in this language: To Birchfield he said: 'Keep back! Keep back! He knows what he is doing' and as Birchfield did not immediately stop, he added: 'Don't interfere, or you will get the same thing!'

"Terrified, Birchfield stopped and backed away. To Roberts he said: 'Keep off! Keep off! Or I will kill you!' And Roberts jumped back. To Edwin Andrews jr. he said:

"'Stand back! I am running this affair!' and Andrews jumped back.

Mrs. Annis Fled

"And all of this conduct and speech menacing those who would have succored Annis and encouraging the brother who was doing him to death, this defendant did and uttered before the last shot was fired.

"As the shooting ended Annis, who after the first shot rose and slowly worked his way along the easterly side of the boat, came around the mast, staggered on the float and fell into the water at its south side.

"As Annis fell into the water his wife rushed forward, was confronted by this defendant, who threatened and touched her with the revolver, and she whirled in terror and fled up the runway to the dock.

"As Annis struggled in the water and tried to swim, Capt. Hains stood over him with his empty revolver.

"Annis, bleeding from wounds piercing his body, twenty in all of entrance and exit, as I recollect, was dragged from the water by Roberts and Edwin Andrews, and laid on the south edge of the float.

"Capt. Hains was disarmed by Tonning, the boatman, who threw the pistol on the float.

"This defendant still stood swinging his revolver, saying 'The first man to make a move is as dead men.'

"Mr. Downs, a club member, rushed from near the clubhouse to the float, and demanded to know who did the shooting and if they had him. This defendant said: 'Yes. He is here. Stand back, get the police. This is an affair for them.' Downs again demanded to know who did the shooting. Capt. Hains said he did it and there would be no more shooting.

"Upon searching Capt. Hains, in the presence of this defendant, the policeman found, loaded with cartridges, a magazine, duplicate of that found by him empty in the Captain's pistol.

Found Cartridges in Surrey.

"In the middle of the seat occupied by this defendant and Capt. Hains in the surrey the driver found a package which contained cartridges of .38 calibre suitable for use in a pistol such as that used by Capt. Hains, and this package was turned over to the police.

Hains Prompts Lawyers.

Jenkins Hains, with his chin resting in one hand, listened motionless for the most part to the words of his official accuser. Occasionally the fingers of his left hand sought his mustache. Once or twice he wrote notes on scraps of paper and passed the notes over to one or another of his lawyers, and sometimes he smiled derisively at a statement by White.

White scored the first thrill when he told of Jenkins Hains's apparent efforts to cover his motives under guise of seeking real estate bargains around Bayside.

First Sign of Nervousness.

As White neared the point where he began to describe the events immediately preceding the tragedy a faint flush mounted into the jail-paled cheeks of Jenkins Hains and his pencil-using activity ceased. Repeatedly, without moving his head, Jenkins Hains shifted his gaze until his black eyes swept the faces of the jurors. He didn't exactly exhibit uneasiness, but he showed something more nearly akin to nervousness than those who have studied the prisoner even though he could show.

While White was describing Jenkins Hains's attitude and language at the moment of the shooting McIntyre tried to break in, but Justice Crane, who had plainly lost patience with these tactics of interference, waved the lawyer down and told White to go ahead. This happened twice again during the last five minutes of the opening speech.

The last time White kept on with his remarks while McIntyre was trying to get the recognition of the Judge.

"I insist that you stop!" shouted McIntyre. "Please recognize the fact that you are a lawyer."

White, with a whitening face, turned on him bristling.

"Now, Your Honor," he began. "I must protest against that remark."

"Go ahead, go ahead," signaled Justice Crane. And White went ahead.

At 11.27, Mr. White finished. He had made a clear, workmanlike exposition of the State's case, although he had been so often interrupted.

As White sat down McIntyre moved that the first and second counts of the indictment against his client should be stricken out because the evidence showed Jenkins Hains actually took part in the shooting. While he was speaking old Gen. Hains came in and sat alongside the Major. The motions were overruled and then Mr. Darrin called the first witness.

LODGE STRIKES AT FORAKER IN TALK ON BROWNSVILLE

WASHINGTON, Dec. 16.—The Brownsville affair was discussed in the Senate to-day by Senator Lodge, who is a member of the committee on military affairs, which investigated the charges that soldiers of the Twenty-fifth Regiment "shot up" the town.

Mr. Lodge remarked that he would make no reference whatever to the report of the investigation referred to by the President in his recent message to Congress.

The Senate galleries were filled, very many of the visitors being negro men and women. Rather more Democrats than Republicans remained in the chamber while Mr. Lodge was speaking. In accordance with his request, he was not interrupted while speaking.

Mr. Lodge declared that while there is a great deal of evidence that the shooting was done by the soldiers there is no evidence whatever that it was done by anybody else. There is, he said, no physical impossibility of time, distance or alibi to prevent our attributing the shooting to the soldiers.

Self-selected champions of these soldiers in various parts of the country sought, he said, not for equality before the law, but for special treatment for the Brownsville soldiers on the ground of race. "As a friend of the negro race I deprecate agitation which had this end in view," he said. "These soldiers are entitled to the same treatment as soldiers and citizens that white men would be entitled to, neither more nor less."

Brushing aside the question of sympathy, he wished exact justice so far as it could be attained. The crime of these men was made greater because they were United States soldiers employed for the protection of the people.

Senator Lodge said he favored the Warner bill, which allows the President to restore the innocent to the army whenever he is satisfied that any of them were blameless. He condemned the Foraker bill, which he said attempts to force back into the army not only innocent men, but men who were guilty of a serious crime.

He made an exhaustive argument on the unconstitutionality of the Foraker bill, which obliges the President to reenlist these soldiers whether he thinks they ought to be re-enlisted or not. Such an act would be an encroachment upon the constitutional rights of the President. It would be subversive of discipline in the army.

OAKLAND ENTRIES.

FIRST RACE, Futurity Course; purse.—Enamour, 105; Yakima Belle, 105; Osceola, 103; Orlin Ormonde, 100; Lookout, 105; Smiling Jack, 105; Semper Fidelis, 103; Harry Rogers, 100; Birth, 105; Assay, 106; Who, 103.

SECOND RACE—Six furlongs; selling.—Gypsy King, 113; Lady Carol, 100; Bulreed, 103; *Avona, 102; Nagazam, 109; *Mabel Hollander, 106; Reclean, 103; Tawise Daughter, 90; Berryessa, 109; Adena, 105; Taskmaster, 103; *Dr. Mayer, 89.

THIRD RACE—Mile and one-sixteenth; selling.—Billy Pullman, 105; Magnanimia, 102; Be Thankful, 105; Northwest, 102; *Nadzu, 104; *Kekette, 97.

FOURTH RACE—Seven furlongs. Ward Handicap.—Jeanne Dare, 114; Collector Jessup, 106; Early Tide, 95; Hanbridge, 114; Madman, 98; Epicaris, 89; Col. Jack, 105; Downpatrick, 95.

FIFTH RACE—Mile and a sixteenth; selling.—Confederate, 112; Elevation, 106; St. Andrew, 106; Ben Brush, 106; Pecksniff, 101; Sir Dixon, 106; Dandelion, 101; Fortuna, 112; Frank Gibbons, 99; Padilla, 99; Veteranio, 108; Sir Brillar, 102; The Captain, 109; Twenty, 109; Footlight, 99; Orange Fruit, 99.

SIXTH RACE—Futurity Course; purse.—Bishop, 98; *108; Lieb Knabe, 108; Fragolino, 105; Hal, 105; Hanover, 105; Hedgewood, 105; Tuna, 108; Lorenzo, 105; Indian Summer, 105; Colony, 108; Light House, 105; Marchesa, 105.

Weather clear, track slow.

*Apprentice allowance.

LOS ANGELES ENTRIES.

FIRST RACE—Selling, six furlongs.—Norfolk, 112; *Dal, 107; Hansel, 109; Lord of the Forest, 109; Hannibal Boy, 109; Laird Cowie, 109; Fredonia, 109; Be Quick, 109; Iroquois, 106.

SECOND RACE—Selling, six furlongs.—Ed Mosby, 112; Ben Davis, 112; *Elevation, 107; Ben Ali, 107; Ben Davis, 107; Ben Davis, 107; Ben Ali, 107; Ben Davis, 107; Ben Davis, 107; Ben Davis