

Fred Hopkins has been held in jail since June 22, 1924, the date of the occurrence for which he was sentenced.

A preliminary hearing was held before Judge D. R. Roberts on August 1, 1924. The State called as witnesses Norman Glen Hutchens, Alice Coral Ray, Mrs. Fannie A. Mecham, and Dellos Smuin. The defendant did not produce any testimony.

Hutchens, who was 26, married (his wife having been away for about two weeks), left his home at Five Points with young Smuin about noon on Sunday the 22nd, and came into town on the street car. They went down lower 25th Street hunting liquor, and took drinks in at least two places. They loafed back up the street to the Fox-Ray Rooms, 320 1/2 - 25th Street, arriving there at about 2 p. m. They had not eaten lunch.

The Fox-Ray is on the second floor, and is run by Mrs. Ray. At the head of a long stairway, there is a small landing, with a door leading to the lobby, which is about 10 x 12 feet. A table stood in the lobby directly in front of the door. A sofa was along the south wall, and the room was fitted with chairs and a stove.

Hopkins was sitting on the sofa.

Hutchens rang the bell, and Mrs. Ray went to the door to answer. Hutchens told her they were hunting liquor and women, that they had had some and wanted more. The landlady answered that she didn't have either, and Hutchens started to argue with her. He pushed his way into the room, and on seeing Hopkins, who was still sitting down, pointed at him and said, "What the hell is he doing here then?" Hopkins started to get up from the sofa, and Hutchens lunged at him, and struck him in the face. A scuffle ensued, and they were separated, Mrs. Ray trying all the time to get Hutchens and Smuin out of the place before they made trouble for her. While she was arguing with them, Hopkins left the room by the Northeast door of the lobby, and Hutchens tried to follow him. Mrs. Ray blocked his way, and he said, "I'll get him on the street", or words to that effect.

Hutchens testified that he was "pretty well liquored", that "Smuin was not quite as drunk as I was", "I must have been in a quarrelsome state", "I was picking a row on account of liquor", "I hit Hopkins", "I was so liquored I don't remember just what occurred", and similar expressions. Hopkins was sober, and had not been drinking.

Hopkins was staying in a room in the rooming house which adjoins the Fox-Ray on the East. He left the Fox-Ray through the kitchen, and went to his own apartments. After about ten minutes, he went down the steps to 25th Street, and up the stairway to the Fox-Ray. He was gone long enough for Hutchens and Smuin to have left the place, but they were still quarreling with Mrs. Fox at the lobby entrance.

As Hopkins reached the head of the stairway, and was on about the second step, Hutchens turned toward him, and made some remark. Hopkins pulled a pistol and shot. The bullet penetrated Hutchens' bowels.

Hutchens recovered from the wound.