

Mathews before that, nor Mr Stuart; I told them I would settle Irvine; that was all that was said then; I didn't have a gun in my hand then, but I was standing in the doorway, then walked back thru the kitchen and the door to the dining room; I walked into the bed room; the gun was standing there where you see it marked on the map; I picked up the gun and returned, and as I was returning I put my hand down that way to see whether the safety was on or not; I came up to the door, and my finger being on the trigger and being excited the gun went off; I didn't see anybody there, but the door was not fully open as it is described here, and the door was slammed against the gun, discharging it the second time. I didn't see Stuart nor Mathews enter the house, nor until they were almost out of the ~~front door~~ back door as they were running out of the house; that was the first time I observed them being in the house; Exhibit D is the gun I picked up; it is an automatic shotgun and belongs to Mr Stroschell; I had had the gun the last time since last February; borrowed it to shoot rabbits; I hunted rabbits or something nearly every day; had no other firearms in the house on April 15th; I have shot that and other guns a number of times; the trigger of this gun is lighter than on the average gun; it has a safety device to set so the gun cannot be discharged, just in front of the trigger. At the time I saw Mathews and Stuart running out of the house I didn't know that the shots had struck anyone, and didn't know anyone had been killed until I was running in the yard, between the gate and the chicken coop, when I heard somebody say "Go help Mr Stuart;" then I ran right towards the barn; as I passed Mr Mathews and another gentleman and Mrs Gardner standing close together I heard one of them say "Don't shoot me," and I said "I don't want any of you gentlemen; just please leave me alone." After going to the barn I returned to the house and saw a motorcycle standing at the gate; I know how to operate one; I didn't get on that motorcycle. I stayed in the house about an hour, and the first person to come in the house then was Mrs Gardner; then Mrs Stroschell walked from an automobile to the house just as I was getting my clothes ready to come to Salt Lake; then I left the house with Mrs Gardner and Mrs Stroschell and I walked up to Frank Emery in his automobile, and he says "Mr Gardner, I am glad you came out," and I said "I would have been out long ago, Mr Emery, if I had had the opportunity;" Mrs Gardner and I got in the auto with Mr Emery, Mr Giles, Mr Reedheim, and drove away to Salt Lake, where they put me in the county jail. I did not recognize Gordon Stuart on April 15th as a party I had ever seen before and don't know that I ever spoke to him in my life nor he to me.

ON CROSS-EXAMINATION: When Mrs Gardner opened the back door for the officers I heard somebody, I don't know who, tell her they had a writ of claim and delivery for some stock, and then she went out; then I dressed and went into the kitchen, after 5 or 10 minutes; then I heard her say "Have you come out to steal from us again, Mr Irvine" or words to that effect; then I looked out the window and saw Irvine at the gate and Mrs Gardner about 30 feet from the gate; she didn't say to him "You God damned robbing son of a bitch" and Irvine didn't say to her "Don't shake your finger in my face and call me names or I will slap you" so far as I know; she said "You have come out to rob us again" in effect; I didn't hear her call him names. When Mathews came to the door I opened it, but I didn't see any paper in his hand; he said he and Irvine had come for some stock; he didn't read any paper to me or tell me what they were; I said "I will settle Irvine" or words to that effect and went back in the house to get the shotgun to go after Irvine and stop him from taking the stock, by going out there and forcing him with the gun to stop taking the stock; I was going to force him to stop taking the stock by using the gun, by shooting him, by killing him; I had said I would kill Irvine and probably anybody else that came out there to get that stock; I said I would kill Irvine or any other son of a bitch that came out there to get the stock. When I got the gun I tried to see if the safety catch was on or not, but didn't have time to determine it; it would take a couple of seconds in walking to find that out; I just reached around the door there and picked up the gun, and as I turned around I was feeling for the safety catch, because I didn't want any accident to happen to anybody in the yard; I was going out to kill Irvine and put the safety catch on so I wouldn't kill anybody else before I got to Irvine; as I am a disabled man, I didn't want to fall and have the gun in my hands without the safety on; I didn't know whether I would fall and shoot myself; in hunting I must carry the gun with the safety catch on for my own safety. I was nervous at the time the gun was fired. I said to Mr Morgan when he and Mr Giles came up to the sheriff's car on April 15th "I told you that I would do it;" I meant that I had killed somebody who came there to take my property; I had the idea that the man that came with Mathews was to help Irvine out too. When I told Morgan on April 6th that I would kill anybody who would