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Record No. 5218

In the Supreme Court of Appeals of Virginia at Richmond

LEO E. CLOUTIER, ADMR., c.t.a. ETC.

v.

VIRGINIA GAS DISTRIBUTION CORP.

FROM THE CIRCUIT COURT OF THE CITY OF WAYNESBORO

RULE 5:12—BRIEFS.

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of the Court, and at least three copies mailed or delivered to opposing counsel on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 5218

VIRGINIA:

In the Supreme Court of Appeals held at the Masonic Building in the City of Staunton on Friday the 2nd day of September, 1960.

LEO E. CLOUTIER, ADMR., C. T. A., ETC.,
Plaintiff in Error,

against

VIRGINIA GAS DISTRIBUTION CORP.,
Defendant in Error.

From the Circuit Court of the City of Waynesboro

Upon the petition of Leo E. Cloutier, administrator c. t. a. of Irma P. Cloutier, deceased, a writ of error is awarded him to a judgment rendered by the Circuit Court of the City of Waynesboro on the 7th day of April, 1960, in a certain proceeding then therein depending wherein the said petitioner was plaintiff and Virginia Gas Distribution Corporation was defendant; no bond being required.

RECORD

* * * * *

Filed in the Clerk's Office of the Circuit Court of Waynesboro City, Dec. 30, 1958.

Teste:

BETSY N. JORDAN, Clerk.

To: Virginia Gas Distribution Corporation.

Leo E. Cloutier, Administrator c. t. a. of the Estate of Irma P. Cloutier, deceased, duly appointed and qualified, moves the Circuit Court of the City of Waynesboro, Virginia, for a judgment against Virginia Gas Distribution Corporation in the sum of $25,000.00, which sum is due and owing to the Plaintiff as a direct and proximate result of the following damages and wrongs committed by the said Defendant, to-wit:

1. That the Defendant, or its agents, negligently and carelessly failed to exercise a degree of care to prevent the escape of gas commensurate to the danger, which it is its duty to avoid; and

2. That the Defendant, or its agents, had good cause to believe that an inspection should be made of the service lines, transmission lines and appliances servicing the Plaintiff and that nonetheless it negligently and carelessly failed to make such inspection; and

3. That the Defendant, or its agents, negligently and carelessly permitted a greater amount of pressure of gas to be furnished than is reasonably proper for its transmission of gas to household consummers; and

4. That the Defendant, or its agents, negligently
page 2 } and carelessly permitted its appliances to become defective; and

5. That the Defendant, or its agents, was negligent and careless in the transmission of gas in the City of Waynesboro; and

6. That the Defendant after undertaking to cut off the gas at the scene of the fire was unable to do so for a considerable period of time because of its negligent and careless maintenance of the gas cut off valve.

Whereupon, the Defendant by its negligence proximately caused the death of Irma P. Cloutier on the 21st day of January, 1958, at 216 Florence Avenue, Waynesboro, Virginia, for which judgment, as aforesaid, is sought.

Respectfully,

LEO E. CLOUTIER
Administrator c. t. a. of Irma P. Cloutier, deceased.

WAYT B. TIMBERLAKE, JR., p. q.
TIMBERLAKE AND SMITH
Industrial Loan Building
Staunton, Virginia.

CARTER R. ALLEN, p. q.
L. B & B. Building
Waynesboro, Virginia.

* * * * *

page 5 }

* * * * *

Filed in the Clerk's Office of the Circuit Court of Waynesboro City, January 20, 1959.

Teste:

BETSY N. JORDAN, Clerk.

GROUNDS OF DEFENSE.

Virginia Gas Distribution Corporation, defendant, for its grounds of defense to plaintiff's motion for judgment states as follows:

1. Defendant is not indebted to the plaintiff in the amount of $25,000, or in any amount.

2. Defendant admits a duty to exercise every reasonable precaution to prevent the escape of gas from service lines within its control but denies that it or its agents failed to exercise the degree of care required with respect to the gas

service lines within the defendant's control or permitted the escape of gas from its service lines within its control.

3. Defendant denies each and every allegation of paragraphs 2, 3, 4 and 5 of the motion for judgment.

4. Defendant admits that there was a delay in cutting off the gas at the scene of the fire but denies that the delay was a result of its negligence or carelessness. Defendant further states that the delay in no way contributed to the death of plaintiff's deceased, as the efficient causes of the death of plaintiff's deceased were the explosion and resulting fire which were caused by forces unknown to the defendant.

page 6 } FOR FURTHER ANSWER AND DEFENSE DEFENDANT SAYS:

5. At the time of the explosion and fire, and at all times theretofore, plaintiff and plaintiff's deceased had exclusive possession and control of all pipes, equipment and appliances, and of the gas on his premises, and the defendant had no duty in regard to the same, or any of them, and therefore was not guilty of any negligence.

6. As a public service corporation defendant had performed its full duty *quoad* plaintiff's deceased, in the manufacture, distribution and sale of gas, and had complied with all laws, ordinances, regulations, terms, conditions and tariffs in effect that were applicable to said explosion and fire; and defendant says it was not guilty of any negligence in delivering gas to the plaintiff's deceased.

7. Defendant further says that if gas escaped on the premises of the plaintiff, it was due to the neglect of the plaintiff and plaintiff's decedent and to leaky or defective pipes and equipment and appliances, and to their own negligence in the installation, repair, maintenance, and use of the same, which said negligence was a proximate cause of the fire and explosion and was not due to any negligence of the defendant.

8. Although it denies negligence on its part, defendant nevertheless will rely upon the contributory negligence of plaintiff and plaintiff's decedent in that they failed to exercise due care in the construction, selection, installation, repair, maintenance, inspection and use of their own pipes, appliances, equipment and building which negligence on their part proximately and efficiently contributed to the said fire and to the death of plaintiff's deceased.

page 7 } 9. Defendant further says that the fire of which planitiff complains, was an unavoidable accident so far as defendant is concerned, and defendant is not liable for said accident or for any damages resulting therefrom.

WHEREFORE, defendant prays that the Court find and adjudge that defendant Virginia Gas Distribution Corporation is not liable to plaintiff in any amount whatsoever, and that defendant recover its costs and be afforded such other and further relief as to the Court may appear proper.

VIRGINIA GAS DISTRIBUTION
CORPORATION
By C. E. GOODWIN
P. O. Box 1273
Charleston 25, West Virginia.

FELIX E. EDMUNDS
EDMUNDS & FREED
Main Street Building
Waynesboro, Virginia.

THOMAS B. GAY
H. MERRILL PASCO
RODERICK D. SINCLAIR
1003 Electric Building
Richmond 12, Virginia

Counsel for Defendant.

Date: January 20, 1959.

CERTIFICATE.

I certify that a true copy of the foregoing Grounds of Defense was mailed to Wayt B. Timberlake, Jr., of Timberlake and Smith, Industrial Loan Building, Staunton, page 8 } Virginia, and to Carter R. Allen, L. B. & B. Building, Waynesboro, Virginia, attorneys of record for the plaintiff, this 20th day of January, 1959.

FELIX E. EDMUNDS
Of Counsel for Defendant.

* * * * *

page 25 } The jury finds the defendant, the Virginia Gas Distribution Corporation guilty of negligence in the gas supply system to the Cloutier home on 216 Florence Ave. Waynesboro Va. on Jan. 21, 1958.

The jury awards $25,000 to the administrator of the estate of Mrs. Irma P. Cloutier.

Foreman of Jury
M. E. BISHOP

page 26 } INSTRUCTION NO. A.

The Court instructs the jury that the knowledge, the negligence, the acts, or the omissions of the defendant or notice to the defendant, means the knowledge, the negligence, the acts or the omissions of, or notice to the servants, the employees or the agents of the defendant, Virginia Gas Distribution Corporation, as the case may be.

Given.

C. G. Q.

page 27 } INSTRUCTION NO. C.

The Court instructs the jury that in view of the highly dangerous character of gas and its tendency to escape, a gas company must exercise a degree of care to prevent the escape of gas commensurate with the danger which it is its duty to avoid; and the Court further instructs the jury that the law requires a gas company to use reasonable care to see that its mains, its distribution lines, and its equipment are laid and maintained in a reasonably safe condition, so as to prevent injuries to persons and to property by the escape of gas; thus, to exercise reasonable care in the handling of gas requires a greater degree of care than would be required if gas were not in itself a dangerous instrumentality; thus, if the gas company fails to exercise this degree of care and injury proximately results therefrom, the company is liable.

Given.

C. G. Q.

page 28 } INSTRUCTION NO. D.

The Court instructs the jury that if they believe, by a preponderance of the evidence, that the defendant's pipes, mains, connections, machinery and other equipment used in the transmission and distribution of natural gas were negligently or carelessly maintained by the defendant, Virginia Gas Distribution Corporation, in a dangerous or defective condition, on or before January 21, 1958, and that the defend-

ant had notice of this condition, or by the exercise of reasonable care should have known of this condition, and that as the proximate result of such negligence or carelessness of the defendant, Virginia Gas Distribution Corporation, an explosion and fire occurred, either of which proximately caused the death of Mrs. Irma P. Cloutier, the jury shall find for the plaintiff.

Given.

C. G. Q.

page 29 } INSTRUCTION NO. E.

The Court instructs the jury that they shall find for the plaintiff in this action if they believe by a preponderance of the evidence that the death of Mrs. Irma P. Cloutier was caused by the entry of natural gas into the residence at 216 Florence Avenue, Waynesboro, Virginia, from a leak in the defendant's gas line or lines and that such leak resulted from the negligence of the defendant.

Given.

C. G. Q.

page 30 } INSTRUCTION NO. G.

The Court instructs the Jury that if they find for the plaintiff, they shall award such damages to them as may seem fair and just under all of the circumstances of the case not exceeding TWENTY-FIVE THOUSAND DOLLARS ($25,000.00), the amount sued for; and, in ascertaining the damages that the plaintiff is entitled to recover, they may consider the loss by her husband and children of Mrs. Cloutier's care, attention and society the sorrow, suffering and mental anguish occasioned by her death.

The Jury may direct in what proportion such damages shall be distributed to the surviving husband, H. N. Cloutier, and to the surviving children, Leo E. Cloutier, Mrs. Irma Cloutier Hintz and Mrs. Mary Frances Cloutier Burnett.

Given.

C. G. Q.

page 31 } INSTRUCTION D-1.

This case involves the question of whether the defendant, Virginia Gas Distribution Corporation, which is engaged in

the distribution of natural gas to consumers, is liable to the plaintiff in damages for the death of Irma P. Cloutier, aged 65. Her death occurred as the result of the burning of the house in which she lived immediately following a violent explosion in the house on the night of January 21, 1958. The plaintiff is the administrator of the estate of Mrs. Cloutier. The defendant provided gas service to her home.

The determination of whether the defendant is liable to the plaintiff will depend solely on whether it has been *negligent* in the performance of the duties imposed upon it by law, and, if so, whether such negligence was the proximate cause of the death of Mrs. Cloutier and whether she was guilty of contributory negligence.

These instructions will set forth the duties imposed on the parties by law, define the meaning of some of the legal terms used in the instructions, and instruct you as to the burden of proof and other related matters. It will then be your duty to apply the facts as they have been proven to you by the evidence in this case to the principles of law contained in these instructions.

Given.

C. G. Q.

page 32 } INSTRUCTION D-2.

The term "*negligence,*" whenever used in these instructions, means the failure to exercise the degree of care required by law as set forth in these instructions; i. e., the failure to do what the law requires or doing what the law prescribes should not be done.

The term "*proximate cause,*" whenever used in these instructions in connection with the death of Mrs. Cloutier means that it must appear that her death was the natural and probable consequence of the alleged acts of negligence and that a reasonable and prudent man ought to have foreseen that the injury might naturally result from such alleged act of negligence under the attending circumstances.

The term "*a preponderance of the evidence*" whenever used in these instructions does not mean the greater number of witnesses but it is the greater weight of all of the credible evidence on both sides before the jury.

You are the sole judges of the weight of the evidence and the credibility of the witnesses. In determining the credibility of witnesses and the weight to be given to their testimony, you may take into consideration the demeanor of the witnesses on

the witness stand, their manner of testifying, their apparent candor and frankness, their bias, if any, their opportunity to know about the matters about which they testify, page 33 } the reasonableness of their testimony, and from all the other facts and circumstances appearing in the case, determine which witnesses are more worthy of credit and give credit accordingly.

Given.

C. G. Q.

page 34 } INSTRUCTION D-3.

Negligence on the part of the defendant cannot be presumed or inferred and the mere occurrence of the explosion and fire does not establish that the defendant was negligent and does not render the defendant liable in this case.

The law does not require the defendant to explain how the explosion and fire occurred or to point out the cause of them. The burden is on the plaintiff to show by a preponderance of the evidence how and why the explosion and fire occurred and to show also that they were due to negligence on the part of the defendant and further that such negligence, if any, was the proximate cause of the death of Mrs. Cloutier, and if the plaintiff has failed to prove his case you cannot find a verdict against the defendant based upon the explosion and fire.

Given.

C. G. Q.

page 35 } INSTRUCTION D-4.

In view of the explosive and injurious nature of gas and its tendency to escape, a gas company in providing gas service to residential customers is under a duty to (a) install and maintain its mains, pipes and service connections under its control with all reasonable skill and care suggested by experience and the usual practice in the business to avoid its escape in such quantities as are likely to injure the health and property of others, (b) maintain a reasonable system of periodic inspection and testing of the mains, pipes and service connections under its control, as will reveal the existence of leaks or defects in such facilities, and (c) repair promptly and effectively all leaks and other defects in its mains, pipes and service connections regardless of the cause, of which it

becomes aware or in the exercise of reasonable diligence should become aware in the maintenance of the adequate system of periodic inspection and testing referred to above.

A gas company is not an insurer as to injuries sustained as the result of the escape of gas, that is, it is not liable for the failure to keep its mains, pipes and service connections in such a condition as absolutely to prevent the escape of gas where it has employed the proper degree of care to that end, and it is not responsible for gas leakage that is not detectable by the company in the efficient operation of an adequate system of periodic inspection of the facilities under page 36 } its control. A gas company is not required to maintain a constant inspection all along its line without reference to the existence of leaks or escape of gas and it is not responsible for the maintenance, inspection or testing of gas service lines of customers or of gas plumbing and appliances in the homes of customers installed by the customer and over which he has full control, except to notify the customer or repair promptly any leaks or other defects in the customer's service line or gas plumbing and appliances as the company becomes aware of in periodic visits to the premises for meter reading or visual inspection.

If you believe that the defendant has fulfilled its duties as outlined in these instructions, the defendant cannot be held liable for the death of the plaintiff's decedent, even if you should find that the explosion and fire which caused her death resulted from the escape of gas.

Given.

C. G. Q.

page 37 } INSTRUCTION D-6.

The plaintiff must prove his case by a preponderance of the evidence, and if you believe from the evidence it is just as probable that the explosion and fire resulted from an unknown cause or from a cause for which the defendant was not responsible as it is that it resulted from a cause which defendant should have foreseen and prevented by the exercise of the degree of care imposed upon it as set forth in this instruction, then the plaintiff has failed to prove that the explosion and fire resulted from any negligence of the defendant, and you cannot find a verdict for the plaintiff.

Given.

C. G. Q.

page 38 } INSTRUCTION D-7.

If the jury believes from the evidence that the death of Irma P. Cloutier resulted from a cause which neither the plaintiff nor defendant knew of, and of which the defendant could not, by the exercise of reasonable care and prudence, have foreseen or known, and for which the defendant would not be responsible, then you must find for the defendant.

Given.

C. G. Q.

page 39 } INSTRUCTION D-8.

If the jury believes from the evidence that, at the time of the explosion and fire which caused the death of Mrs. Cloutier she was guilty of negligence in not keeping and maintaining the pipes, valves, fixtures, and appliances placed on the premises of the plaintiff for the purpose of conducting the gas from the defendant's main into the house in good order and repair, or failing to report defective appliances or known gas leaks or failing to exercise ordinary care for her own safety under the circumstances, and if the said negligence, in whole or in part, caused or occasioned her death, the plaintiff cannot recover, and you must find for the defendant, even though you may believe from the evidence that the defendant was also negligent.

The burden is on the defendant to prove that the contributory negligence of the deceased was a proximate cause of her death unless any such contributory negligence be shown from the plaintiff's own evidence or may be fairly inferred from all of the evidence and circumstances in the case.

Given.

C. G. Q.

page 40 } INSTRUCTION D-11.

The Court instructs the jury that you cannot base your verdict on sympathy, surmise or conjecture, but your verdict must be based solely on the evidence you have heard and seen in this case and upon the applicable law as set forth in the instructions of the court.

Given.

C. G. Q.

page 41 } DEFENDANT'S INSTRUCTION NO. D-12.

The Court instructs the jury that although the plaintiff has alleged in his motion for judgment that the defendant was negligent in furnishing gas to the Cloutier home at an unreasonably high pressure and was negligent in failing to turn off the gas at the fire, there is no evidence in this case of such negligence and you must therefore disregard these allegations and claims of negligence in arriving at your verdict.

Given.

C. G. Q.

page 42 }

* * * * *

This day came the parties by counsel and the Court having heretofore heard argument of counsel and having the benefit of a transcript of the testimony at the trial and of briefs filed by counsel on the motion of the defendant to set aside the jury verdict heretofore returned in this case, and being of the opinion that the motion should be sustained accordingly it is hereby ordered that the jury verdict rendered May 19, 1959, in favor of the plaintiff, Leo E. Cloutier, Administrator, be and it hereby is set aside, and it is further ordered that final judgment be entered for the defendant, Virginia Gas Distribution Corporation, with its costs in this behalf expended, to which action of the Court the plaintiff objects and excepts.

C. G. Q., Judge.

Dated: April 7th, 1960.

We ask for this:

FELIX E. EDMUNDS
Of Counsel for defendant.

Seen and objected to:

CARTER R. ALLEN
Counsel for plaintiff.

WAYT B. TIMBERLAKE
Counsel for plaintiff.

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* * * * *

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR.

To: Betsy N. Jordan, Clerk of the Circuit Court of the City of Waynesboro:

Notice is given pursuant to the provisions of Section 4, Rule 5:1 of the Rules of the Supreme Court of Appeals of Virginia that Leo E. Cloutier, Administrator c. t. a. of Irma P. Cloutier, Deceased, appeals in this case and will apply for a writ of error and *supersedeas*.

ASSIGNMENTS OF ERROR.

The following is the error assigned:

1. The Circuit Court erred in setting aside the verdict as contrary to the law and the evidence without evidence to support it.

Respectfully,

LEO E. CLOUTIER
Administrator c. t. a. of Irma P. Cloutier, deceased
By Counsel.

WAYT B. TIMBERLAKE, JR.
Industrial Loan Building
Staunton, Virginia.

CARTER R. ALLEN
L. B. & B. Building
Waynesboro, Virginia.

Filed in the Clerk's Office of the Circuit Court of Waynesboro City, April 28, 1960.

Teste:

BETSY N. JORDAN, Clerk.

* * * * *

EXCERPT FROM PAGE 4 OF DEFENDANT'S EXHIBIT 1.

"7. The customer service line shall not be laid under concrete or other hard surface walks or driveways except where it may be necessary to cross under such walks or driveways and except where such walks or driveways extend from curb

to foundation wall and the full width of the property such as service stations and places of business. Where a customer service line is installed under these conditions, a vent shall be installed at the customer's expense over the line near the foundation wall. (See Sketch 8)."

* * * * *

page 2 }

* * * * *

LEO E. CLOUTIER,

was called as a witness on his own behalf and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Allen:

Q. State your name, please.

A. Leo E. Cloutier.

Q. And your age, Mr. Cloutier?

A. Thirty-two.

Q. Where do you now reside, sir?

A. At 1041 Lindenhurst Road.

Q. Are you married?

A. No, sir.

Q. What is your employment, sir?

A. Work for the Clifton Forge-Waynesboro Telephone Company.

Q. Where is your father, Mr. H. N. Cloutier, now?

A. Now living with my sister in Sun Prairie, Wisconsin.

Q. What is your father's age?

A. Seventy-five.

page 3 } Q. Is his health such that he could be here today?

A. No, sir, it is not.

Q. Now, that is your sister, Mrs. Hence?

A. That is correct.

Q. Do you have another sister?

A. Yes, Mary Frances Burnett.

Q. And she lives in Waynesboro?

A. That's correct.

Q. Let me ask you this, Mr. Cloutier. Where was it that you, your mother and father occupied as a home in January of last year?

Leo E. Cloutier.

A. 216 Florence Avenue.

Q. How long had you lived at 216 Florence Avenue?

A. About 30 years.

Q. Now, can you recall how long you had gas service at 216 Florence Avenue?

A. Ever since I can remember.

Q. Mr. Cloutier, did this house have a basement?

A. About two-thirds of the house was under basement.

Q. Which portion?

A. Front portion of it.

Q. I wonder if you have there a drawing. I think it would perhaps be easier if we used that to describe the home.

Mr. Timberlake: I expect we had better hand it to these gentlemen. (Handing to opposing counsel.)

page 4 } Mr. Allen: I wonder if the Court would permit me to use the wall. (Posting drawing on wall.)

By Mr. Allen:

Q. Mr. Cloutier, I wonder if you would go to the wall, please, and make an explanation of that drawing.

A. This is Florence Avenue here, DeWitt Street over here. This is the living room, front porch extended out, this portion here. River rock driveway here up to this point, dirt from here on. This is the living room, doorway to the living room from the outside here. Double casement windows here and here. The floor furnace, the dining room and the kitchen. These three rooms all have double casement windows.

Q. What is that square marking in the kitchen?

A. It is the chimney where the gas appliances were vented. The floor furnace that is here and the hot water heater here also was vented to the chimney.

The stairway going up to the second floor and also to the basement were located one above the other. Now, bath and front bedroom and the rear bedroom.

Q. Which bedroom was it that your mother and father occupied?

A. This back bedroom here.

Q. And where did you occupy a bedroom?

A. On the second floor in this area here.

Q. All right, now, where was the television set on

page 5 } the particular night and where was your mother?

A. The set was placed in this corner here in the living room, and Mother was sitting in front of this window.

Leo E. Cloutier.

Q. All right, now, Mr. Cloutier, will you indicate what the red lines are that are shown on the map, please?

A. This red outline here is the basement portion of the house; from here forward is under basement.

Q. What was the nature of the basement floor, for instance? What was the floor in the basement?

A. Concrete.

Q. And the walls?

A. Concrete.

Q. Approximately what thickness?

A. Eight inches, approximately.

Q. Now, was there a light in the basement?

A. Yes, sir, there were several lights. The switch was located at the head of the stair just inside the door.

Q. Was there a door on the stair to the basement?

A. There was a door.

Q. At which level?

A. On the first-floor level only.

Q. Kitchen level?

A. Kitchen level.

Q. Where was the meter and the regulating valve of the gas company?

page 6 } A. The line came across the front of the foundation underground to the far corner of the house, came up out of the ground through the basement wall—foundation wall—and into the meter and cutoff, and so forth, reduction valve.

Q. Where was the hot water tank?

A. It was in this extreme corner there.

Q. Now, that blue line at the front of the house, what is that supposed to be indicative of?

A. This blue line?

Q. Yes, sir.

A. That is the gas line.

Q. The distribution line from DeWitt Street?

A. That's right.

Q. Now, approximately how far is the corner of your front porch from DeWitt Street?

A. This corner?

Q. Yes, sir.

A. About 12 to 14 feet.

Q. Now, between that area, what is the nature of the ground?

A. It is river rock drive.

Q. Would you describe what river rock is, please, sir?

Leo E. Cloutier.

A. Well, it's irregular-shaped stones, smooth, generally. They were laid out and filled in with concrete.

Q. About what size stones?

page 7 } A. Well, they varied from maybe 6 inches to 8 or 10 inches, probably, in diameter.

Q. And approximately what depth was this river rock?

A. Six to 8 inches.

Q. And that was immediately over the gas line?

A. That's right.

Q. Now, on the area underneath the front porch, what was the nature of the soil?

A. Loose dirt.

Q. And about what depth is the gas transmission line at that point?

A. About three inches.

Q. Now, Mr. Cloutier, on this north front corner here you have, perhaps not discernible, a little red line. What is that?

A. That was a drain from the basement, water drain from the basement. Went through the basement foundation just outside the wall and terminated into the ground.

Q. Now, what relationship, or about what was the relationship between the transmission line bringing the gas into the house and the outside opening of that drain?

A. The gas line passed directly over the drain, within an inch or two of this.

Q. Within an inch or two? And was this drain open?

A. Yes, sir, it was.

page 8 } Q. In usable condition?

A. Yes.

Q. Now, Mr. Cloutier, where was the so-called gas curb cock or cutoff valve?

A. It was located out here at the end of the drive.

Q. I don't believe you knew that at the end of the explosion.

A. Well, I knew it had to be there, yes.

Q. Was it visible before the explosion?

A. At times it had been. I—

Q. Now, from the northern end of this river rock, what was after that?

A. It was blacktop on the street.

Q. One further question, Mr. Cloutier. In connection with the river rock driveway can you recall the date of installation of that?

Leo E. Cloutier.

A. I was a child at the time. I can recall it was done, but I don't know approximately how many years it was.

Q. Would that have been before or after the installation of the gas line?

A. It would have been after.

Q. Now, your mother, Mrs. Irma P. Cloutier, what was her age?

A. Sixty-five.

Q. On this particular night, I believe you had page 9 } been out, isn't that correct?

A. That's right.

Q. I wonder if you, in your own words, would just tell the jury exactly what transpired, please?

A. I had gone out to a meeting and returned home about nine o'clock, and as soon as I entered the house, Mother asked me if I would check the furnace that was making a somewhat peculiar noise when it turned on. It seemed to be operating normally, but it was just a little bit louder. When it would turn on it would sound a little louder than normal.

So I immediately—I hadn't even taken an opportunity to take my coat off—I went immediately to the basement, walked over to the gas furnace and which to me was—the pilot was on eye level—and observed that the pilot was burning and the furnace seemed to be functioning all right. As a matter of fact, it turned on while I was there. And then I walked around to the corner of the basement and checked the hot water heater, and the pilot light was also burning in that. I could not detect any odor of gas or anything out of the ordinary and returned upstairs.

I was on the first floor for about 10 or 15 minutes, and then I went to the second floor to my room. I prepared for bed and was reading and heard 10 o'clock—the clock strike 10, and a few minutes thereafter several things happened all at once. The lights went out immediately and it was page 10 } quite a loud noise, and also things seemed to be suspended in midair for a few moments, and I was up in the air, I don't know how high or how violently I was thrown into the air, but when I came back down I came back on the bed, and debris and insulation from the roof, and so forth, were all around and there was quite a bit of dust and everything was dark.

My first reaction was to reach the telephone, and I had an extension in my room. I knew where it was located, and I groped for the connection on the wall, and the connection had been pulled loose, broken. So I immediately dismissed

that and walked to the—or groped my way to the door of the room, which was at the head of the stairs going down to the rest of the house. The floor partially had given way, and quite a bit of debris and what not in the way.

When I got to the head of the—where the head of the stairs had been, there was enough light from the flames in the lower part of the house to light up the stair well and indicate that the stair had been destroyed and I couldn't get down that way. About this time I could hear Mother screaming, and I turned around, groped my way back through my room. There were three windows in that room all adjoining each other. They were all in one casement, I guess you'd call it. There wasn't any glass or framework in these windows, so it was a very easy matter to get through them.

page 11 } The back porch roof had normally abutted right under the window sills, and the roof at this time had been pulled away from the house and had dropped a matter of maybe two feet. And so I got out the window, just dropped down onto the porch roof and walked to the edge of the porch and grabbed the gutter and swung down underneath the porch. I walked under the back porch to the back bedroom window of Mother and Dad's room, and not knowing that the side of the house was out and not knowing the condition of anything, as a matter of fact, I went in through that window, and Dad was on the floor beside his bed getting up.

Well, I tried immediately to get the door open to the rest of the house, from that bedroom into the rest of the house, and the house being off its foundation and what-not and debris and everything else caused the door to be jammed and it couldn't be opened. So I helped Dad out of the house, out through the side wall which had been blown out into the yard and to the edge of the street, where a neighbor helped or assisted Dad from there.

Q. Let me interrupt just a second. You say this wall had been blown out?

A. Yes.

Q. Would you describe that?

A. Well, the whole side wall of the house from the bathroom to the rear of the house had been blown out, the bottom of the wall having blown out and leaving the outside wall uppermost.

page 12 } Q. All right, now, would you go ahead?

A. When the neighbor met us and took over helping Dad from there on, I left them and went around to the

Leo E. Cloutier.

front of the house to try to get to the living room from the front.

Q. Why were you going out there?

A. Well, that's where Mother had been, in that front part of the house, in the living room.

Q. Was she still screaming?

A. Not at that time, no, sir.

I could approach the front room, oh, 20 feet or so, I guess, as close as I could get from the intense heat and flame, and then I turned around and started back towards the other side of the house, back towards on DeWitt Street, at which time one of the neighbors grabbed me, thinking perhaps that I was trying to get back into the house. And at the time I had a very—my idea of going back was to move my car which was located at the back porch. It had been parked back there. We struggled momenatrily and then he released me, and then I realized I didn't have the key to the car, so it wouldn't do much good to bother to remove it anyway, and also everything else was going and that might as well go, too. And I just left the car and stayed there as long as I could.

By this time the whole house was completely in flames. The fire company had started putting water on it, and the heat was getting quite intense, so we moved over to the neighbor's yard and stood there a few minutes.

page 13 } Q. How were you dressed, Mr. Cloutier, at this stage?

A. I was in pajamas and bathrobe.

Q. Shoes?

A. No, sir.

Q. After you had moved to the neighbor's yard, then I believe you saw Mr. Harry Stidham?

A. That is correct.

Q. Go ahead from there. You left the scene at that time?

A. Well, yes, within a few minutes. Harry Stidham was there and took me over to his house and found some clothes for me, and in the meantime the first-aid crew had taken Dad to the hospital. And so we were at Harry Stidham's for 15 or 20 minutes and then went immediately to the hospital.

Q. Now, Mr. Cloutier, did you return to the house again?

A. Not until the next day.

Q. All right. Well, now, go ahead with the next day, please.

A. Well, the next day was quite a busy day, to say the least. I returned up to the house sometime during the morn-

ing, I don't recall the exact time, and looked over the destruction and the scavenger and the curiosity seeker and whatever else you might have, and there were hundreds of people there, I guess, in all capacities, people making investigations, I suppose, and checking one thing and another. I stayed very little time there that time, not for any—not because page 14 } I didn't want to for any reason, that there were details that had to be taken care of and there were things that had to be done that required me to be other places, and so forth. So I could not stay at the house any amount of time that I would have liked to. The following morning—

Q. Did you talk to anybody while you were there?

A. I don't believe so that morning. I believe it was the following day.

Q. All right, the following day, which would have been Thursday, I believe?

A. Yes, sir.

Q. All right.

A. That I again went up to the house in the morning, and the gas company employees, a number of them, were there. Also the contractor that we had employed to clean up the site, clean up the debris, was there working, starting to clean up. I was approached by an employee of the gas company.

Q. Who was that?

A. Mr. Terry.

Q. All right, sir.

A. And he asked what type of appliance the gas furnace was, if it had been a conversion or was it a gas furnace, strictly a gas furnace. I told him that it was a gas furnace, and he volunteered the information that a small leak or a leak had been found in DeWitt Street, and then he im- page 15 } mediately added that it could have been caused by the explosion.

Q. Did he volunteer any other information to you?

A. No, he did not.

Q. Now, repeat once again, please, and to the best of your knowledge the exact words that Mr. Terry used on this Thursday.

A. We were standing in the back yard, and he approached me, or I approached him, I am not certain of that, but anyhow we were in the same area there. And he asked me what type of furnace had we there, whether it had been a conversion unit or whether it was a regular type gas furnace, and I told—

Leo E. Cloutier.

The Court: Was it a converted, or was it a gas-fired?

The Witness: No, sir, it was a gas furnace. There had been a coal furnace in there before, but when the gas furnace was put in, the coal-burning furnace had been removed completely.

So I told him what type furnace it was, and then he volunteered the information that a small—or a leak had been found in DeWitt Street and then immediately added that it was probably caused by the explosion.

By Mr. Allen:

Q. Now, Mr. Cloutier, this furnace was of what nature, and so forth? Can you describe that in a little more detail for the jury?

A. It was a gas floor furnace. It was mounted
page 16 } from the joists of the first floor, suspended from the first floor.

Q. About how far did it suspend into the basement?

A. About two feet, two and a half feet, perhaps.

Q. And then did it have a vent? Would you tell the jury whether it had a vent?

A. It was vented to the chimney with about a 6-inch gal—not galvanized—well, I guess perhaps it was galvanized stovepipe.

Q. Mr. Cloutier, how tall are you?

A. I am five-six.

Q. And what was the approximate height of the pilot light in this?

A. The pilot light would strike me about eye level.

Q. Now, I take it the week following—or would you tell this jury, perhaps, if you went back and about when you did, to the house, in the next week?

A. Well, I was up there any number of times for short periods.

Q. What further observations do you have in connection with the gas company?

A. Well, on one occasion there were some employees of the gas company in the foundation area with a tapemeasure making some measurements. There was no explanation given for their being there.

Q. Do you recall about when that was?

page 17 } A. Sometime during that week, within probably Thursday or Friday.

Q. Of the week of the explosion?

A. Yes, sir.

Q. Then it would have been about the same day that you talked to Mr. Terry?

A. No, sir, I don't think it was the same day.

Q. All right, now, have you at any time thereafter discussed this matter further with any official of the gas company?

A. I waited several weeks. There was no effort made on the part of the gas company or anyone else, for that matter, to contact me as to what might have happened. I went to see the local manager, asking if he could shed any light on the thing.

Q. Who was the local manager?

A. Mr.—

Q. Mozingo?

A. Yes, sir.

Q. All right, sir.

A. And we talked for a few minutes on the subject, and I asked if there had been anything found that would explain why and how the explosion occurred. He told me at the time no, they had not found out anything and if I found out anything, to let them know, and I guess that's what we are here for.

Mr. Allen: Thank you. Your witness.

page 18 } CROSS EXAMINATION.

By Mr. Pasco:

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page 20 } * * * * *

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Let me ask you about this drawing of the house a moment. You showed there was a gas line on the outside by a blue or green mark. Was the gas line actually that close to the front of the house, or is that just an indication of approximately where it is?

A. It was within six inches of the foundation.

Q. The gas line was within six inches of the foundation?

A. Yes.

Leo E. Cloutier.

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page 23 }

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Q. Now, you testified about this drain at the corner—I guess it's the northwest corner. What was the purpose of that drain?

A. To get water out of the basement.

Q. Get water out of the basement? It was a floor drain?

A. Yes, sir.

Q. A pipe right on the floor?

A. Yes, sir.

Q. Did the floor flow in that direction?

A. There was a slight sump or gridded area in the concrete there so the water would drain that direction.

Q. Did you have trouble with leaking basement?

A. No, sir, it didn't leak.

Q. Did you have any water in there recently to drain?

A. No, sir.

Q. How do you know this drain was open and operating?

A. I can't be certain at that particular time. It hadn't been used since probably during the summer, because during the wintertime we had no occasion to use it.

Q. When you say it was open, it was just your opinion, you didn't know for a fact it was open?

A. No, sir, I didn't check the drain that night.

Q. Nor had you checked it anytime for several

page 24 } weeks prior to the fire?

A. No, sir.

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page 25 }

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Q. I believe you testified you had seen this curb cock out near the street at some time?

A. Yes.

Q. You knew where it was located, approximately?

A. Yes. I generally washed my car, used that drive there. There was an outside water faucet at that corner of the basement, and I usually parked my car when I washed it, and I

knew the cutoff was located there in that area and I knew where it was.

Q. Was it covered by the cement and river rock?

A. No, it was not. It was at times—could have been covered by the dirt and debris and that sort—

Q. Not by the cement or the river rock?

A. No, sir.

Q. In other words, when the driveway was built, the curb cock was left open?

A. Yes.

Q. Now, you say you got home that night at 9 o'clock. Is that a firm time, or is that just an estimate on your part?

A. It was within a few minutes of that one way or the other.

Q. And how long do you estimate you talked
page 26 } with your mother before you went downstairs?

A. About 10 or 15 minutes.

Q. I mean before you went downstairs.

A. Oh, well, immediately. She asked me if I would check the furnace, it was making a little noise out of the ordinary, and so I went immediately to the basement without taking my coat off or anything else.

Q. What is your best estimate of the length of time you spent in the basement?

A. Not more than five minutes.

Q. And then you talked with your mother, I believe you said, for 10 or 15 minutes?

A. Yes.

Q. You had been in bed, then, 20 or 30 minutes when the—

A. Well, I didn't retire immediately. I prepared for bed, and I had some work to do, and then I just reclined on the bed and was reading at the time of the explosion.

Q. Are you familiar with the odor of natural gas?

A. I think I could detect it, yes, sir.

Q. And did you notice any natural gas in the basement when you went down that night?

A. Not that I could tell.

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page 28 }

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Q. And your testimony is that you have had gas there ever since you can remember?

Leo E. Cloutier.

A. That's right, sir.

Q. And you really don't remember the installation of the gas service line?

A. No, I can't remember the day or the year or exactly when, but I know we had it.

Q. Do you actually recall the installation of the line? I don't mean the date, but the physical installation? Do you recall that?

A. No, sir.

Q. So you really don't know who installed that?

A. No, sir.

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page 30 }

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Q. At that time had the side of the house fallen over?

A. It had fallen over long before I got there.

Q. How about the porch? Had the porch fallen off at that time?

A. Yes, all of the falling had been done.

Q. Now, did the porch extend all across the front of the house?

A. Approximately; maybe a foot or so shorter than the house itself.

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page 32 }

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Q. When your mother told you to go see about the furnace, did she say anything about smelling this gas?

A. No, sir. The only reason she was apprehensive or was concerned was the somewhat unusual noise that the furnace was making when it was cutting on. The furnace always made a noise when the thermostat would cut on, and this was the same type of noise only a little more pro-
page 33 } nounced, a little louder than normal.

Q. There was no odor of gas, as you have referred to?

A. That's right.

Leo E. Cloutier.

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Q. Do you recall what the weather was on the afternoon and night of this explosion?

A. We had rain during the day. It had rained, I think, during the evening. I wore a raincoat when I went out that evening. I think it was raining when I left. I don't think it was raining when I returned.

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page 35 }

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Q. You said that Mr. Gardner had some sort of an earth mover or bulldozer with hydraulic lift on it getting rid of the debris. How did he get into the house?

A. It was quite simple. The whole foundation at the front of the house was blown out by the explosion.

Q. So he came in the driveway?—

A. Came in the driveway.

Q. —into the basement of the house.

Mr. Pasco: That's all, thank you.

RE-DIRECT EXAMINATION.

By Mr. Allen:

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Q. Now, in connection with this basement drain, could you tell the jury, please, the width of that pipe that served as a drain?

A. It was an inch-and-a-half pipe.

Q. And tell the jury whether or not there was a trap in the pipe.

A. No, there was no trap. There was a straight section of pipe about 18 inches long.

Dr. William Andrew MacIlwaine.

Q. And you didn't test the pipe before the explosion. Have you tested it since the explosion?

A. The pipe was not tested before the explosion. It has been tested since and in working order.

Q. That was sometime after the explosion that it was tested, I believe?

A. Yes, sir, that's right.

Q. Perhaps as much as a year later?

A. Yes, sir.

* * * * *

page 38 } (The photograph above referred to was received in evidence as Plaintiff's Exhibit No. 1.

By Mr. Allen:

Q. Would you take this to the jury, please, and identify the location of the river rock driveway from the picture?

A. The river rock driveway was in here, extending from the edge of the street about 12 feet behind these men here to the edge of the porch.

Q. Now, there also appears to be a wall there. Would you identify what the wall is?

A. This wall was at the edge of the lawn about, I say, three feet from the property line.

Q. How far would that wall be from the foundation wall of the house?

A. About six to eight feet.

Q. And that is not the foundation wall of the house?

A. No, sir, that is not the foundation wall.

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DR. WILLIAM ANDREW MacILWAINE,
was called as a witness by and on behalf of the plaintiff and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Timberlake:

Q. What is your full name, please?

Dr. William Andrew MacIlwaine.

A. William A. (Andrew) MacIlwaine.
Q. Where do you reside?
A. One Thousand White Oak Road, Waynesboro.
Q. What is your profession or occupation?
A. Medicine.
Q. General practice of medicine?
A. General practice of internal medicine.
Q. I see. And you practice in the City of Waynesboro?
A. That's right, sir.
Q. And for how long have you practiced your profession in the City of Waynesboro?
A. Since 1951.

Mr. Edmunds: Your Honor, for the sake of time, we will admit the qualifications of Dr. MacIlwaine and admit that he is coronor and admit for the sake of the record that Mrs. Cloutier died on Tuesday night, January 21, 1958.

Mr. Timberlake: We appreciate your concession about Dr. MacIlwaine's qualifications and the fact that he is page 41 } a coronor, but we did want to examine him.

The Court: Go ahead.

By Mr. Timberlake:
Q. Dr. MacIlwaine, you are the coronor for the City of Waynesboro, are you not, sir?
A. Yes, sir.
Q. And were you occupying that position on January the 21st, 1958?
A. Yes, sir.
Q. Dr. MacIlwaine, following the disaster or explosion at this residence at 216 Florence Avenue in the City of Waynesboro, did you have occasion to examine the body of Mrs. Irma Cloutier?
A. Yes, sir.
Q. And do you recall approximately when you made that examination?
A. It was the morning of the following day. If this occurred the 21st, it would have been the 22nd.
Q. How early in the morning?
A. My record says 12:30 p. m. It may have been 12:30 p. m., which would not be the morning, but the afternoon of the following day. However, I am not quite sure it was. I would say six or seven hours after the accident.

Q. Do you recall where it was that you made this page 42 } examination?

A. At a local funeral home.

Dr. William Andrew MacIlwaine.

Q. Doctor, can you state to the jury, please, your finding of the cause of death of Mrs. Cloutier?

A. Well, the body was badly, severely disfigured and burned, and the cause of death was from burning.

Q. And do you have any memorandum that would indicate in somewhat more detail the condition in which you found Mrs. Cloutier's body?

A. I have my record that I made at the time.

Q. Will you please state to the jury from your record—

Mr. Edmunds: May I make this objection? We object to that statement, because under the motion here before the Court there is no claim of suffering and pain, and there are no damages asked for suffering and pain under the wrongful death statute.

The Court: You can't recover for pain and suffering in a suit—

Mr. Timberlake: No, but we can certainly recover for *for* the pain and suffering of the family arising from the facts and circumstances of her death.

The Court: The doctor may refer to any notes that he made at the time of the examination relating to the injuries or whatever there was.

By Mr. Timberlake:

Q. All right, sir, now will you refer to your notes page 43 } and describe the injuries that you found, her condition?

A. The routine coronor form has a spot labeled, "Narrative summary of circumstances surrounding death." I always make a very brief note, and the *not* on this particular form read as follows:

"Following the explosion of a gas meter in the home, this woman died from extensive burns. Her body was recovered from a totally destroyed house and was in a tragic state of decomposition from burning. The body was totally unrecognizable with only stumps for arms and legs. Definite identification was made by virtue of a watch and two wedding bands that were removed at the time of recovery of the body. Aside from the trunk and the skull which were intact, the form was almost unrecognizable. The examination did reveal that the body was white, inasmuch as a very small piece of skin under the chain was still intact. The vicera were ex-

posed, the eyes completely burned away, and there was no flesh remaining on the skull and very little on the trunk.

Mr. Timberlake: That's all, Doctor.

Mr. Edmunds: Now, Your Honor, in pursuance of our objection, we except to the ruling of the Court in permitting the evidence that has been given by Dr. MacIlwaine in answer to the last question for the same reason as stated in my motion.

The Court: All right.

Mr. Timberlake: We have no further questions.

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WILLIAM B. ALWOOD, III,

was called as a witness by and on behalf of the Plaintiff and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Timberlake:

Q. What is your full name, please?

A. William B. Alwood, the Third.

Q. And your age?

A. Forty-six.

Q. Residence?

A. 841 Woodrow Avenue, Waynesboro.

Q. And what is your occupation, Mr. Alwood?

A. Photographer. Professional photographer.

Q. By whom are you employed?

A. I am self-employed.

Q. You are self-employed?

page 46 } A. Yes.

Q. And, Mr. Alwood, were you in the same business or occupation on January the 21st, 1958?

A. Yes, sir.

Q. When did you first learn of a happening at 216 Florence Avenue in the City of Waynesboro?

A. Well, I was in my office that night, which is in the News Virginian Building on Main Street, and I heard this explosion. I think I was talking on the telephone at the actual time. I don't remember who I was talking to.

William B. Alwood, III.

Q. Now, just to digress just for a moment, where is your office located in reference to 216 Florence Avenue?

A. You mean, how far, approximately?

Q. Yes. Well, first of all, where is your office located?

A. It's in the News Virginian Building, which is on West Main Street on top of the hill. It is, I guess you'd call it, two blocks up from Wayne Avenue on the left, which would make it about three blocks from here. I am speaking of the way the streets go now, and then from here up to the Cloutier home would be 1, 2, roughly three to four blocks, or approximately seven blocks the way you would walk. Now, I am just estimating that.

Q. And as I understand, you were there at your office and heard the explosion on the night of January the

page 47 } 21st, 1958?

A. Yes, sir, I was.

Q. And do you know the approximate time?

A. It was around 10 o'clock, between 10 and 10:30, as well as I recall. I was getting ready to leave.

Q. And what did you do after you heard this explosion?

A. Well, the first thing I did, it sounded so real close that I thought maybe it was in our building, and I ran and looked out the front window, and I could see this terrific glow in the sky. So I went back and got my camera and went out the door, and another one of the men there at the newspaper office and I went to the scene of the fire.

Q. And what did you find when you got there to the scene, Mr. Alwood? Was the fire in progress?

A. Yes, it was.

Q. And what type of fire was it, if you can describe it?

A. It was a very intense fire, and as well as I can recall, it was completely ablaze, the house was, from front to back, and the walls had been, well, just knocked out of square all over. There wasn't anything intact as far as the house appeared, and as I said, the fire was very intense and it was difficult to get close to it because of that.

Q. Did you remain there until the fire was extinguished?

A. No, sir—well, I believe there was still some fire there when I left, but it had completed burning up the house and had gotten down to glowing embers and things of that

page 48 } nature. I stayed there a right good while.

Q. Approximately how long would you estimate that you were there?

A. Maybe an hour and a half, maybe until 12 o'clock.

William B. Alwood, III.

Q. I see. Now, Mr. Alwood, who was it that accompanied you to the scene?

A. Mr. Ed Berlin.

Q. Mr. Ed Berlin? He is the managing editor of the News Virginain?

A. Yes.

Q. When you arrived there at the scene, what, if any, agencies or representatives of agencies, such as the fire department or organizations of that kind, had reached there?

A. They had arrived, yes. They were just putting down the hose. We got there real quickly, because we left immediately after the explosion, and they just were laying their water line in the operation.

Q. Had the first few people gotten there, if you recall?

A. I don't recall whether they were there right at that moment or not, but they were there right quickly after that.

Q. Did you recognize any representatives of the Virginia Gas Distribution Corporation being present when you arrived there?

A. I didn't recognize any as such, no.

Q. Did you see any of them there subsequently?

page 49 } A. No, sir, I don't recall seeing any of them there. I just don't, no, sir.

Q. Now, Mr. Alwood, I understood you to say that you took your photographic equipment with you when you went to the scene?

A. Yes.

Q. Did you immediately embark upon the taking of photographs?

A. Yes.

Q. Right after you arrived there?

A. Immediately, yes, sir, when we got there.

Q. I hand you a group of six photographs—

Mr. Timberlake: Have you gentlemen seen all of them?

The Court: Is that six in addition to the one that has already been introduced?

Mr. Timberlake: No that is six, inclusive of the one that has already been introduced.

The Court: All right, Exhibits 1 through 6.

(The photographs above referred to were received in evidence as Plaintiff's Exhibits 2 thru 6.)

William B. Alwood, III.

By Mr. Timberlake:

Q. Mr. Alwood, I hand you a photograph marked Plaintiff's Exhibit 2 and ask you if you can identify that as one of the photographs that you took at the scene of this disaster on the night it occurred?

page 50 } A. Yes, sir.

Q. And can you state approximately, or give the jury any idea how long after your arrival at the scene that photograph was apparently taken?

A. Within five minutes. Can I refer to some negatives that I have with me? They may be numbered. I brought them along, and they may be numbered. That way I can tell in what order they are taken. (Looking at negatives.) No, because of the nighttime effect, the numbering didn't show on them. I thought maybe it would, but it does not. They were taken immediately and—

Q. This was one of the photographs that was taken immediately after your arrival?

A. Yes.

Q. And can you tell the jury what that photograph depicts?

A. This one was taken—I was standing in DeWitt Street, which would show the north side of the house.

Q. Would that be the north side on the left side of the picture and the west or the front on the right side of the picture?

A. Yes, sir. Yes, sir.

Q. And that is the condition in which you found it shortly after your arrival there?

A. Yes.

Q. And taken from DeWitt Street?

page 51 } A. Yes, it is taken, apparently, there about at the intersection of—

Q. About at the intersection of Florence and DeWitt?

A. —Florence and DeWitt, yes.

Q. Now, I hand you photograph marked Plaintiff's Exhibit No. 3 and ask you what that depicts.

A. Apparently, this one was taken a little later than the one that we just referred to.

Q. Can you tell the approximate position in which that photograph was taken?

A. I believe this was the south and the west side.

Q. The south side of the house on the right of the picture and the west side on the left of the picture?

A. Yes, sir. Yes, sir, I think that's correct.

William B. Alwood, III.

Q. And so the west side shown on the left part of the picture would be what was the front of the house?
A. Yes.
Q. And you believe that this photograph was taken shortly after Plaintiff's Exhibit N. 2, is that right?
A. Yes, sir.

The Court: You took them all in the course of a few minutes?
The Witness: Very quickly, yes, sir. I just kind of walked around and took them all.
The Court: At different angles, I presume?
page 52 } The Witness: Yes.

By Mr. Timberlake:
Q. I hand you Plaintiff's Exhibit No. 4 and ask you if that is another shot of the Cloutier residence shortly after your arrival that night?
A. Yes, sir.
Q. And can you tell us from what approximate position you took that photograph?
A. This was taken a little further around on the west side of the house. It still shows part of the front and the west side of the house.
Q. Well, the front being the west side?
A. South, I meant, shows a little more on the south side.
Q. Then the south side in this photograph, Plaintiff's Exhibit 4, would be to the right of the photograph?
A. To the right, that's correct.
Q. And the front or west side of the house would be on the left?
A. Yes, sir.
Q. Now, I hand you Plaintiff's Exhibit No. 5 and ask you if this is another one of the series of photographs you took shortly after arriving at the scene of this disaster?
A. Yes.
Q. And can you tell us the approximate position from which you took that photograph?
page 53 } A. This is a little further around and shows more of the south side of the house. It is almost straight on to the south side of the house.
Q. According to your best judgment, Mr. Alwood, would you say that the photographs as I have handed them to you are presented more or less in the order in which they are taken?

A. Yes, sir.

Q. This being probably the last of the ones that you have examined?

A. Yes.

Q. Now, Mr. Alwood, this photograph has already been marked Plaintiff's Exhibit No. 1 and offered in evidence during the testimony of Mr. Cloutier. Will you state whether or not that Plaintiff's Exhibit No. 1 was taken by you?

A. Yes, sir.

Q. And do you know when that was taken?

A. That was taken fairly early the morning following the fire, probably around nine o'clock or 10 o'clock, somewhere in that general time.

Q. And does that accurately show the situation as it existed at the time the photograph was taken?

A. Yes, sir.

Q. And I hand you the last of the series, marked Plaintiff's Exhibit 6 and ask you what that depicts.

page 54 } A. This is the front door that was part of the Cloutier home, and this is the position to which it was blown during the explosion, which is out in the street.

Q. That is out in Florence Avenue?

A. Yes, sir.

Q. And it was located there when you arrived at the scene?

A. It was, yes, sir.

Q. Do you recall whether that photograph was taken on the night of the occurrence, or the next day.

A. That was taken that night.

Mr. Timberlake: We would like to offer all of these exhibits in the order in which they were named.

The Court: So admitted.

Mr. Timberlake: I think that's all, Mr. Alwood.

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CAPTAIN I. S. WHITLOCK,

was called as a witness by and on behalf of the plaintiff and, being first duly sworn, was examined and testified as follows:

Captain I. S. Whitlock.

DIRECT EXAMINATION.

By Mr. Allen:

Q. State your name, please, sir.

A. Captain I. S. Whitlock.

Q. And your occupation?

A. Captain of Police, City of Waynesboro.

Q. How long have you been an officer of the police force?

A. Oh, 17 years.

Q. Were you a captain of the Waynesboro City Police on January 21st, 1958?

A. Yes, I was, yes, sir.

Q. Where were you at the occasion of about 10 o'clock, Captain?

A. I was in my office in the rear of this building here on the second floor.

Q. Your office faces which way?

page 61 } A. Well, it's on the—I reckon the northeast corner of the building on the second floor.

Q. Does it have any window?

A. Yes.

Q. Which direction do the windows—

A. One on this side and one on the east side.

Q. What transpired in connection with the Cloutier case?

A. Chief was in his office. There was just a door between the offices, and there had been a truck, I think belonged to Rose's dime store, always hauling a lot of freight into the back back here. He had been backing up and pulling around the alley and trying to get in there, and all this boom went off to the explosion, kind of shook the building, and I thought the truck hit the building, and I made mention to the chief, I said, "I believe he hit the building. And I kind of looked out of my window into the alley, and there wasn't any truck there, and you could just look up and you could see the flare up over the A & P there.

Chief and myself jumped in the car and—

Q. How much time elapsed between the time of this boom and when you looked up and saw the glare up over the A & P store?

A. Just a minute, maybe two minutes.

Q. Then immediately after that—you go ahead.

A. We went down and jumped in the car and went out the alley and went around up there, and there was a

page 62 } full blaze up there then.

Q. Full blaze?

Captain I. S. Whitlock.

A. Yes.

Q. Could you describe the nature of the fire?

A. It was a hot fire, seemed to me it was burning all over.

Q. Was there any water being played on the fire?

A. No, sir.

Q. Was water subsequently played on the fire?

A. Yes, sir, after that, yes, sir.

Q. What, if any effect did the water have on the fire?

A. Well, it knocked it down. Knocked it down, it would blaze back up, and the water would take it down and catch back up again.

Q. How much time had elapsed from the time of the explosion, the boom, until you got to the scene of the fire, that is, where you could have a full view of this house?

A. Oh, just four or five minutes, five minutes, something like that.

Q. And at that time the fire was in what—how would you describe the fire at that time?

A. It was a hot fire, the blaze going—blaze up all over. Looked to me like it was afire all over.

Q. Did you observe any digging?

A. Yes, I did.

Q. Where?

page 63 } A. Digging all on DeWitt Street there, and I am not sure, I don't know whether they dug any on Florence Avenue. There is a faint recollection that they had dug on Florence Avenue, but I don't know whether did or not. I won't say for sure.

Q. Who was doing this digging in Florence, if you have no objection?

A. The gas company. I am not sure that they did. It runs in my mind, I have a faint recollection that they did. I won't say for sure that they did.

Q. Do you recall any, or do you have any observations in connection with the gas being cut off or not being cut off?

A. Well, the gas company were there. They were digging against the line there.

Q. For what purpose?

A. I guess to cut the gas off.

Q. Do you recall how long it was before they were able to stop the flow of the gas?

A. It was quite some time. I just don't know exactly how long. I didn't time it. We were kind of busy with traffic and things like that, trying to get the place blocked off, to keep

everybody from piling in with cars, so as to get the fire equipment in there.

Q. Do you recall who it was of the gas company you saw?

A. Blackie was there.

Q. Blackie, is that—

page 64 } A. Blackie, that's what we always call him.

Q. Is that R. Black?

A. Black, yes, and I believe there was another fellow there, I don't know his name, works for the gas company. I believe Howard Campbell was there. It was a number of the gas men there. I just don't know which one.

Q. Was there anyone by the name of Coffee there?

A. I believe Herbert Coffee was there.

Q. Would you recall whether anyone by the name of Craig was there?

A. I don't recall seeing Glover Craig.

Q. Did you see either Mr. Terry or Mr. Mozingo at the scene of the fire?

A. I believe Mr. Terry was there. I am not sure.

Mr. Allen: Your witness.

CROSS EXAMINATION.

By Mr. Pasco:

Q. Mr. Whitlock, you said you noticed some digging in DeWitt Street. About when did that occur with respect to the time when you arrived at the scene?

A. Oh, it was sometime—I just don't know exactly how long.

Q. After you got there?

A. Yes, sir.

Q. Sometime after you got there?

page 65 } A. Yes, sir.

Q. You don't really recall anything about this Florence Avenue digging, do you?

A. I just have a faint recollection. I could be wrong. I don't know for sure. I wouldn't be surprised if they did dig in Florence Avenue.

Q. You don't know who was digging in Florence Avenue?

A. Onliest people I see digging was the gas company.

Q. And you remember them digging in DeWitt Street?

A. Yes, very distinctly DeWitt Street, and I had a faint recollection that they had started to dig into Florence Avenue

first and then he come on to DeWitt Street, but I may be wrong.

Q. You are not sure of that?

A. No, sir, I am not sure.

Q. You were busy with the traffic, weren't you, Mr. Whitlock?

A. Yes, sir.

Q. You don't know, really, why they were digging?

A. I had a pretty good idea.

Q. But you don't know, you had just an opinion, is that right?

A. Just an opinion.

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ROLAND C. GROVE,

was called as a witness by and on behalf of the plaintiff and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Timberlake:

Q. Your full name is Roland C. Grove?

A. Yes.

Q. What is your age, Mr. Grove?

A. Fifty-two.

Q. And what is your business or occupation?

A. I work for Dawbarn Brothers, Waynesboro, Virginia.

Q. And where do you live?

A. I live at 147 Florence Avenue.

Q. Mr. Grove, were you living at 147 Florence Avenue in the City of Waynesboro on January the 21st, 1958?

A. I was.

Q. Will you please tell the Court and jury where your residence and 147 Florence Avenue is situated with respect to the Cloutier residence on Florence Avenue?

A. As you cross Florence Avenue Bridge, we live in the second house on the left.

Q. That is as you go north?

Roland C. Grove.

A. That's right, as you go north. The bound-
page 67 } aries are on DeWitt and Florence Avenue. I have
a corner lot. That is diagonally across from the Cloutier residence.

Q. So you are across Florence Avenue from the Cloutier residence?

A. That's right.

Q. And the Cloutier residence, it is in evidence, was at the southeast corner of DeWitt and Florence. Would you be at the southwest corner of DeWitt?

A. That's right, yes.

Q. And Florence?

A. Southwest.

Q. Now, were you at home on the night of January the 21st, 1958, when this disaster occurred?

A. I was.

Q. Where were you, Mr. Grove, when you first learned that something had happened?

A. I was getting ready to retire and had gone to the kitchen getting ready to turn the light out when an explosion—

Q. Were you dressed, or in your night attire?

A. No, I was dressed.

Q. What was the first thing you noticed?

A. I thought it was in the cellar.

Q. That what was in the cellar?

A. That the explosion or whatever it was. It shook—it
rocked me quite a bit in my kitchen.

page 68 } Q. I see.

A. I run to my cellar door, opened it up. It wasn't anything there, so I went right straight to the front door and opened the front door.

Q. And did you see—

A. And went out.

Q. —see or observe anything unusual when you first opened the front door?

A. Not at once. I looked up and down the street. Then when I looked over to the Cloutier house it was fire coming out in a southern direction this way, just beginning to come out.

Q. I see. Now, did you hear anything after you went to the front door of your house?

A. There was a person screaming for help.

Q. Did you determine from the voice that you heard whether it was a man or woman?

Roland C. Grove.

A. It was a woman's voice.

Q. All right, now, just tell the jury what you did after you saw over there that some flame was beginning to appear and heard this woman screaming?

A. I run out in the middle of the street, and Mr. Pitman was coming up also out of his yard into the middle of the street, and we ran over and went up the steps.

Q. That is the Florence Avenue steps into the page 69 } Cloutier home?

A. Into the Cloutier home, yes, sir. And at first we couldn't locate—

The Court: The steps, you mean, up into the yard, not the front porch steps?

The Witness: Oh, no, it's the steps leading from the street up into the yard.

By Mr. Timberlake:

Q. Now, during that time did you continue to hear these screams?

A. Yes.

Q. All right, sir, now just go ahead and tell the jury what you did.

A. Mr. Pitman was right along with me, and we went on up into the yard, and there was a large opening of the house facing the south, had just been blown out, and, of course, the flames were coming out of that, and we saw Mrs. Cloutier down in the flames, and she was still screaming. So went and got up on the porch—

Q. Was the porch still intact?

A. No, it had—the blast had removed it where it was sloping, sloping down in to the window—that is, the front window.

Q. From the street side?

A. That is, sloping down from the front window on the south.

page 70 } Q. All right.

A. And we got up on that, and we had a difficulty of getting ahold of her hands, but we did get aold of her ankles and get her out the window, her legs up to her thigh on both of them.

Q. Was she still screaming then?

A. She was still screaming, and she was burning profusely around the hair and her clothes.

Q. And you say you got her up to the—

Roland C. Grove.

A. Her legs out the window. Then it was such intense heat and flames seemed to just come from nowhere, just come right up into our face—

Q. You mean a blast effect?

A. Well, I wouldn't say it was a noise effect, was just—it was more heat than it was when we first went there and looked down in. It was intensified, the heat and flames.

Q. Were you able to form any judgment as to whether that appeared to be a fed flame or not?

A. Well, I know it was lots hotter, that it forced us to turn Mrs. Cloutier loose. We had to. It was up in our face, and we were standing on an angle and leaning in the window trying to get her out. We had to let her go back down.

Q. The flames just drove you back?

A. That's right. We was forced to turn her loose.

Q. How much time would you say elapsed as nearly as you can tell the jury, Mr. Grove, between the time you first heard the explosion and the time you were forced to turn loose Mrs. Cloutier on the remnants of the porch?

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A. It wasn't long, because we really stepped on it trying to get up that way to see what we could do. We did everything we could possibly.

Q. As much as five minutes?

A. It could have been, but I don't think it's any more than that.

Q. Now, had the fire department arrived at the scene at the time you and Mr. Pitman were trying to rescue Mrs. Cloutier?

A. No, sir.

Q. Could you give us any idea how long it was after you were driven back from what was left of the window until the fire department arrived?

A. Well, when we let go of her, we got on back on the ground and went clean on out in the street, and then there was, I think, the police and then the fire department. We did all we could.

Q. Now, did you remain at or about the scene of this explosion and the fire for some little time thereafter?

A. Well, not at once. I went over back on my porch. I was kind of shaken up, and I did go back later on. I just don't know when. It was out in the street. It was such a crowd that was forming. I went out in the street a little bit.

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Q. Could you observe what effect the water from the water

hoses seemed to have on the fire during the course of the fire fighting efforts?

A. It didn't seem to do very much good from what I could—from my part.

Q. Were you able to form any judgment as to whether or not the flames from the house appeared to be a fed flame?

A. It was apparently so.

Q. Mr. Grove, what appeared to take place when they poured the water on this fire?

A. Well, it was burning when we left it. It just looked like the flames shot skyward.

Q. Regardless of the water?

A. Yes, sir.

Q. Mr. Grove, did you observe any digging taking place up there at or around the premises during the course of this fire fighting effort?

A. No. The only thing I recall is—I couldn't say who it was present, but someone said they wouldn't—

Q. You can't quote what someone said.

A. Well, no, I didn't.

Q. You didn't see any digging?

A. I didn't see any digging, no, sir.

Mr. Timberlake: I think that's all. Thank you.

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SAYLOR PITMAN,

was called as a witness by and on behalf of the plaintiff and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Allen:

Q. What is your name?

A. Saylor Pitman.

Q. Where do you reside, Mr. Pitman?

A. 225 Florence.

Q. And were you residing there on the 21st of January, 1958?

A. I was.

Q. What is your employment, sir?

A. DuPont.

Q. How long have you been at DuPont?

A. Twenty-nine years.

Q. What is your capacity at DuPont?

A. Guard.

Q. Mr. Pitman, on the night of the 21st of January, 1958, at about 10 o'clock, would you advise the jury just what you were doing and what transpired thereafter?

A. Well, approximately five to ten minutes before 10 I went out and moved my car which was parked approximately in front of my door to my garage and had come page 79 } back and walked in the house. I had probably been in three or four minutes when I heard this explosion. I went then to the front door. As I was going, my wife said, "What was that?" and I said, "Well, it was an explosion, and it's somewhere close." I went to the door, opened it, walked on the porch. I didn't see anything at the present time when I walked on the porch. I walked just out on the walk leading from the porch to the Florence Avenue sidewalk. I happened to look across the street. I don't know why, but I just happened to look. I saw two pieces of spark falling, falling down on the side of DeWitt. I noticed then that the house of the Cloutiers was partially blown away—not blown away, but blown out, and part of the side was laying in the yard. That was on the north side.

Q. Did you hear anything at that time?

A. I didn't hear anything at the time. I hollered at my wife to call the fire department. As I was crossing the street is when I heard the screaming.

Q. All right, go ahead, sir.

A. As I went up the walk—the steps, rather, leading off of Florence Avenue up, the porch was setting at a slight angle, had blown away from the house. We could hear Mrs. Cloutier's screams, but we couldn't locate it at first, and it was just a second or two till Mr. Grove said, "Well, here she is in here." We was in the window, looked in the window and there she was with her—pinned from her waist page 80 } up with her head down with part of the walls and stuff seemed to be blown down, it appeared in there. We got ahold of her and pulled her till her legs was almost to the windows, which the windows was blown out, and there was a small fire burning when we first got there, and it seemed to be growing faster and faster all the time.

Q. Where was that fire burning?

A. Well, I don't know which part of the house you'd call

Saylor Pitman.

it. It was from what indication I'd say must have been coming from the basement up through the—

Q. But it was rapidly growing, you say?

A. It was rapidly growing.

Q. All right, go ahead, sir.

A. It got so intense that we had to leave and go down off of there, the fire was growing that fast.

Q. And where did you go?

A. We went to the middle of Florence Avenue.

Q. Immediately?

A. From the time we left there—from the time I left off of there when the fire got so hot we couldn't stay there any longer.

Q. Why did you go to the middle of Florence Avenue?

A. To keep the traffic from blocking up the street, if there was any chance of saving—I didn't know that the other two people was out at that time.

page 81 } Q. All right, then, when did the fire department arrive, Mr. Pitman?

A. Well, I couldn't—I don't know what the approximate time was. I'll say—you mean from the time of the explosion?

Q. From the time you withdrew out to the street, how long was it before the fire department got there?

A. I would say within—I would say around 5 minutes.

Q. And how much time elapsed from the time you heard the explosion until you found it necessary to withdraw from the porch?

A. Well, now, that was approximately five minutes. Not over 5 minutes, I would say.

Q. What, from your observation, was the cause of this intense fire that suddenly came up there?

A. Well, it seemed to me there was something that was making it burn awful fast.

Q. Now, when you were there, did you observe any water being played on the flames?

A. Yes, there was water.

Q. What was the effect of water on the fire at the outset?

A. Well, it at times seemed to knock it down, and then it would come back up.

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MILLARD G. COX,

was called as a witness by and on behalf of the plaintiff, and being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Allen:

Q. What is your name, please, sir?

A. Millard G. Cox.

Q. Where do you reside, Mr. Cox?

A. Glenhurst.

Q. What is your age?

A. Thirty-three.

Q. Your present employment, what is it?

A. I am self-employed.

Q. Doing what?

A. Digging ditches.

Q. For what purpose?

A. Oh, for different kinds of lines, basements.

Q. How long have you been self employed, Mr. Cox?

A. Close to a year.

Q. And before you went into business for yourself, what was your employment?

A. I worked at the gas company.

Q. Were you employed with the gas company in January of 1958?

page 85 } A. Yes.

Q. On January 1958, did you have occasion to make some tests after the explosion at the home of the Cloutier residence?

A. Yes, sir.

Q. Where did you make these tests?

A. Along the general direction where the line—the main line.

Q. The main?

A. Yes, sir.

Q. That was in the street?

A. Yes.

Q. In which street was it that you made the test?

A. DeWitt and Florence, both.

Q. DeWitt and Florence, both? Did you make these tests by yourself, or in the company with somebody else?

A. There was someone else there.

Q. What was the nature of the instrument that you used to make the tests with?

A. I didn't understand.

Q. What type of instrument were you using?

Millard G. Cox.

A. It was an explosive meter.

Q. Explosive meter? What is an explosive meter, please, sir?

A. Well, it determines whether there is gas in the ground or not.

page 86 } Q. Determines whether there is gas in the ground or not?

A. Yes, sir.

Q. What is the procedure for making this test, sir? How do you do it?

A. You go along, you put a hole down in the ground, and then it has a line, putting it down, insert it in the hole, and there is a suction cup on it, pulls in a sample of the air, I guess, or whatever is in there.

Q. And you made these tests along the main on DeWitt Street?

A. Yes, sir.

Q. Now, one of the pictures that was introduced in evidence—

The Court: Here are the exhibits.

By Mr. Allen:

Q. I hand you Plaintiff's Exhibit No. 1. Would you look at that and identify whether you appear in the picture?

A. Yes.

Q. Who is that with you, Mr. Cox?

A. That is James Cauley.

Q. James Cauley? I wonder if you would take the picture up to the jury and identify—I think it's obvious. Turn the picture around. Which is you?

A. That is me on the left here.

Q. And the instrument in your hand, what is

page 87 } that?

A. That is the explosive meter.

Q. And can you tell where you are at the time this picture was taken?

A. It is on DeWitt.

Q. Is this during the time that you were running the tests on the main in DeWitt Street?

A. Yes, sir.

Q. Now, Mr. Cox, did you make a record of these tests on this main?

A. It says like I wrote it on a piece of paper. I don't know what I done with it, though. I don't remember.

Millard G. Cox.

Q. What would you normally have done with the record from tests that you made on the main?
A. Well, I never made one like that before.
Q. Well, now, do you recall what the results were of this test that you made on this gasline—gas main?
A. We found some gas. I can't say what percentage. You rate it in percentage.
Q. In percentages?
A. Um-hum.
Q. Do you have any recollection at all of the percentages you found?
A. No, sir, I don't.
Q. Do you recall what day it was that you made these tests?
page 88 } A. I think it was the second day, seems like to me, after.
Q. Second day after the explosion?
A. Yes, sir.
Q. I think that's when that picture was taken. Obviously, you were making the tests when the picture was taken?
A. Yes.
Q. To whom did you make the report, Mr. Cox?
A. To what?
Q. To whom did you make this report of your explosive meter tests?
A. I don't remember whether I gave that to Mr. Terry or Mr. Mozingo, one.
Q. At the time you were making these tests, you were making them in the course of your employment, is that right?
A. Yes.
Q. And that is with the Virginia Gas Distribution Corporation?
A. Yes.

The Court: Did you go there at the direction of somebody in the company?
The Witness: Yes.
The Court: You were instructed to go there and make this test?
The Witness: Yes, sir, I was working. I wasn't on my own.

page 89 } By Mr. Allen:
Q. What is the name of your fellow employee?
A. James Cauley.

Millard G. Cox.

Q. James Cauley? Where does he live?
A. On King Avenue, I believe.
Q. Do you know what his present employment is?
A. He works at the gas company.
Q. Still works there?
A. Yes.
Q. At that time what was his employment?
A. He worked there.
Q. Did a man named Grover Creig work for the gas company at that time?
A. Yes.
Q. Does he still work there?
A. I think he does.
Q. On the morning of the 21st of January 1958, do you recall overhearing a conversation of Mr. Craig with Mr. Mozingo of the gas company?
A. I heard him say something, yes.
Q. What did he say, sir? First of all, do you recall when and where this statement was made—where it was made, what time of day was it and where?
A. It was in the morning before we went to work.

page 90 Q. The morning of the 21st before you went to work. And what was the statement as best you can recall it, please, sir?

A. He said something about a gas leak, but he gave no indication where it was at that I remember.
Q. He didn't give you any indication of where it was at?
A. No, sir.
Q. What did he say about the gas leak?
A. I heard him—overhead—say something about the gas leak being pretty thick, or something, somewhere.
Q. Do you recall specifically how he said "pretty thick," what other words he might have used?
A. Well, he said something about cutting it with a knife or something. I don't know just how it was.
Q. The gas was thick enough to cut it with a knife?
A. Yes, sir, something like that.
Q. What response did Mr. Mozingo make?
A. I don't remember. It was before we went to work, and I wasn't working—I didn't pay too much attention to it.

The Court: Where was this leak or this gas that you speak of, Mr. Cox? Who was it, Mr. Craig? Did Mr. Craig indicate where it was?

Millard G. Cox.

The Witness: No, sir, not to me, he didn't.

The Court: Did he in your hearing?

The Witness: No, I wasn't in there—he wasn't talking to me.

The Court: It might have been anywhere in the
page 91 } county?

The Witness: Yes.

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CROSS EXAMINATION.

By Mr. Pasco:

Q. When did you leave the employment of the gas company, Mr. Cox?

A. Last summer, I believe it was—August, I believe.

Q. What were the circumstances under which you left?

A. I just went in business for myself and quit. Just give them notice.

Q. You resigned, did you?

A. Yes, sir.

Q. And you have been in business for yourself ever since?

A. Yes, sir.

Q. Did you run any test on the service line, did you say, personally, yourself? Did you run any test on the service line into the Florence Avenue home of Mr. Cloutier?

A. No, sir, I don't think so.

Q. These tests about which you testified were along the main on DeWitt Street, is that right?

A. That's right, yes, sir.

Q. And you don't have any idea what volume of gas those tests indicate?

A. No, sir, I don't remember.

page 92 } Q. Did you make any repairs of any leaks in the line?

A. No, sir.

Q. Do you know of any repairs being made in that DeWitt Street line about the time or after this explosion?

A. No, sir.

Q. Did your employment with the company include making some repairs in pipelines from time to time?

A. Yes.

Q. What was the purpose of these explosive meter tests that you were making on the main in DeWitt Street? Went there for the purpose of seeing if they needed repair?

A. Yes, sir, that was the usual procedure, yes, sir.

Millard G. Cox.

Q. And they didn't make any repairs, to your knowledge, did they?
A. No.

The Court: Let's see, was the time this was made established?
Mr. Timberlake: He said a day or so afterwards. He said that he was making the test at the time this picture was taken.
The Court: Mr. Allen, ask if it was the day after.
The Witness: That picture was taken, it seemed to me, the second day after.

By Mr. Allen:
Q. Were Mr. Mozingo and Mr. Terry present
page 93 } out there during the time you made these tests?
Let's take it first, was Mr. Mozingo up there during the time?
A. I don't think he was.
Q. Not there at all?
A. No, I don't think so.
Q. How about Mr. Terry?
A. Mr. Terry had been there, but I don't believe he was there when we were making the tests.
Q. He had been there?
A. Off and on at different times.
Q. He was there off and on. He might have been there?
A. (Nodding affirmatively.)
Q. What sort of record did you keep of the tests?
A. Wrote it on a sheet of paper. I don't know.
Q. You don't recall what you did with it?
A. No.

The Court: Did you have regular forms that you put this on?
The Witness: Yes.
The Court: Turned it in to the office?
The Witness: This one I don't think was. I think I just wrote it on a piece of paper. We had regular forms.
The Court: You were sent there to find out whether there was any gas present, weren't you?
The Witness: Yes, sir.
page 94 } The Court: And you didn't have any particular form to report it on, so you just wrote it on a piece of paper?

The Witness: Yes.
The Court: What did you do with the paper?
The Witness: I think Mr. Terry had the piece of paper the last I saw of it.
The Court: All right.

By Mr. Pasco:
Q. Whatever report you might have made included the percentage readings that you took off of this meter, is that right?
A. Yes.

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FRANK FULLER,
was called as a witness by and on behalf of the plaintiff and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Allen:
Q. What is your name and where do you reside, please?
A. Frank Fuller.
page 95 } Q. Where do you reside—live?
A. Oh, I live up on Smith Street.
Q. What is your employment?
A. I am a porter, Fishburne's Drug Store.
Q. How long have you been employed at Fishburne's Drug Store?
A. Thirty-one years.
Q. Are you still employed there?
A. Yes, sir.
Q. On the night of the 21st, then, of January you were also employed there?
A. Yes, sir.
Q. Is it your custom to go home in the evening for supper when you are working at night?
A. Yes, sir.
Q. On the night of the 21st of January, did you go home for supper?
A. Yes, sir.
Q. How did you go home?
A. Up Florence Avenue.
Q. Riding?

Frank Fuller.

A. Walking.
Q. Walking?
A. Yes, sir.

Q. On which side of Florence Avenue were you
page 96 } walking?

A. On the same side as the Cloutier home.

Q. On the same side as the Cloutier home? Do you recall about what time in the afternoon or evening?
A. It was about 25 to 6 when I went up.
Q. About 25 to 6? Do you recall the nature of the weather?
A. Sprinkling rain.
Q. Sprinkling rain? When you passed the Cloutier home, can you tell anything unusual that you could detect?
A. I could smell gas right along DeWitt Avenue.
Q. You could smell gas where?
A. At DeWitt and Florence.
Q. At the intersection?
A. Yes.
Q. Did you turn on DeWitt?
A. No, I don't.
Q. Continued on out Florence. Could you tell the extent of the odor of gas that you smelled?
A. It was pretty strong.
Q. You proceeded on to your home?
A. That's right.
Q. About what time was it, then, that you returned from supper?
A. About quarter of seven.
Q. Now, were you riding or walking?

A. Walking.

page 97 } Q. On which side of the street did you walk when you returned?

A. Same side, on the left.
Q. Will you advise the jury what, if anything, you could detect at the corner of DeWitt and Florence?
A. I could still smell it real strong.
Q. Smell what?
A. Natural gas.
Q. In your home do you have any gas appliances?
A. Yes, sir.
Q. How long have you used gas?
A. Five or six years.
Q. Are you familiar with the odor of natural gas?
A. Yes, sir.

Q. After you detected the odor of this natural gas, did you report it?

A. No, sir; I knew the gas company was closed, and I intended to tell them next morning, but the accident done happened that night.

Q. Did you notice gas at any other place other than the corner of DeWitt and Florence Avenue?

A. No, sir.

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EDWARD P. BERLIN, JR.,

was called as a witness by and on behalf of the plaintiff and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Timberlake:

Q. Will you please state to the court your full name, age and residence, please?

A. Edward P. Berlin, Jr., managing editor of the News Virginian, and reside at 385 Maple Avenue.

Q. And age?

page 100 } A. Thirty-one.

Q. Mr. Berlin, were you the managing editor of the News Virginian on the night of January 21, 1958?

A. I was, sir.

Q. Were you at your place of business, that is, the newspaper office, during that evening?

A. Yes, sir.

Q. When and under what circumstances did you first learn that there had been a disaster here in Waynesboro?

A. I was in my office, which is partially below ground, in other words, on the first floor of the News Virginian, but it is—

Q. That is the building up on Main Street?

A. That is correct, sir.

Q. The second block from Wayne?

A. That is correct. At about 10 o'clock I heard Mr. Alwood—his office is above mine—run across the upstairs floor. Within a minute I heard him come down the steps towards

my office, and he said, "Come on, let's go. Something's happened." Well, about that time the fire alarm went off.

Q. You, yourself, did not hear the explosion?

A. That's right, I did not. So he had his camera, and we rushed—and he had seen the flames from upstairs, so we rushed out, got in his car and went directly to the fire.

Q. And you arrived there, of course, at the
page 101 } same time and with Mr. Alwood?

A. That's right.

Q. Now, when you got there, what situation did you find to exist, Mr. Berlin?

A. The fire apparatus was there, flames were beginning to envelop the entire home. We observed that the north wall had been blown flat, that the house was more or less cockeyed on its foundation.

Q. Did you see any of the members of the household of the Cloutier family?

A. No, but about the time we got up to the house the ambulance was pulling off with Mr. Cloutier.

Q. And can you give us any idea about how long it was after Mr. Alwood called your attention to the fact that something had happened up in the newspaper office, it was until you got to the scene of this explosion and fire?

A. It couldn't have been more than ten minutes.

Q. I see. And about how long would you say that you remained there at the scene, Mr. Berlin?

A. I was there at least until midnight.

Q. And over how long a portion of the time that you were there was the fire being fought?

A. Well, of course, there was some fire when we left, even, at midnight. But I would say they had the fire under control by between 11 and 11:30, something like that.

page 102 } Q. Now, Mr. Berlin, did you spend your time there at the scene at or near the DeWitt Street property line, or where were you?

A. Well, part of the time there, since I was covering the story, I was making the rounds of the vicinity there.

Q. Now, while you were there, Mr. Berlin, did you smell anything?

A. Yes; there was a definite odor of natural gas.

Q. And where was that?

A. That was on the DeWitt Street side of the house.

Q. You didn't notice it anywhere else?

A. I don't recall noticing it anywhere else.

Q. Now, while you were there on the DeWitt Street side of

the house in the vicinity of DeWitt Street, did you hear anything?

A. Well, there was a digging operation going on at the street there.

Q. Approximately where at the street, would you say?

A. Well, adjacent to the front of the foundation out toward DeWitt Street from that but on a line with the front edge of the house.

Q. Are you familiar with that river rock driveway that led up under the porch of the Cloutier home?

A. Yes, sir.

Q. Now, where in reference to that, if you can
page 103 } tell us, was this digging going on?

A. Well, it was right close to where the driveway came out into DeWitt Street.

Q. At or near the junction of the driveway and DeWitt Street?

A. That's correct.

Q. Now, did you hear anything in that area?

A. Yes. While they were digging there was a hissing noise coming from the hole in the ground.

Q. Was that hole in the ground along DeWitt Street?

A. Yes, sir.

Q. And you heard a distinct hissing noise?

A. Yes, sir.

Q. Could you tell the jury what that was indicative of as far as you could determine?

A. Well, as far as I was concerned, it was gas escaping, because in questioning the men who were digging this hole, they said that there was—

Q. Now, I don't think you can—

Mr. Pasco: Your Honor—

By Mr. Timberlake:

Q. —say what you were told.

A. Well, as far as my knowledge would permit, it was gas escaping.

Q. Would you know who gave you any infor-
page 104 } mation in regard to this hissing and the cause of it?

A. I don't know that anyone told me the cause of it. The men explained what they were doing.

Q. Do you know who those men were?

A. I can't single out any of them, no, sir.

Edward P. Berlin, Jr.

Q. They were the same men that were doing the digging?
A. That's correct.
Q. Now, approximately over how long a period did you notice or were you aware of this hissing?
A. I just can't say for sure, because I was moving around, was not in the same spot all the time, but at least 10 minutes. I mean, that's a minimum.
Q. Could it have been materially longer?
A. It could have been.
Q. What was the condition of the ground in this area that the digging was going on?
A. Well, they were having a difficult time as though it was hard.
Q. Could you observe or determine what made it hard?
A. Well, the ground was frozen.
Q. And it was from one of these holes that had been dug that you noticed the hissing sound?
A. The sound appeared to be coming from a hole, yes, sir.
Q. Now, Mr. Berlin, do you have a record of the temperatures in the City of Waynesboro from January
page 105 } the 17th through January the 21st?
A. Yes, sir.
Q. And what was the source of that information that you had?
A. The original source of the information is the DuPont weather station as recorded in the News Virginian.
Q. I see. All right, will you state what the temperatures were on January the 17th through January 21, 1958, in the City of Waynesboro?
A. Right. Now, these temperatures are for the 24-hour period ending at 8 a. m.
Q. Giving the high and the low?
A. The high and the low. I do not have a record of the high; I have a record of the lows. On the 17th, the low was 25; on January 18th, the low was 23; on the 19th it was 16; on the 20th, it was 16; and up until 8 a. m., on the 21st it was 18.
Q. And you don't have the highs for any of those, do you?
A. I didn't take note of the highs, no, sir.

Mr. Timberlake: I think that's all.

Edward P. Berlin, Jr.

CROSS EXAMINATION.

By Mr. Edmunds:

Q. All right, Mr. Berlin, as I understand, Mr. Berlin, you went to the scene of this disaster with Mr. Alwood, did you not?

A. Yes, sir.

page 106 } Q. You and he went in the same car?

A. That's right.

Q. Now, what was the first thing that was done by you or Mr. Alwood upon arriving at the scene?

A. We parked on this side of the Florence Avenue bridge and dashed up the hill toward the fire.

Q. Were you with Mr. Alwood when the pictures were taken that he has offered here as exhibits?

A. I was in the general area. I was not necessarily right next to him.

Q. What was the closest that you got to the house at any time?

A. I don't know. I got as close as I could on occasion, which I think probably the closest would have been the far edge of DeWitt Street.

Q. That was the far edge of DeWitt Street from the house?

A. That is correct.

Q. And the reason you didn't get any closer was because of the heat of the fire?

A. That's right.

Q. Now, when you saw some digging there in the street, was that digging being done between you and the house?

A. Well, the digging didn't start at the height of the fire. In other words, I eventually got closer to the house. I thought you meant as soon as I got there where

page 107 } I was, but the digging did not start until later, as I recall, and that was closer to the house when the fire was somewhat under control.

Q. Well, the fire was too hot for anyone to have been in DeWitt Street there for some time, was it not?

A. I would say that is true. I just don't recall exactly.

Q. The fire was hot, though?

A. It was a hot fire.

Q. And people couldn't get right up at the house or get in DeWitt Street there until sometime after the fire had burned down, I guess that was about right?

Edward P. Berlin, Jr.

A. Well, sometime after the peak, yes.

Q. Did you see the firemen throwing water on the house?

A. Well, I know they were, but I just don't recall seeing any specific stream of water.

Q. Well, now, you did see some digging operation?

A. That's right.

Q. Now, did you know that the people who did the digging cut the service gas line right at the main and then sealed it up?

A. Do I know that they cut the line?

Q. Yes; did you know that?

A. No, the only thing I knew is that they were looking for the cutoff.

Q. I am asking you this: Do you know now, or did you know then, that these people who were doing the digging did cut the service gas line right at the main gas line and then seal it up?

page 108 } A. I wouldn't say that I was aware of that.

Q. You didn't know what they were doing?

A. I knew they were looking for the cutoff, the gas cutoff.

Q. And you know they were digging?

A. That's correct.

Q. And you didn't know that they did cut a gas line and that might have caused the gas that you smelled?

A. I don't know that they did or did not.

Q. I see. And you said you did smell gas there at the time they were digging?

A. Yes, sir.

Q. And you heard some hissing noise from an opening that they had made?

A. That's correct.

Q. How long had they been digging when you heard that hissing noise, Mr. Berlin?

A. There, again, I just can't tell you, sir. I just don't know.

Q. They did do some digging before you heard the hissing noise?

A. They had started digging while I was at another area, perhaps on the other side of the house. When I came around to that side of the house the hole had been started at least, and as I recall, I noted the hissing as soon as I came up to the hole.

page 109 } Q. And these men were there at the hole that they had dug out, and you heard a hissing there?

A. That is correct.

Mr. Edmunds: I think that's all.

RE-DIRECT EXAMINATION.

By Mr. Timberlake:

Q. Mr. Berlin, did you notice whether the men continued to dig in other locations along in that area after this first occurrence?

A. I do not recall any other hole being dug other than right along DeWitt Street.

Q. Right along DeWitt Street?

A. (Nodding affirmatively.)

Q. And was that hole that was being dug in the nature of a trench, or was it just an isolated hole?

A. Well, it wasn't a perfectly long trench, probably—

* * * * *

The Court: What kind of hole was the man digging, Mr. Berlin?

The Witness: It was sort of an oblong hole, but I wouldn't classify it as a trench.

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JOHN D. MILLER,

was called as a witness by and on behalf of the plaintiff and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Allen:

Q. What is your name, please, sir?

A. John D. Miller.

Q. Your age?

A. Forty-two.

Q. What is your occupation, sir?

A. Jeweler, watchmaker.

Q. In the City of Waynesboro?

John D. Miller.

A. Yes.

Q. Where do you reside?

page 111 } A. Route 2, Waynesboro.

Q. Did you attend the explosion at the Cloutier home on the night of January 21st, 1958?

A. I didn't attend the immediate explosoin, but I was there shortly afterwards.

Q. Would you care to estimate how long after the explosion you arrived?

A. If I might tell how I happened to get this information, I had also been at this meeting where Mr. Cloutier—Leo and I had just gotten home shortly after nine and had just settled down there to read the paper. This friend of mine called just a very, very few minutes, I would say within five minutes after ten, who lived about three doors from Mr. Cloutier, and notified me of this explosion, and I immediately got in my car and came down here, because I knew him very well.

The Court: Where did you live at that time, Mr. Miller?

The Witness: I lived out in the—

The Court: I know where you live. On the same place?

The Witness: Yes. And it took me, oh, I should say, 10 to 15 minutes to get in here. So I would place my time of arrival at the scene at about 15 minutes to 20 minutes past 10.

By Mr. Allen:

Q. All right, sir. Well, now, what did you observe when you arrived? You just go ahead and tell your story.

A. Well, there was a considerable fire there, and

page 112 } the firemen were playing water on the flames, and sometimes they seemed to do good with it, and then other times it would seem to flare back, and, of course, you couldn't get too close to the fire at that particular point, because it was pretty hot.

Q. What did you observe in DeWitt Street?

A. Well, after a time—I don't recall the exact time that this digging started. There had been digging down along the Florence Avenue section, and I don't know just who was doing the digging trying to locate, I suppose, a gas line. But then some of the men from the gas company, one of whom I remember, and that is Mr. Herbert Coffee, was digging at the end of Mr. Cloutier's driveway.

Q. That is the river rock driveway?

A. Yes. They were trying to locate this line. And as I also

recall, I believe it was Mr. Mozingo who had some type of an instrument on his head with earphones attached to it trying to either locate the gas or locate the pipeline, I don't know which the instrument was used for.

Q. Do you recall any conversation in connection with the cutoff, curb cutoff or cutoff valve?

A. It couldn't be found.

Q. It couldn't be found?

A. It couldn't be found without this digging procedure.

Q. And what was the condition of the ground that they were digging in?

page 113 } A. Frozen quite hard.

Q. Do you recall making any observations of the hole that they were digging?

A. Yes, I do. As I said, the ground was frozen, and as they dug through this ground you could begin to smell this gas in an area there.

Q. After they opened the hole?

A. Yes.

Q. All right.

A. And then when they got down to where the pipe was, I don't know if the pipe was struck with a pick and caused it to spring a leak and further spew gas out, I don't know that at all, but I do remember that an area around this pipe was dry. Now, all this other ground around here was frozen. I happened to do some of the shoveling in there myself to help get some of this dirt out so they could get to the pipeline. People were taking turns about on it.

Q. Which pipe were you speaking of that this dry pocket was around the pipe?

A. This pipe was a small, 3/4-inch line. It came out to where the cock should be, where they thought they would find it, and then it would elbow off and go down.

Q. Was it at the river rock, or where was this particular hole in the pipe line?

A. This is in this digging space that they had

page 114 } between the end of the drive in DeWitt Street here where the street cock, I suppose, should be. That's what they were hunting for. When they got down to the pipeline, they simply followed along that pipeline.

Q. Will you tell the jury that at the end of the river rock driveway does it tie in with paving at that point in DeWitt Street? Does the river rock driveway tie directly into the DeWitt Street pavement?

A. No.

John D. Miller.

Q. What was stopping it?

A. It was dirt—the blacktop, I should call it, comes down close to there, but there was an area of dirt.

Q. And it was at this point the digging operation was going on?

A. Yes, that was beyond the river rock.

Q. And you say when that hole was opened up that was when the odor of gas prevailed?

A. Yes, I think that is when Mr. Mozingo requested the people standing in the area—there were several of them standing at the corner of the house smoking.

Q. Was this after they had exposed or after they were through the frozen area?

A. The largest concentration was after the line had been broken.

Q. But there was gas prior to this?

page 115 } Mr. Edmunds: Object to that.

The Court: That's leading. I don't know whether he testified there was before or not.

The Witness: Yes, there was an odor of gas prior to the breaking through—the final breaking through, but after the main—not the main, I never did see them break through the main. They broke through this 3/4-inch line that went down. As I recall, it was two elbows and a close nipple in there, and then after they broke this close nipple is when this extreme amount of gas came out. But before they broke that there was an area of dry ground there, dry dirt.

The Court: Right around the pipe?

The Witness: Right around this area in here.

By Mr. Allen:

With reference to the cutoff cock and the main, this area that you are speaking of, where was it?

A. With reference to the cutoff in the main?

Q. Right.

A. Well, the main, as I recall, would be approximately six inches out toward DeWitt Street and down underneath. I don't know how far down, but I know that the pipe did go down.

Q. All right, now, with reference to the curb cock?

A. Well, that's what I *sai* it would be, about six inches that this line went out and down. The curb cock would be here, and then this pipe came back toward—well, toward the east

a short section and then turned to go in. Follow
page 116 } me?

Q. Now, Mr. Miller, did you observe anything else in connection with the fire on that particular night?

A. Yes. Of course, the fire had died down quite a bit when I was able to get into what would be called the guest room.

The Court: Is that the room in front of the bath?

The Witness: Yes, the room which would be—as we are looking at it, the upper right-hand corner. There was a place where the firemen had been going in there and spraying water over on the other side with a lot of burned-out timbers and what have you laying there. And part of this wall of the after part of the house had blown out in the yard and into the street, and the other part would be a section that had fallen down sort of into the basement, and between this section of siding, as I recall, the house had asbestos shingles on it, and this had fallen down beside the foundation.

And I called it to the attention of one of the firemen there—I don't recall his name now—that there was a little flame of fire kept shooting out there and kept burning. Now, after this ground had been broken and they had proceeded with the digging quite a while, this flame went out.

Q. Would you identify on the chart on the wall, please, approximately where this little flame was?

A. Can I go over there?

Q. Yes.

A. That would be right about in this area here.
page 117 } The firemen were going into here to play water in through this section here that was still burning, and that was right in here.

The Court: Was that in the basement?

The Witness: Yes; this, of course, had fallen into the basement, and a section of that wall fell down beside of the foundation.

By Mr. Allen:

Q. Which side of the foundation was this little blue flame?

A. The blue flame was on the inside of the foundation.

Q. On the basement side of the foundation?

A. Between that and this section of wall that had fallen down.

Q. About how far was this little flame from the front north corner of the basement foundation?

John D. Miller.

A. Oh, I would say it was not more than 18 inches in. It was just right at the corner.

Q. Have you observed a little drain, cellar drain in this house?

A. I have seen it since.

Q. About how far was this blue flame from the basement opening from that drain?

A. I would say it would be right close together right up above it.

Mr. Allen: They may want to ask you some questions, Mr. Miller.

page 118 } CROSS EXAMINATION.

By Mr. Pasco:

Q. When you first got to the fire, Mr. Miller, which side did you approach it from?

A. I approached it from this side of the house going up Florence Avenue.

Q. Where did you park?

A. Parked my car right at the curve on Ohio Street as Florence Avenue leaves off from Ohio part, I believe it is, and ran up there.

Q. Was the house in full flames when you got there?

A. Yes, pretty much.

Q. About how long did it take, about, before it got under control, from 10 o'clock?

A. That would be a little hard for me to say. I have no recollection of the amount of time. I know it was quite a while.

Q. Did you get up on the property itself when the house was in full flame, the Cloutier property?

A. Oh, you could get up on the property. Of course, you couldn't get very close to the house.

Q. On which side?

A. As I recall, the hottest side of the fire would have been on the southwest side, southwest corner, in there.

Q. Where did you first go when you got to the fire—when you got to the house? What position did you page 119 } take on it?

A. The first place that I went to was up the front steps of the walk leading up into the yard.

Q. As soon as you got there you went up the steps?

A. And that's 20, 30 feet from actually where the porch

was, and then I came on around the house where it would be on the left side of this drawing.

Q. On the south side?

A. Yes, in the field. A lot of the debris had blown back this way a considerable distance.

Q. Will you tell the jury between 10:20 and 10:30 whether you could walk up the front steps of that house from the street?

A. Yes.

Q. Wasn't too hot?

A. It was hot, certainly, it was hot.

Q. It was?

A. It wasn't too hot for you to get there, because the firemen were fighting the fire at that point.

Q. When did you first observe this digging going on?

A. That was some little time after I had arrived. I would say it was—well, it seemed to me like it was at least a half an hour or better after I had arrived—it would be a minimum of a half hour after I arrived that they had started this digging operation of the gas line itself.

Q. Digging operation at the end of the driveway?

A. That's right.

page 120 } Q. Do I understand it is your testimony that they first discovered the service line at the end of the driveway and then followed it back toward the main?

A. There was an area pointed out there, I would estimate it to be in the neighborhood of about 18 to 20 inches, but the service box—that's what they call it—the top of which we couldn't find, and that is the reason we were having so much difficulty in locating this line.

Q. Try to answer my question if you can. I ask you if they did not first discover the service line right at the end of the driveway.

A. It comes out at the end of the driveway.

Q. Is that where they dug down and first discovered it?

A. Yes.

Q. You testified they discovered the line and then worked back, and I am trying to determine where that point is, if you know.

A. I can't be real certain as to where the first contact with the line was established. It was on the three-quarter-inch line.

Q. It was on the three-quarter-inch line?

A. Yes, sir.

John D. Miller.

Q. And when they first contacted the line, that is when you first noticed gas?

A. In the area when they first got this open.

page 121 } Q. And then they followed it back toward the main?

A. And one of the men hit it with a pick—I believe I am correct it was a pick that did it. And they were hacksawing the line to get a plug in on the main.

Q. Are you familiar with the odor of natural gas?

A. Yes, sir.

Q. Between it and other gases?

A. I am.

Q. What is the basis of that familiarity, Mr. Miller?

A. Well, having worked in a store that has used natural gas for a long time, we have had a lot of trouble with the gas system there, I am well aware of it, and I am very much afraid of it.

Q. I believe you testified that you attended the same meeting Mr. Cloutier did before this?

A. Correct.

Q. What meeting was that?

A. That was the Scoutmasters Round Table.

Q. Have you worked with him in Scout work?

A. A good long time.

Q. This flame that you say you saw underneath the guest room, can you describe the size of it for us?

A. Well, it's rather hard to pinpoint its source, of course.

Q. I said the size.

page 122 } A. And its size, but it was coming up between the two walls and, of course, the further up it would get, it would fan out and it would go and come a little.

Q. Two walls? What do you mean by two walls?

A. Well, there is the foundaiton of the wall that still stands there, and this section of the house wall, the frame walls, the concrete wall and the frame wall drop down in that particular place.

Q. I see.

A. And the flame itself, at times you would look down in there, and the main body of the flame shooting out the blue section would be about the size of your finger.

Q. Size of your finger?

A. And then it would flare out and get yellow and go back to a small flame again.

Q. Low pressure flame?

A. I wouldn't know whether it is low pressure or high pressure.

Q. You mean, you don't know that it wasn't a 6-pound main pressure?

A. I don't know what a 6- pound main pressure looked like.

Q. Did it look like the main was making this big a flame?

A. I would imagine it was.

Q. Now, I'd like to pinpoint, if we can, the time when you were able to get into this guest room and see the
page 123 } flame. You say you got there about 10:20 or 10:30?

A. Well, I tell you, I stayed at the scene until about, oh, 10 minutes till 12, something like that, and then I went up to the hospital to see Mr. Cloutier and Leo, and I came back. But prior to the time that I went up there, and it wasn't too far ahead of that, that I was able to go in. Of course, I wasn't by any means one of the first men, because the firemen, as I have told you, had already been in and out of there a number of times, and they had taken hoses in there, or one hose anyway, and flames were on more the central part of the house. That was one place that they could get in there, because the fire definitely was not as hot on that side at that time as it was over on the other.

Q. Is your answer, then, between 11:30 and quarter of 12?

A. In that neighborhood.

Q. And it is your testimony that at the time you saw this flame they had not cut off the gas in the street?

A. No.

Q. And at the time they had not cut off the gas in the street, you were able to get inside the house?

A. In the corner, no further.

Mr. Pasco: No other questions.

RE-DIRECT EXAMINATION.

By Mr. Allen:

Q. Did I understand you to say that the gas
page 124 } curb cock was covered?

A. I didn't see it myself, and I am sure that that was one of the reasons for the digging, because couldn't anyone else see it. And after they did reach it, they couldn't turn the valve or either get the top off. I don't know which one of the two was holding them up. It apparently was

John D. Miller.

frozen and they couldn't turn it off. That is, one or the other, the reason they went down through.

Q. Do you know what a gas curb cutoff looks like?

A. Um-hum.

Q. Will you describe it?

A. Well, let's see, about three to four inches in diameter, usually has the word "gas" on top of it.

Q. What are you speaking of now?

A. The box which contains the cutoff. That is usually down in the ground and has to be gotten to with a reach rod. The top of these covers usually have the word "gas" on them and maybe a couple of three holes on them, and they have an odd-shaped wrench that you have to use to take them off, similar to water meter cover.

Q. I hand you here Exhibit No. 1. Would you point out to the jury if that is the cutoff?

A. This right here.

Q. After this line was severed by the gas company, then what was done with the line?

page 125 } A. Which line?

Q. The gas main.

A. I believe, if I am not mistaken, that the line was sawed in two. I know one of the men tried to hold the pressure of the gas back with his hand, and being rather cold and a lot of water running around at that time, he was wet, and he stuffed a handkerchief into the hole for a moment, and then they finally got a plug there and they took out this piece of coarse nickel and put a plug in.

Q. What effect did the man trying to hold it with his hand have?

A. Not a great deal.

Mr. Allen: That's all.

RE-CROSS EXAMINATION.

By Mr. Pasco:

Q. Was the part he was holding the main or the service?

A. No, it was the three-quarter line.

Q. The three-quarter line, so they actually did not cut the main itself?

A. No, to my knowledge the main was directly under, because this main dropped over and went down. That was this three-quarter line.

Q. Now, Mr. Miller, you don't know whether the top of this

main was covered or not, do you, of your personal knowledge?

A. Well, I tell you—

Q. Just tell us whether you know of your own page 126 } personal knowledge?

A. I could not find it myself.

Q. But do you know it was covered of your own personal knowledge?

A. I never saw them when they uncovered it.

The Court: Did you look there and try to find it?

The Witness: There was a group of us were trying to find it. I think people were digging all over the place up there in that little section trying to locate this curb box.

The Court: If it had been uncovered, you would have seen it, wouldn't you?

The Witness: That's right.

By Mr. Pasco:

Q. Didn't that side of the house—didn't the debris from the house fall over on that?

A. Part of it, and further up the street, and that section, I don't know if it was partially pulled out there by a group of workmen or whether it blew out there all together. I think it was, but right there at that portion there had been a lot of debris was pulled away from the drive.

Q. Your testimony is that it was not on the drive primarily?

A. No, sir, not—

Q. You don't know whether it was covered or not, you just couldn't find it, didn't see it. That's your testimony?

Mr. Timberlake: I think he answered the page 127 } judge's question in that respect.

The Court: Well, I think the jury understands it just as well. Lawyers are all prone to get in the last word. Used to do it myself.

Mr. Pasco: That's all I have. Thank you, Mr. Miller.

FURTHER DIRECT EXAMINATION.

By Mr. Allen:

Q. Mr. Miller, you say the curb cock presented some difficulty when it was found and they couldn't use it to cut off the gas?

A. Right.

Q. Now, when they did find it, on which side of the curb cock was this area of burned-out, soft, dry dirt?

A. Dry dirt? The dry-dirt place was—well, I would say it is on the main side. Now, the main side, I know, was underneath. But it was in this three-quarter line that all this hole-digging operation was around, and this dry dirt was right in that section.

Q. That is between the main and the cutoff cock, the curb cock?

Mr. Pasco: He is leading the witness.

By Mr. Allen:

Q. Which side of the curb cock was this dry area?

A. The dry dirt was on the main side of the curb cock.

* * * * *

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* * * * *

CARL RIDDLEBARGER, II,

was called as a witness by and on behalf of the plaintiff, and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Timberlake:

Q. What is your full name, sir?

A. Carl Riddlebarger, II.

Q. What is your age?

A. Thirty-three.

Q. And your residence?

A. 16 North Colker Street, Staunton.

Q. And your occupation?

A. Plumbing and heating contractor.

page 129 } Q. Where are you engaged in business?

A. Here in Waynesboro.

Q. And how long have you been engaged in the plumbing and heating business, Mr. Riddlebarger?

A. I have been in business for myself since 1952.

Q. Now, prior to that, what was the nature of your employment?

Carl Riddlebarger, II.

A. I was employed by another plumbing and heating contractor for a year prior to that. I was employed by the Virginia Gas Distribution Corporation for approximately two and a half years here in Waynesboro.

Q. When did your employment, as nearly as you can fix it for us, begin with the Virginia Gas Distribution Corporation and when did it end?

A. I commenced employment about February 1949; about the latter part of 1951.

Q. So approximately two and a half years?

A. Yes, sir.

Q. In what capacity were you employed by the Virginia Gas Distribution Corporation?

A. I was classified as general utilityman.

Q. Your father, I believe, was formerly manager of the Virginia Gas Distribution Corporation?

A. He was formerly general manager. I believe it was called Consumer Utilities at the time he was
page 130 } here.

Q. And that was the predecessor to the Virginia Gas Distribution Company?

A. Yes.

Q. Now, Mr. Riddlebarger, based upon your experience with Virginia Gas Distribution Corporation as employee and your experience in the plumbing and heating business here in the City of Waynesboro since that time, are you familiar with the pressures maintained by the company in the City of Waynesboro and how they are controlled?

A. I am familiar with the pressures as they were set and maintained during the time I was employed by the company.

Q. Do you know of any change since then?

A. No, sir.

Q. How were they set and maintained?

A. The gas was distributed—

Mr. Edmunds: Now, Your Honor, at this time, before you answer that, Mr. Riddlebarger, we object to the question, and we object to the answer being given to the jury on the ground that whatever may have been done in 1952 is too remote to have any bearing on the issues in this case.

The Court: I think that is right.

Mr. Timberlake: Your Honor, the witness has testified that he has since that time been engaged in the plumbing

and heating business here and to his knowledge there has been no change in the method.

page 131 } The Court: Well, that could mean that he had left the community. He still wouldn't know about any change.

Do you know whether they still maintained the same system of pressures at the time this fire occurred?

The Witness: To the best of my knowledge, it is done in the same manner.

The Court: How do you know that?

The Witness: I know of regulator stations that are in different locations about town which were formerly used for regulating the pressure, I know those regulator stations are still in use in the same place. I have not been in them since I was employed by the company.

The Court: You just know that the stations are there?

The Witness: I know that the stations are there and being used.

The Court: I wouldn't say, Mr. Timberlake, that is sufficient to say that he knew what was going on in here in January 1958. I sustain the objection.

By Mr. Timberlake:

Q. Do you know of your own knowledge whether or not the regulating systems have been changed by the Virginia Gas Distribution Corporation?

A. No, sir, I don't know that they have been changed.

Q. Do you know that they have not been changed?

A. No, sir, I couldn't say they have not been

page 132 } changed.

Q. In connection with your present employment, which as I understand is plumbing and heating, do you have occasion to install and connect appliances?

A. Yes, sir.

Q. Gas appliances in the City of Waynesboro?

A. Yes, sir.

Q. Have you had an opportunity in the course of that experience, accompanied by your experience while employed with the Virginia Gas Distribution Corporation to ascertain the nature of the pressures and their regulation during the year 1952?

Mr. Edmunds: Don't answer the question.

Your Honor, I object to that question on the ground—

The Court: He might say no, Mr. Edmunds. He might get this first answer.

Mr. Edmunds: I object to the question on the ground it is leading, anyway. Leading question.

The Court: I don't think so. Go ahead and answer your question if you want.

Mr. Timberlake: I expect Mrs. Gibbs better read the last question to him.

(Whereupon, the last above-recorded question was read by the reporter.)

Mr. Timberlake: I mean 1958, excuse me. That must have slipped my tongue.

page 133 } The Witness: I still don't quite understand the question.

The Court: I don't, either.

By Mr. Timberlake:

Q. I am asking you, Mr. Riddlebarger—

The Court: Let me ask you this question: Do you know what the pressure was when this incident occurred?

The Witness: No, sir.

The Court: Do you know what it was supposed to be?

The Witness: Yes, sir.

The Court: And how do you base that knowledge?

The Witness: I base it on encounters that I have had with the gas in different work about the town.

The Court: That is in installing gas equipment?

The Witness: And repair work.

The Court: Who informed you of the pressures?

The Witness: It was an observation, a visual observation.

The Court: What was the pressure supposed to be at that time?

The Witness: I have reference—if I might state what I am trying to tell you, I have reference of one particular instance where I saw the gas main—gas service line opened out in Jefferson Park. We had occasion to call the gas company to come and do some work on the line while we

page 134 } were doing some work out there, and I saw the pressure there that was being maintained. It was a visual notice of the pressure.

The Court: Was that on a main, or—

The Witness: It was on what we call the main to curb.
The Court: The what?
The Witness: The line from the main to the curb.
The Court: That would be the service line?
The Witness: Yes.
The Court: What was that pressure?
The Witness: It was considerable pressure. I didn't have a gauge on it, didn't see a gauge on it.
The Court: I thought you said you saw it.
I don't think this witness is in position to testify to the pressure, Mr. Timberlake. Please desist from asking that.

By Mr. Timberlake:
Q. Now, Mr. Riddlebarger, it is in evidence that the Cloutier residence was served by a gas main and service line there from the street to the residence in January 1958 and had been installed prior to the time of your employment with the Virginia Gas Distribution Corporation. Will you state whether or not during the period of your employment and association with the Virginia Gas Distribution Corporation the company had a general policy which it regularly and consistently maintained as to the installation of service lines, curb cocks, reduction valves and meters in such instances?

page 135 } Mr. Edmunds: Your Honor, we object to that question on the same ground as the objection was made to the first question which Your Honor sustained.
The Court: Well, I think he can ask him whether they had this policy or not. I think that is all right, Mr. Edmunds. It is a different proposition.
Mr. Edmunds: Save the point, ma'am.

By Mr. Timberlake:
Q. Now, you go ahead and answer that.
A. Yes, there was a policy.
Q. All right, what was the policy?
A. The policy at that time was the gas company installed that part, the main to curb, the service line, the meter and the house regulator.
Q. And did that also apply to all connecting pipe between the meter and the main?
A. Yes.
Q. Do you know when, if ever, that policy has been changed by the Virginia Gas Distribution Corporation and to what extent?

A. It has been changed in the past few years, whereas the gas company no longer installs the service line from the main in to the house. They install the line from the main to the curb, set the curb cock and the curb box, and after the gas meter loop is built by others, they come and hang the meter.

Q. And do you know the approximate date of
page 136 } that change in policy?

A. I would guess within the last three years.

Q. Can you say with certainty that it has been since 1952?

A. I think so, yes.

Q. Now, Mr. Riddlebarger, up to the fall of 1951 and prior thereto, will you describe to the jury the mode of connection between the main and the curb cock, just what the installation consists of?

A. The installation consists of, of course, a trench from the main to the point where the curb cock would be located, tapping the main and connecting onto it and running a pipeline from the main to the curb cock, setting the curb cock and a curb box over it.

Q. Now, where was the curb cock located with reference to the street line and the property line?

A. Are you speaking of a specific place, or—

Q. I am talking about the fixed policy, if there was such.

A. At the property line.

Q. At the property line?

A. Yes.

Q. And then the line would extend from the curb cock on out under the street to the main?

A. Yes, sir.

The Court: If you had a sidewalk, Mr. Riddlebarger, would the curb cock be on the inside of the sidewalk or on
page 137 } the curb side of the sidewalk?

The Witness: It would be on the inside.

The Court: In other words, the gas company would carry the line under the sidewalk?

The Witness: Yes.

The Court: I see.

By Mr. Timberlake:

Q. Now, what is the approximate depth under the surface, if there is a fixed policy along that line, of the curb cock?

A. It should be a minimum of 18 inches or below the cross line.

Q. And then that is the valve that you have reference to?
A. Yes.
Q. All right, now, what about the top of it?
A. The curb box?
Q. Yes.
A. It's supposed to be above the ground, accessible.
Q. And is that curb box vented?
A. Yes, sir.
Q. And what is the purpose or reason for it being vented?
A. Well, it would allow any gas accumulation to be vested to the atmosphere.
Q. And then do I understand the service line, then, extends from the curb cock over the customer's property to the point where it enters the structure itself?

page 138 } A. Yes, sir.

Q. And where does it come back to the surface of the ground, at the place of entry into the house?
A. Well, it would depend on where the meter were located, inside or outside. In many instances where the meter is located inside, the pipeline will go underground. In some instances it may come above ground and then enter, and, of course, if the heater is installed outside, the service line would not enter the building.
Q. Now, I mentioned to you a few minutes ago in one of the questions the apparatus known as the reduction valve. Just what is that, Mr. Riddlebarger?
A. It is more commonly referred to as a house regulator which reduces the pressure from the service line pressure to the operating pressure inside the house, which is normally six inches water column.

The Court: Which is normally what?
The Witness: Six inches water column, which is approximately four pounds.

By Mr. Timberlake:
Q. That is the pressure after the gas has gone through the service line and through the regulator and comes out on the property side?
A. The pressure would come in from the service line at the same pressure it was in the main and be re-

page 139 } duced by the house regulator.

Q. And where is the regulator installed in reference to the company's meter?
A. It is installed with it.

Q. Immediately adjacent to it?

A. Just ahead of the meter.

Q. I see. So that when the gas passes through the meter the pressure has been reduced by this regulator to the low pressure that you have described?

A. Yes, sir.

Q. Now, Mr. Riddlebarger, did you have occasion to go to the scene of that catastrophe at the Cloutier home at or near the time it occurred?

A. Yes, sir.

Q. About what time did you get there?

A. I got there approximately five minutes after the fire alarm sounded.

Q. Approximately five minutes after the fire alarm sounded?

A. Yes.

Q. And what was the situation that you found when you arrived there?

A. There were quite a few people gathering at the scene. The firemen were there, of course, and they were putting water on the fire. The gas company employees were there attempting to, I assume, locate the gas cutoff at the front of the property.

page 140 } Q. You say at the front of the property? When you say the front of the property, what do you mean by the front of the property?

A. On Florence Avenue.

Q. Did you recognize these individuals as employees of the gas company?

A. Yes.

Q. And do I understand they were apparently trying to find a cutoff on the Florence Avenue side?

A. They were digging inside the wall near the water line. You could see the water meter in the sidewalk, and they were digging inside the wall right at the water—where the water line came in, and I assume they were trying to locate the gas cutoff.

Q. And did you observe or follow their activities from the time that they were digging on the Florence Avenue side of the property on throughout their activities there that evening?

A. Pretty much so. Of course, I was observing the fire at the same time that I was observing their activities. I moved—after I stood in front of the house for a while, I moved around on the DeWitt side of the house and stood

about the middle of DeWitt Street and further toward the other side of it and observed the fire and observed the gas company attempting to locate the gas cutoff. They later moved from the front of the property to the side where they later found the cutoff.

page 141 } Q. That's the DeWitt Street side?

A. That's right.

Q. And you say it was there that they later found the cutoff?

A. Yes.

Q. And can you tell this jury where they did locate the cutoff?

A. They located the cutoff what seemed near to the street to me. It was out just a little bit more than usual for a cutoff.

Q. Well, now, are you familiar with the river rock driveway leading from DeWitt Street up under the porch of the Cloutier home?

A. Yes.

Q. Where did they find the cutoff, or locate the cutoff with reference to this river rock driveway?

A. Well, I believe it was beyond—it was beyond the river rock, because they didn't dig up any rock in locating it.

Q. So that it was on the DeWitt Street side of the end of the river rock driveway, is that right?

A. I believe that's right, sir.

Q. Now, while you were there, Mr. Riddlebarger, did you or not observe or notice the existence or presence of any gas in the air?

A. I didn't notice any gas in the air at first. After they had broke through the frozen ground, why, there

page 142 } was a strong odor of gas which caused me to get back just a little bit further than what I was, because it was obvious there was gas burning in the house—to me it was obvious.

Q. Why was it obvious to you that gas was burning in the house?

A. Well, the fire was so intense, it was more than just a wood fire burning. The firemen would play the water on the fire and get it down to one point and start to go into the house and it would break out again, and there were minor explosions underneath of the fire.

Q. And so as I understand, it was not until after the frozen surface of the earth had been broken in this digging that you noticed or observed the odor of gas in that area?

A. That is correct.

Q. Do you know whether or not that was before the line was actually exposed?

A. Yes, it was before the line was—they didn't just break through the ice and be right at the line all of a sudden. It wasn't that simple. It was very difficult digging, and I feel that the odor came about when they broke the ice.

Q. Mr. Riddlebarger, we have spoken of the river rock driveway there on the Cloutier premises. Can you give the jury a little more definite description of the nature of that river rock driveway?

page 143 } A. From what I have observed, it was river rock laid in mortar; mortar laid down and around the river rock.

Q. And were you able to observe—I believe you have already testified that that extended to DeWitt Street?

A. Yes.

Q. And what adjoined the end of the river rock driveway on the DeWitt Street side, I mean from the standpoint of surface coverage?

A. Well, I believe you will find that the macadam adjoins it.

Q. That's the macadam of DeWitt Street?

A. Yes, sir.

Q. Mr. Riddlebarger, based upon your experience in heating and plumbing business and your employment with the Virginia Gas Distribution Company, will you tell us a little bit about the nature of natural gas as far as its weight in comparison with the ordinary air is concerned?

A. Well, the weight of specific gravity is .65, which means that it is lighter than air, and it is odorless. Actually you cannot smell the gas itself. There is an additive put in it that makes the odor.

Q. Do you know what that additive is called?

A. No, sir, I do not.

Q. It is the additive that gives it the odor that we all know?

page 144 } A. That's right.

Q. Observe? Do you know anything about the tendency of gas or passage or travel of gas below the surface of the ground when it is not enclosed in pipe?

A. Well, any gas underground would naturally seek an outlet, and the easiest place for it would be to follow the trench line.

Q. Trench line of what?

Carl Riddlebarger, II.

A. Of the gas pipe or any other pipe, for that matter.

Q. I see. Would paving or frozen ground on the surface of the ground have any tendency one way or another to accentuate the underground passage of gas?

A. No, it's going to seek its outlet, and if the ground is frozen where it would be leaking, of course, it couldn't come there, it would travel to another point.

Q. Now, Mr. Riddlebarger, have you had occasion at our request to go to the former location of the Cloutier residence at Florence Avenue and make certain observations as to the installation there?

A. Yes, sir.

Q. Can you tell the jury from those observations the course of the service line from DeWitt Street on to the residence?

A. It's installed very much as it is shown there on the diagram. I couldn't make any change from what was shown.

Q. Do I understand that it runs from the De-
page 145 } Witt Street main?

A. Yes, sir.

Q. And where does it pass in reference to this river rock driveway?

A. Just under it.

Q. Just under it?

A. Just under the river rock driveway.

Q. And about what depth would you say below the rock?

A. Just a matter of a few inches.

Q. Matter of a few inches? And then after it passes under the river rock driveway which leads up to the porch, or where the porch was of the residence, what course does it follow?

A. Why, it continues in a straight line till it reaches the southeastern corner, and then it terminated there. I could see no more.

Q. What is the nature of the soil through which it passes after it goes under the river rock driveway and proceeds on to the southeast corner?

A. It's just about average soil, at least for this part of the country. It's a little more rocky, little more shale.

Q. Little more shale than you'd normally find?

A. Then you normally find.

Q. And what is the approximate depth of the line after it passes under the river rock and goes through this shaley soil?

A. Just a few inches under the ground.

Carl Riddlebarger, II.

Q. Now, could you observe, after the demolition
page 146 } of the house, what happened to the line? I mean
where it went after it reached the southeast corner of the house, or was there anything to afford you that information?

A. Nothing there that you can see now. There is just a big hole in the foundation.

Q. What type and size of pipe constituted the service line from DeWitt Street or from the curb cock to the southeast corner of the residence?

A. It was standard three-quarter block pipe.

Q. In what respect was it similar or dissimilar to the pipe used by the Virginia Gas Distribution Corporation during your period of employment and prior thereto in the installation of service lines?

A. During my time of employment they had discontinued using the three-quarter-inch line and had gone to installing inch-and-a-quarter, same type pipe as the last.

Q. During the time of your employment did you have occasion to see the type of pipe formerly used by the Virginia Gas Distribution before they went to the inch-and-a-quarter line?

A. Yes.

Q. In what respect is this particular pipe similar or dissimilar to that?

A. Well, it's—the type pipe that you will find in all the older homes here in Waynesboro. They were all put in three-
quarter lines until they went to inch-and-a-quarter.
page 147 } Q. I see. Now, Mr. Riddlebarger, in your in-
spection of the premises, will you tell the jury whether or not you observed a pipe drain leading from the basement to the exterior of the Cloutier residence, drain pipe?

A. Yes, sir, I *oberserved* a one-inch drain pipe from the northwest corner of the building.

Q. From the northwest corner of the building?

A. Out to the front.

Q. Out to the front?

A. Yes.

Q. And what is the approximate length of that drain pipe?

A. I'd sav approximately 20 inches long.

Q. And where was the outlet to that drain in reference to the trench of the service line?

Carl Riddlebarger, II.

A. It terminated right against the pipe, gas service pipe.

Q. And where did it terminate with reference to the river rock driveway, do you recall?

A. No, I don't exactly recall where that was.

Q. Mr. Riddlebarger, based on your knowledge and experience in the line of work that you engage in and had been engaged in for some years, I would like to ask you this question: If you have a situation where there is a service line coming from a street main of the nature and type used here in the City of Waynesboro by the Virginia Gas Distribution Corporation leading from the main to the curb

page 148 } cock under asphalt paving to the curb cock and then from the curb cock under a river rock driveway installed with mortar, such as you have described existing at the Cloutier residence and along a trench or a line below the river rock driveway, leaving the end of the river rock driveway and passing in close proximity to an open one-inch drain pipe going into the cellar of a residence, and also taking into consideration the fact that the curb cock with its vent or vents is covered and not exposed to the air, in your opinion, if there were a leak in the street main in the vicinity of where the service line goes off toward this property, as has been described, what course would the leaking gas from the main follow?

The Court: Don't answer the question.

Mr. Edmunds: Your Honor, I object to the question on the ground that it does call for an expert opinion in answering and that this witness has not qualified as an expert. On his own statement, he hasn't been with any gas company since 1951, and he is not working with gas at this time and has not worked with gas since 1951, and he was only with the gas company as an employee for about two years. So obviously he does not qualify as an expert witness to give expert testimony, and we object to the question and we object to the witness being permitted to answer the question or give an opinion on it.

The Court: I don't think the gentleman is an expert in this field, Mr. Timberlake. He has already testified to

page 149 } certain facts from which the jury can draw certain inferences, and I don't think this gentleman can give an opinion such as you have asked for on this hypothetical question.

Mr. Timberlake: Well, Your Honor, we felt that his very

line of work did qualify him to give an expert opinion, and we will except to the ruling of the court.

I think that's all. These gentlemen probably want to ask some questions.

CROSS EXAMINATION.

By Mr. Edmunds:

Q. Mr. Riddlebarger, as I understand, you live in Staunton now, do you?

A. Yes, sir.

Q. Do you conduct your business in Staunton or Waynesboro?

A. In Waynesboro.

Q. Your business is in Waynesboro, and you live in the City of Staunton?

A. That's right.

Q. Now, you haven't been with the gas company since 1951?

A. That's correct.

Q. And since that time have you been engaged in the plumbing and heating business the same as you are now?

A. Yes, sir.

Q. Now, were you summonsed here as an expert witness in pursuance of an arrangement?

page 150 } A. No, sir.

Q. You were not summonsed, you were just as an expert witness?

A. I was summonsed, yes, sir.

Q. Had you volunteered any information as to this incident at the Cloutier residence on January 21, 1958, prior to your being summonsed?

A. Yes, sir.

Q. To whom did you volunteer your information?

A. Mr. Allen.

Q. And did you have any particular reason in volunteering your information or your expert information as you thought it might be?

A. Onlv that having spent all of my life since childhood in and about the gas business, with the exception of my service in the Navy, I had a personal interest.

Q. And what was your personal interest?

A. I would like to see the gas used more carefully than it has been used in Waynesboro.

Carl Riddlebarger, II.

Q. Well, did you feel that gas was not being used carefully at the residence of the Cloutiers?

A. I could not say that, no, sir.

Q. But because of your feeling that gas should be used more carefully, following this incident at the Cloutier home you did volunteer certain information which you

page 151 } thought might be helpful?

A. I was talking to Mr. Allen about another matter, and it came about, and he asked me what I knew about it, and then I volunteered the information that I knew.

Q. Now, under what circumstances were your services with the gas company terminated?

A. I resigned.

Q. Why did you resign?

A. I can't give you any specific reason at the present time, other than self-betterment.

Q. Are you sure you were not discharged by the gas company?

A. I am quite sure.

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Q. You, I believe, testified that you saw there a drain pipe, did you not?

A. Yes, sir.

Q. Now, where did you say that drain pipe was located, Mr. Riddlebarger?

A. I called it the northwestern front of the residence.

Q. And was it above the service line or below the service line?

A. It seemed to me as though it butted right against it.

Q. Well, did it cross the service line?

A. I couldn't definitely answer that.

Q. Well, can you tell us anything about where it was, if you couldn't answer that question, as to whether it crossed it or whether it was above it or whether it was below it? Can you tell us anything else that you haven't told us about it?

A. About the drain line?

Q. Yes, about this drain pipe that you are talking about.

Carl Riddlebarger, II.

A. Other than I saw the two of them come
page 156 } together there.

Q. When was that?

A. Just a few days ago.

Q. You mean, just a few days ago, was that the first time that you saw the drain pipe that you have been talking about?

A. That's correct.

Q. You don't know when that drain pipe was put there?

A. It appears that it's been there for many years, because the concrete that it was in leaves the shape of the pipe right there the same as it does the gas line.

Q. Did the concrete show evidence of where the service line pipe was?

A. I believe it does.

Q. Didn't it show that the drain pipe was above the service line pipe?

A. In places, that is.

Q. Well, how long a pipe was this drain pipe?

A. It's about 19, 20 inches long.

Q. Now, you say it was above the service line pipe in places?

A. I couldn't say it was above or below. I saw the two of them coming together.

Q. Had the pipe been dug up there?

A. Yes, sir.

Q. Service line pipe?

A. Yes, sir, but there, again, there was evidence of where it had been.

page 157 } Q. And in portions of the places where it had been the drain pipe showed it to have been above the service line pipe?

A. I could not say that.

Q. I understood you to say that a few minutes ago.

A. No, sir; I tried to say I couldn't say it is above or below. I saw that they came together, or whether one was under the other one or not, I am not sure.

Q. So it may have been below and may not have been below, you don't know?

A. That's right.

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Carl Riddlebarger, II.

Q. I believe you, in answer to my last question, Mr. Riddlebarger, said that gas being lighter than air it would readily escape through the driveway where the Cloutier residence was. I guess it is equally true that it could escape through the portion of the ground or driveway under the porch of the Cloutier residence, too, could it not?

A. If it found its way that far, yes, sir, in the ground.

Q. You saw the whole area there, including the driveway and the portion of the ground that was under the porch, too?

A. Yes, sir.

Q. And it could have escaped up through the porch or up through the driveway, either one?

A. If the ground was not frozen.

Q. I believe you also testified, Mr. Riddlebarger, something about the policy of the company with reference to installation of service lines and meters having changed within the last two or three years. Now, will you tell the jury here how you knew anything about the policies of the company changing in the last two or three years if you haven't worked for them since 1951?

page 159 } A. Well, I know about it by being a plumbing and heating contractor who does the work now that was formerly done by the gas company. The plumbing and heating contractors are now installing the service line that the gas company formerly did, and that was how I knew about it. We were instructed by the gas company what to do and where to do it.

Q. But you don't know when the service line at the Cloutier residence at 216 Florence Avenue was installed, do you?

A. No, sir.

Q. And you don't know what the policy was then?

A. The age of it shows that it was done during the time they were doing it.

Q. Time they were doing what?

A. Installing the service line themselves.

Q. But you don't know personally of your own knowledge what the policy of the company was at the time the Cloutier service line was installed?

A. No, sir.

Q. And you don't know when the Cloutier service line was installed?

A. That's correct.

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J. R. A. HOBSON, JR.,
was called as a witness by and on behalf of the plaintiff and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Allen:

Q. You are Mr. J. R. A. Hobson, Jr., I believe?

A. Yes, sir.

Q. What is your background and experience and training in connection with natural gas?

A. I was graduated from Virginia Military Institute in 1922 and attained my Master of Science degree from Massachusetts Institute of Technology in '23. My gas experience was 24 1/2 years in responsible work of Public Service and Electric Company of New Jersey and later with page 161 } consulting engineers for Philadelphia and Reading Coal and Iron, and then for seven years I was Director of Public Utilities, the head man in charge of the gas operations for the City of Richmond, and in the last five years when I have been in consulting work under my own name in New York I have done a number of gas investigations.

Q. In connection with lawsuits?

A. Yes, in connection with lawsuits. Other, too. I have done some other gas work besides that.

Q. Mr. Hobson, I believe you have visited the remains of what was the Cloutier home in this city?

A. Yes.

Q. And have viewed the foundations, the remnants of what was there?

A. Yes.

Q. Do you recall observing a driveway, and if so, would you please identify or describe your observations?

A. In this brown rock driveway that is laid in cement—

Mr. Pasco: If Your Honor please, might we ask this witness a few questions with respect to his qualifications before he goes into the matter?

J. R. A. Hobson, Jr.

The Court: Yes, sir.

The Witness: I didn't say my qualification which I have omitted, that I am a professional engineer in the State of Virginia, licensed in the State of Virginia and licensed in the State of New York and licensed in the State of
page 162 } Connecticut. I omitted to say that.

CROSS EXAMINATION ON THE *VOIR DIRE.*

By Mr. Pasco:

Q. I wanted to ask you first, Mr. Hobson, if there was any natural gas being handled by the City of Richmond when you were with the Department there.

A. I was for a year. It was during the last year I was there that very company, this Atlantic Seaboard conducted during that year an investigation of bringing the gas to Richmond, and we looked into all sorts of things we would have to do when gas was brought in, and I was familiar with it to that extent.

Q. Well, now, was the City of Richmond selling any natural gas formerly?

A. They were not selling natural gas.

Q. What kind were they selling?

A. Selling manufactured gas, in which there is a difference.

Q. You said there was a difference?

A. Yes, there is a difference in the Btu.

Q. Is that the only difference?

A. And the gravity, but the two gases are still gases.

Q. Would you specify one or the other as more of a liquid or wet gas than the other?

A. Oh, yes, the natural gas is drier than the other gas.

Q. Now, your work with the Philadelphia Reading Company, that involved natural gas?

page 163 } A. No, that involved the study of gasification from coals.

Q. That did not involve the sale or distribution of natural gas?

A. No, but I have worked for the consulting firm of W. C. Gilman Company in New York on the installation of a whole natural gas system.

Q. What sort of work did you do on that?

A. I was brought in as a consultant, because the bankers wanted this Gilman Company and myself to make a report on their engineer's installation that they were going to lend money on down in Louisiana.

J. R. A. Hobson, Jr.

The Court: Was that natural gas?

The Witness: That was natural gas.

The Court: And you made the report for the banker, you say?

The Witness: I was attached to the firm that makes the report to the bankers on that particular thing.

By Mr. Pasco:

Q. What kind of engineer are you? You said you were licensed as an engineer.

A. I am licensed as mechanical engineer. In the State of New York you are licensed just like a power association for all the time.

Q. What sort of engineering masters degree did you get?

A. I got it in electrical engineering.

page 164 } Q. What business are you now in, Mr. Hobson?

A. I am doing some consulting for a water company. I am retained by a water utility in New York, and I am still maintaining my license to practice engineering and doing it occasionally, but manufacturer's agent business is my main line now for the last year.

Q. Have you ever had any actual experience in the distribution and sale of natural gas to consumers?

A. No, not the natural gas.

Q. Not natural gas?

Mr. Pasco: If Your Honor please, those will conclude our questions, and while Mr. Hobson is obviously an eminent educated engineer, I don't believe he is qualified as an expert on natural gas to the extent to answer questions with respect to the qualities of natural gas.

The Court: Well, I don't know what they will be. A man who is an expert on gas, whether it is natural, propane, or manufactured gas, or whatever it is, it seems to me that it would all be the same. I think his qualifications are *prima facie* established. We will see what questions are asked. It is hard to say when an expert is an expert.

Mr. Pasco: I would be the first to concede that. May we save the point?

The Court: Yes.

DIRECT EXAMINATION. (Continued)

page 165 } By Mr. Allen:

Q. Mr. Hobson, I believe you testified that you

have been to the Cloutier home, or rather the remnants of the home. Can you identify about when that was that you visited the home here in Waynesboro?

A. Last Friday.

Q. Last Friday? And will you please tell the jury your observations in connection with the river rock driveway that has been testified to here?

A. The river rock driveway extended out to the macadam of the road, except at the particular point where there had been some digging and breaking of that macadam, but it extended to the surface of the street macadam, and it was about six, eight inches thick but seemed to vary in thickness. And the place where the service had been, which was indicated in the concrete, showed it was one and a half to two inches below the—or just below. You couldn't—

Q. Just below what?

A. Just below the bottom of this rock.

Q. Now, where did the river rock terminate in connection with the Cloutier home?

A. It terminated right at that corner where that little drain is.

Mr. Timberlake: I believe it might pay to point that out specifically.

page 166 } By Mr. Allen:

Q. Would you take the pencil, please, and go identify where the river rock terminated?

A. Right at this point here (indicating on drawing.)

The Court: Get on the other side.

The Witness: Right at this corner of this building within a couple of inches or a few inches of that drain, drain that is in the corner.

Mr. Pasco: Would you let the record show which corner that is?

The Witness: North.

The Court: It is the northwest corner?

The Witness: Northwest corner—no, it's northeast corner —northwest corner.

By Mr. Allen:

Q. Now, Mr. Hobson, the outlet for this drain that you pointed to up on the chart, where was that in relation to the river rock?

J. R. A. Hobson, Jr.

A. Outlet of the drain, I say it was right at the edge of the river rock, within a few inches of it.

Q. Within a few inches of the river rock?

A. Yes.

Q. And what was the nature of the surface above the drain?

A. The ground was porous, rather porous ground.

Q. Unsurfaced ground?

page 167 } A. Yes; it was sort of sandy.

Q. Now, in connection with the drain, the end of the drain, that is, the exit portion of the drain, what was the relative position of the exit portion of the drain and the service line?

A. What portion of the drain?

Q. What was the relative position of the outside end of the drain—

A. Yes.

Q. —and the gas service line?

A. They were, I think—I am pretty sure that the drain lay on the service line.

Q. Laid on the service line?

A. Yes.

Q. And where was the end of the drain with reference to the service line?

A. Just about on the service line, within a half inch one way or the other.

Q. Now, at that point, at the point of the drain and the end of the service line that you say was a matter of inches on the house side of the river rock, what was the approximate depth of the service line?

A. About two or three inches from the trench that I could see them from the indentation in the concrete where it went through.

page 168 } The Court: You say two or three inches?

The Witness: Yes.

The Court: I wish you would speak up a little louder so I can hear you.

By Mr. Allen:

Q. Mr. Hobson, in connection with natural gas, would you identify whether or not natural gas is heavier or lighter than air?

A. It is lighter than air.

Q. And as such it has a tendency to do what?

A. To rise.

J. R. A. Hobson, Jr.

Q. Also would you identify for the jury what mixture of natural gas and air is necessary to accomplish an explosion?

A. From 4 to 15 per cent, and an explosion point of 10 per cent is the most likely.

The Court: Is it ten per cent of the volume?

The Witness: Ten per cent gas in the combined volume of gas and air.

The Court: In other words, if 10 per cent of the air in this room were displaced by gas, then we would be at the explosion point?

The Witness: Yes, and sometimes that extends down to 4, but if it gets over 15 or around 20, why, you won't have explosion.

The Court: You mean, it passes—

page 169 } The Witness: If it gets too rich in the gas, it won't explode or burn.

The Court: So if you don't want to have an explosion, you have to have either a little or a lot?

The Witness: Yes.

By Mr. Allen:

Q. Mr. Hobson, in your observations, tell the jury whether or not you observed the type and the nature of the surface covering on DeWitt Street through which the main passes?

A. That was the macadam, light macadam. It was a watertight surface.

Q. Now, Mr. Hobson, would you also estimate, please, the distance to the macadam from the foundation lines of the house; that is, the distance from the house foundation to DeWitt Street?

A. From that corner?

Q. Yes.

A. DeWitt? About 10 or 12 feet. I didn't pace it off.

Q. Now, in the instance of frozen ground and a surface treatment over a gas main such as you have described and a gas cutoff or curb cock, which was covered, and a service line running from the gas curb cock beneath a concrete river rock driveway at a depth of 5 to 8 inches, which line rests immediately below the river rock driveway and then the line becoming a depth of 2 or 3 inches at the point where the river rock driveway terminates and becomes

page 170 } simply soil and at that point there is a cellar drain of straight, one-inch pipe about 20 inches long resting on top of the service line and extending into the

cellar of a residence, whether under such circumstances a leak in the gas main or in the line from the main to the curb cock under such circumstances, advise the jury, if you please, of your opinion on the possible or probable flow of gas.

A. Well, gas is contained by street surfaces or driving level like that which is equivalent to the street surface, and gas does have a tendency to travel around a pipe where the ground is not quite bound up as tightly as virgin ground, and if there were any spaces between the bottom of that rock and the top, it would filter underneath there and work out to the best opening it had to overcome, where it had the least resistence. And if the ground had been frozen where the pipe continued at three inches below the level—and the testimony was to the effect that it was frozen—that would be frozen ground at the end of this parkway, and so it would, if it came at three inches to the end of that driveway, it would still have frozen ground to hold it down to some extent, and if at that point there was a clear opening, it is a logical possibility that it would have taken that opening. Nobody can say what the gas did, but—

Q. Now, Mr. Hobson, taking the same facts that I set forth in the prior question and adding to that the fact of an explosion and fire and adding to that that there was evidence that about an hour after the explosion there page 171 } existed a small blue or continuing flame at an area of about a foot or perhaps slightly more from the basement opening of the cellar drain, which little blue flame disappeared upon the opening of the soil at the initial spot indicated as being the one that was leaking, what would that opening of the soil and the disappearance of the blue flame indicate in your opinion?

A. It would have indicated that there was a contained amount of gas beneath these surfaces and it was coming out wherever it was coming out at that blue flame, and the reason it went away when they dug and broke through this frozen ground over the main was that was an easy place for it to be released, and so it didn't force its way out through all of this ground and everything, it did have immediate access there at the main when they broke through that the gas would come out. In fact, that gas—it was testified that gas was smelled in a whole volume as it came out, would indicate that there had been some storage underneath the—

Q. —surface there?

A. —beneath the surface.

Q. Now, Mr. Hobson, taking the same circumstances as set

forth in the hypothetical question and adding to those circumstances these circumstances: that this cellar drain vented —the cellar drain was contained in a cellar, it had no outside doorway and three closed windows of a height of to the floor above of perhaps 7 to 7 1/2 feet with the page 172 } contained stairwell leading to the upstairs and that the cellar area contained a suspended floor furnace in which the pilot in the floor furnace would be at eye level, about four-feet-four to six inches and that the floor furnace was vented into the chimney flue, would that in your opinion have any effect upon the increase or decrease of the flow of gas through this drain?

A. Well, when the furnace goes on it has to pull air in through the cracks or infiltration of air when everything is closed down, and if that was an opening with the flame actually coming out, it would tend to put a little bit of a vacuum on that. It would be some sort of a vacuum action if that flame was going out of there and the furnace went on and to suck the air through there as well as through the cracks in the windows and places. It has to fill up, get its supply of air.

Q. Now, Mr. Hobson, in connection with the same set of facts, hypothetical facts that have been testified to and in connection with the fact that gas has a tendency to rise, when would it be that the pilot light, in your opinion, of the floor furnace would cause an ignition of an explosive mixture?

A. As soon as the explosive mixture—the gas would tend to go up to the ceiling, and as soon as that explosive mixture got down to where it was in the range of 4 to 15 per cent, then it would ignite from the flames. So it would have to come down that three feet to get that mixture down that far, if gas was accumulating up in the ceiling, which is quite page 173 } true in other cases I have investigated, and that it does tend to accumulate in the ceiling.

Q. Accumulate in the ceiling and then what?

A. Well, in similar—on two different occasions if was something like a light—it's often just like a switch, an electric switch which is something like a pilot light that causes explosions.

Q. Now, Mr. Hobson, in connection with the explosive mixture of about a 4 per cent by volume of gas, what is the odor of untreated natural gas?

A. It has very little odor, practically none.

Q. Now, what would be the strength of the odor in your opinion of a 4 per cent gas mixture?

J. R. A. Hobson, Jr.

A. Well, I can't answer you that in that many words, but I will say that in two cases that I investigated the mixture was an explosive mixture and it did have an explosion, and in both cases, the main one, the case of a school, the janitor came in and pulled the light without smelling the gas, and in the second case the man got up out of bed and pulled the switch and didn't smell the gas. So from a practical viewpoint, that has occurred in two cases which I have investigated, the man did not notice the smell of gas.

Mr. Allen: Mr. Hobson, these gentlemen might have some questions that they want to ask.

page 174 } CROSS EXAMINATION.

By Mr. Pasco:

Q. Mr. Hobson, if the gas people had broken the surface in this ground in digging up the curb cock before they were able to get in the house to see this flame, then it doesn't follow that the flame necessarily came from any leak in the line, does it?

A. If they have—

Q. If the surface of the ground were broken and the pipe exposed before they were able to get into the house to see the flame.

A. No, if that—broken through the frozen ground at the main? No, it wouldn't be any pressure to force it in.

Q. Now, do you understand that natural gas in its normal state makes a blue flame when it burns?

A. Well, yes, if it's under—if it's got the right air mixture. The color of the flame depends on the air mixture.

Q. Doesn't it ordinarily take a special appliance to get the right air mixture for the blue flame?

A. I mean, it is a blue flame if it has the proper air mixtures.

Q. If it has proper air mixture. My next question: Does it ordinarily require a special appliance to make this blue flame?

A. It has to have a way of getting air.

page 175 } Q. Gas burning right at the end of a severed service line would not normally be blue, would it?

A. No, I don't think so.

Q. Now, was this service line uncovered and had been dug up when you were here last Friday to investigate it?

J. R. A. Hobson, Jr.

A. Yes.

Q. Was the service line laying in its original position, or had it been moved?

A. It had been moved, but you could see the concrete, the depression it had on the concrete. That's why I judged about the other pipe being right onto it.

Q. You examined that very closely?

A. Yes. The impression on the concrete had been moved aside in the concrete.

Q. The service line was laying beside the trench?

A. Yes.

Q. What was the condition of the service line?

A. That was in pretty good condition.

Q. Are you absolutely certain that the outside end of this drain pipe was above, rather than below, the service line?

A. That is my impression. I know they were right close to each other, and my impression was that it was above.

Q. Would it make a great deal of difference?

A. No. If it was sealed on top, if the frozen ground in the driveway was sealed on top, it wouldn't make any difference about whether that gas would go down from

page 176 the service line and up again into the building. See, there would be a little pressure behind it.

Q. You are telling us that the gas would go down rather than along the pipe?

A. I mean if it has gone that far to the pipe and then there is an opening at the bottom of the pipe and would not make any difference if the opening was at the bottom. This is an inch-and-a-half or two-inch pipe.

Q. Of course this area was covered by the porch, you understand that?

A. Yes, I understand that.

Q. Does dry soil under the porch normally freeze tight enough to seal?

A. I don't know.

Q. You have to have moisture in the soil to freeze it?

A. You have to have moisture in the soil, but I don't know whether there was moisture. I don't know if anybody testified it was frozen ground at that time. But the pipe that was going to the drain, the drain was right at the edge of this paved section. In other words, the paved section came right up to there, so it would be contained by the paved section up to that point. Whether it escaped one way or the other, I wouldn't know.

Melvin Otto Wiggins.

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page 179 } (Whereupon, the Court and counsel retired to chambers where the following proceedings were had:)

Mr. Edmunds: Now, Your Honor, we move that the Court strike the plaintiff's evidence and dismiss the case on the ground that there has been no proof of negligence on the part of the defendant as alleged in the notice of motion, and secondly, that there has been no proof of any connection of negligence on the part of the defendant with the explosion and fire in which the plaintiff's deceased was lost, and as Your Honor knows, there must be proof of negligence by the plaintiff in its evidence; otherwise, there is nothing for the defendant to answer.

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The Court: I think for the present I will overrule the motion. I think you are pretty thin here in your evidence in some right important detail, but I guess we ought to get it all in the record. You can renew your motion at the end of the matter.

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MELVIN OTTO WIGGINS,

was called as a witness by and on behalf of the defendant and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Pasco:

Q. Will you state your name and residence and occupation, please?

A. Melvin Otto Wiggins. I live at 342 Sherwood Avenue, Staunton, Virginia. My occupation is manager of Virginia Gas Distribution Corporation.

Q. What area does that job encompass?

Melvin Otto Wiggins.

A. That includes approximately 17 areas or all of that section of Virginia which is served by Virginia Gas Distribution Corporation.

page 187 } Q. Then you are the senior operating representative of the defendant in Virginia?

A. Yes, that's right.

Q. Will you summarize briefly for us the system of operation that the defendant has in the City of Waynesboro?

A. Well, our system of operation consists of purchasing natural gas from Atlantic Seaboard Corporation, whose line crosses out here at the edge of Waynesboro. From that point Virginia Gas Distribution runs its lines over the various streets in Waynesboro. The mains are in the streets, and from the mains we extend our service lines over to the curb or cutoff cock which is the other part of our distribution system.

In addition to that, in various sections of town we have what we call district regulators. It is a point in which we reduce pressures to the pressures required in that particular part of town to render adequate service.

Now, in addition to their service lines over to the curb cock, which is and remains the property of Virginia Gas Distribution Corporation, we install on the customers' premises—and it remains the property of Virginia Gas Distribution—the meter and what regulators are necessary to reduce the pressure to the normal working pressure required in the homes or business establishments or in some cases commercial establishments.

Q. How long have you been with the company, Mr. Wiggins?

A. I have been in Virginia since October 1932.

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Q. Mr. Wiggins, I believe at the close of the trial yesterday you had just testified briefly about the company's system of operation here in Waynesboro, and I would like to ask you now whether or not you are familiar with any rules and regulations which Virginia Gas Distribution Corporation has filed with the State Corporation Commission.

A. Yes, sir, I am familiar with them.

Melvin Otto Wiggins.

Q. I hand you a document entitled, "VSCC No. 1, Rules and Regulations for Furnishing Gas Service, Effective September 1, 1931," and ask you if you can identify that.

A. Yes, sir.

Q. What is that?

A. These are the original rules and regulations for furnishing gas service by the Virginia Gas Distribution Corporation in all of the territory in Virginia served by it.

Q. You say the "original rules." What do you mean by the "original rules"?

page 207 } A. The law requires that a utility, which includes our company, file its proposed rates and rules and regulations under which it is to operate, with the State Corporation Commission of Virginia, and after those rates and rules have been approved by the Commission, those are the official rules by which we must operate by law. That is our law for operation.

Q. What do you mean by the "original rules"?

A. These are the ones that we filed before starting doing business in Virginia in 1931, September the first, 1931.

Q. I hand you a single sheet entitled "VSCC No. 1, Original Leaf No. 6," and ask you if you can identify that, sir.

A. Yes, sir.

Q. What is that, Mr. Wiggins?

A. This was filed as a modification of the original rules and regulations to be effective May the 2nd, 1938, and it just applied to one page of the rules and regulations.

Q. Now, are those rules and regulations still in effect, Mr. Wiggins?

A. Yes, sir, except we filed supplemental rules and regulations July the first, 1947.

The Court: 'Fifty-seven.

The Witness: 'Fifty-seven, I beg your pardon.

By Mr. Pasco:

Q. What was the effect of the supplemental rules that you just referred to?

page 208 } A. The only effect of this supplemental rule was that it, instead of spelling out a particular size of a service line, it said that the service line was to be of adequate size to render service to the people or to the customer involved.

Q. I hand you a document entitled, "Supplemental Rules, Requirements and Specifications Governing the Installation

Melvin Otto Wiggins.

and Maintenance of Gas Service Piping, House Piping, Meter and Regulator Setting, Appliance Venting on Customer Premises," the effective date July 1, 1957, and a certificate of the State Corporation Commission at the back of it and ask you if you can identify that.

A. Yes, sir.

Q. Are those the supplemental rules to which you refer?

A. These are the supplemental rules to which I refer.

Q. And did they become effective?

A. They became effective July first, 1957.

Q. And they supercede the other rules?

A. And they supercede the other ones.

Mr. Pasco: If the Court please, we would like to introduce these three documents as one exhibit.

The Court: I understand exception is taken to them.

Mr. Timberlake: Exception is taken for the reasons stated to the Court, particularly in reference to the rules and regulations of 1957.

The Court: Yes. All right, sir.

page 209 } (The documents above referred to were received in evidence as Defendant's Exhibit 1.)

The Court: I might point out to the jury those are the rules they say they will operate under, the way their men will function. They have not proved that they have done so. It is merely what they propose to do, the manner in which they propose to operate.

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By Mr. Pasco:

Q. Mr. Wiggins, at the time of this explosoin and fire, was the gas sold by Virginia Gas Distribution artificially odorized?

A. Yes, sir.

Q. What was the purpose of that?

A. The purpose of that was to give it a strong and very distinct odor in order that any free gas not contained would be readily recognizable in very small quantities.

Melvin Otto Wiggins.

Q. Is the gas company in the practice today of installing customer service lines?

A. No, sir, we do not.

Q. Have you ever installed customer service lines to your knowledge?

A. Yes, sir, we have in years past.

Q. Do you know when you stopped doing it?

A. We did that, I believe, up until around 1952 when we started discontinuing installing the lines for the customers.

Q. What was the company's policy with respect to the installation of customer service lines for customers prior to 1952?

page 215 } A. The company's policy was that if we were requested or asked by the customer to install their portion of the service line we would do that as an accomodation, and if that service was not available through a plumber. That was done at their request and at their entire expense. They paid for the materials and the labors that were required to install that part of their line.

Q. Will you tell the jury, please, what sort of service that the Virginia Gas Distribution rendered the customers in Waynesboro with respect to availability for emergency service?

A. We maintain for emergency service purposes round-the-clock or 24-hour service. Our regular hours are from 8 to 5 each day, five days a week, Monday through Friday, but we have employees available for emergency service at all hours of every day.

Q. Do you keep any records of service calls or emergency calls?

A. Yes, sir, we keep records of all of those calls.

Q. Now, will you tell us, please, briefly what the company policy is with respect to the exchange of meters and regulators?

A. Our policy is that every ten years the meters are changed for a periodic inspection. They are put through our meter shop in which they are thoroughly inspected, tested, and any worn parts are replaced before they are put

page 216 } back in service. That is done periodically on a 10-year basis.

Q. Now, can you describe briefly for us what system of inspection the company has of its mains and other facilities?

A. Our system of inspection in regard to mains consists of two or three different phases, one of which is what we call an annual bar-testing inspection in which an inspection

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crew makes what we call a bar-test inspection to determine if any gas is escaping over the mains or in the streets. And along with that we inspect all service lines over to the curb box, and that is the portion of the service line that belongs to Virginia Gas Distribution Corporation.

Then usually two or three times during the year in the downtown residential and business area we will make an inspection where we check the contents of openings in the street, such as street boxes, telephone manholes, sewer manholes, etc., to determine whether or not there is any gas present in those, and then periodically we hire outside consultants to come in to check our people to see that we are doing the proper kind of inspection to determine if we are finding leaks when they do exist. That is our principal inspection program for the mains.

Q. Can you tell us whether any kind of visual inspection is conducted at any time?

A. Yes, at least once each year we require that our employees make what we call a vegetation or visual inspection over the streets and the areas through which our page 217 } lines travel. That is done at least once a year.

Q. Explain to the jury what you mean by "visual inspection."

A. By "visual inspection" we mean that we go along where we know our lines are installed, look for conditions of soil, conditions of any foliage, grass, vegetation, trees, leaves on the trees, and so forth, and the presence of gas does effect those kinds of things, and it can be readily observed by a visual inspection.

Q. Do you make any bar-hole tests of the customer's line in these periodic inspections that you have just described?

A. Ordinarily, no.

Q. Why not?

A. Well, because that portion of the line belongs to the customers; it is their responsibility. So we do not make a bar-hole inspection of the customer's service line. Now, there are exceptions only to this extent: Our inspectors are trained to make this visual inspection at any time they are inspecting over the mains and up to the curb box. If they see anything unusual like dead grass or unusual-colored foliage, then they will look further to see if there is anything that looks to be out of the ordinary or looks suspicious, and then the customer is warned that if there is a leak they have to get it repaired. But ordinarily we do not bar test the customer's portion of the service line.

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page 218 } Q. Does the company have any facilities on the customer's property that it owns and is responsible for?

A. Yes, sir, the meter and the regulator where one is required are the only things we have on customer premises that is owned by our company.

Q. What procedure does the company follow for determining the amount of gas sold at any particular residence?

A. That is done through a positive displacement meter.

Q. And do you have meter readers that read meters?

A. Yes, sir, we have a meter reader who reads that meter once each month and reports the reading that he finds.

Q. And what is the company's policy with respect to instructions to meter readers?

A. The meter reader is instructed to not only read the meters and determine accurately the proper reading and the amount it has used, but they are also taught and instructed to look for anything unusual that might be hazardous. If gas facilities appear to be being used improperly, he is instructed to advise the customer, and if there is something that is hazardous, he not only advises the customer, but reports back to our office the condition that he has found. There is a sheet provided in the former meter reading booklet we had in which he made a notation of such conditions.

Q. You didn't see this fire, explosion, did you, Mr. Wiggins?

A. No, sir.

page 219 } Q. Were you at Waynesboro that night?

A. No, sir.

* * * * *

CROSS EXAMINATION.

By Mr. Timberlake:

Q. Mr. Wiggins, of course, it is a fact that gas is a dangerour substance, dangerous and explosive substance if not contained and proper safeguards taken?

A. If not handled properly, yes, sir, it is, but properly—if I may modify that to this extent, if used properly, it is proven by the insurance companies to be one of the safest commodities there is to use.

Q. If properly handled?

A. That's right.

Q. Otherwise it is highly explosive?

A. That's right, in the proper mixture.

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Q. Now, Mr. Wiggins, you speak of the means by which your company acquires its gas, and you do acquire it from what company?

A. The Atlantic Seaboard Corporation.

Q. And that, I believe, is a subsidiary of the Columbia Gas?

A. Yes, sir.

Q. And your company is a subsidiary of Colum-
page 220 } bia gas?

A. That's right.

Q. And where is the gas from the Atlantic Seaboard for use by the local office or the Waynesboro office of Virginia Gas received in Waynesboro?

A. It is received by Virginia Gas Distribution Corporation at the outlet pipe of the measuring station.

Q. And at what pressure is it received?

A. That will vary according to needs and the size of piping, and so forth, but ordinarily—I don't believe I could answer that accurately direct, for Waynesboro.

Q. You are manager of the company, are you not?

A. Virginia Gas Distribution, that's right.

Q. And is that pressure reduced prior to the time it goes through the regulator at the meter in the customer's residence or property?

A. Yes, sir, that pressure is reduced.

Q. Where is it reduced?

A. There are a number of reducing places within the city. The first reduction is made at the outlet of the measuring station, and then we have what we call medium pressure lines going to different sections of town, and there are additional regulator stations at those points which further reduce it to what we term as intermediate pressure lines which are then run through the streets and supply the customers.

Q. Where is the regulator station that serves
page 221 } the area in which the Cloutier residence was located?

A. Well, first of all, it is a network pipeline system, and all of the lines are interconnected, and to say that one regulator is furnished one particular spot just cannot be done, because it is all interconnected and the gas will travel toward the place it is needed. There is one out in this section of town—I cannot give you the name of the street—that supplies or adds a supply to this section of town, not too far from the Florence Avenue address, but I can't give you the street number.

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Q. That would be out in the Jefferson Park area?

A. Well, I am not familiar with what is Jefferson Park.

Q. Well, do you have any record showing the pressure at that regulator station on January the 21st, 1958?

A. I believe we have, sir. We have a recorded record of the pressures and one of which I have with me today, which was taken at our office, which is about as near to this Florence Avenue address as the regulator station, and it is all tied in to the same system which would be representative of that pressure.

Q. Well, now, that is the recording that was taken at your office?

A. That's right.

Q. And where is that office located?

A. West Main Street, 500 block, West Main Street.

Q. That is in the business section of the city?

A. Yes, sir, that's right.

page 222 } Q. Do you maintain any records at the regulator station?

A. I believe they do, sir. I believe they have a recording chart at that point.

Q. Can you produce that for the month of January 1958?

A. I would have to check with our local manager.

Q. Will you undertake to do that, sir?

A. Yes, sir.

Q. Now, Mr. Wiggins, in your direct testimony you told the jury that the natural gas which your company markets is itself substantially odorless, is that correct? I mean, without the additive?

A. I don't believe I testified to that, but I will. It has a distinctive odor. The gas we have been getting is from the Appalachian fields through this area for a good many years, and it does have a distinctive odor to most people without further odorizing it, that is correct, but I had not testified to that effect.

Q. Now, further than that, I believe you did testify that an odorizing agent is added to the gas which you market, is that correct?

A. Yes, sir, at that time, that is right.

Q. What is the odorizing agent?

A. I cannot tell you. It has a certain trade name. It is a special liquid that is developed for that purpose, and I am not familiar with the trade name.

page 223 } Q. You don't know the name?

A. No, sir.

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Q. Aside from the trade name, do you know the name of the substance itself?

A. Nothing more than it is called an odorizing agent, that is all.

Q. And has that odorizing agent been consistently used by your company in the gas marketed by your company during the period of your management of the company?

A. No, sir, it has not.

Q. When was it first used during the period of your management?

A. It was first started, I believe, in November 1957.

Q. It first started in November 1957?

A. I believe that is correct.

Q. And has the quantity of this odorizing agent added to the gas marketed by your company since November 1957 remained constant since that time?

A. No, sir, it has not.

Q. To what extent has it varied, more or less?

A. You mean up to the present time? The odorant is not at this time being added to the natural gas that we receive.

Q. When did you cease to add any odorant?

A. That I am not sure of the date, sir.

Q. Can you consult your records and inform page 224 } us?

A. No, our records will not indicate that, because the odorizing agent is added by our supplier and is under their control.

Q. And you receive no information that you maintain as a matter of record in your offices as to whether or not the odorizing agent is still being added and, if so, in what quanttiies?

A. No, sir, not locally, I have not received that information.

Q. Do you know whether between January 1957 and the time the company, your supplier, discontinued the use of the odorizing agent, whether the quantity of that odorizing agent was increased or decreased?

A. No, sir, except by hearsay, I do not know.

Q. How do you know that some of the gas you get has a distinctive odor except by hearsay?

A. Because I can smell the—or detect the odor personally.

Q. When was the last time you smelled it?

A. This morning at breakfast.

Q. This morning? What kind of test did you make at breakfast?

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A. By extinguishing the pilot light and holding my nose over it.

Q. And you call it a distinctive odor?

The Court: Do you do that for breakfast every
page 225 } morning?

The Witness: That does sound peculiar, Your Honor, but because of this case I wanted to satisfy myself this morning that it did have a distinctive odor.

The Court: I thought possibly it was an appetizer or something.

The Witness: No.

By Mr. Timberlake:

Q. Is it simply a matter of hearsay with you that it in November 1957 that the supplier began using an odorizing agent?

A. I was so informed by word of mouth only.

Q. You don't have any record of that?

A. No, sir, none.

Q. Do you have any witness available in this case that can verify that fast except by hearsay?

A. Nothing more—no, sir; that report came to me by telephone and by word of mouth only.

Q. And do you have anyone that can inform this jury as to whether or not immediately following this disaster the quantity of deodorizing agent or odorizing agent was materially increased, shortly following this disaster?

A. No, sir. Two days following this disaster I had my district superintendent use an instrument we have for detecting the amount of odor present in natural gas, make some tests. And he has also periodically made tests before that,
one of which was at Covington, which has the
page 226 } same source of gas that we get here. Now, he is
available should he be required.

Q. Can he furnish any information as to whether or not the amount of odorant or odorizing agent in the gas that your company distributed was increased following this disaster?

A. I don't believe he could, other than that he received it by word of mouth.

Q. Now, Mr. Wiggins, are we to assume that on a certain day each month all the meters of your customers throughout the City of Waynesboro are read?

A. No, sir. The meters that are used to measure the gas from our supplier to Virginia Gas are all read as of the end

of the calendar month, and those are all read within a period of one hour, and they consist of actual readings plus recording charts. They are done on the same day.

Q. And within what period of time each month are all the meters of your consumers or customers read?

A. They are read intermittently, because there are too many to be read in any one, two, or several days, so we divide that so the work load can be handled expeditiously over the entire month.

Q. In other words, it is more or less a constant process from month to month of reading the meters throughout the City of Waynesboro?

A. Yes, sir, that's right.

page 227 } Q. And one customer might have his meter read on the first day of the month, and one might have his meter read on the last day of the month?

A. That is true, but each one is read, I might volunteer, at about the same time each month.

Q. Yes, I understand that, but as far as your customers as a whole are concerned, it is a custom process of reading the meters from month to month?

A. That is true.

Q. Now, do you have any record of when the meter at the Cloutier residence was last read before this disaster?

A. I believe I have, sir. That meter was last read previous to this disaster on January the 10th. No, wait a minute. What was the date of this—yes, January the 10th, that is correct, 1958.

Q. January the 10th, 1958?

A. That's right, sir.

Q. And did the meter reader make any report of any unusual or dangerous conditions at that time?

A. No, sir.

Q. Meter or connections or regulator?

A. No, sir, he did not.

Q. Did a meter reader make any report as to whether or not this curb cock and the vent therefrom were completely covered?

A. No, sir.

page 228 } Q. When do your records show that the curb cock at the Cloutier residence was last inspected?

A. I believe it was in May 1957, at which time the regular annual inspection was made at that location.

Q. Well, I don't want your belief, I want—do your records show it was inspected in May 1957?

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A. Our records shows that, yes, they do.
Q. Where on your records?
A. Mr. Mozingo, our local manager, has that.
Q. Will you obtain that for me, please, sir, and produce it?
A. Yes, sir.
Q. I would like for you to do it now, if you would, sir.
A. Now, this is the one for Florence Avenue between Wilson Avenue—this is on DeWitt Street between Florence Avenue and Wilson Avenue.

The Court: What is this paper, Mr. Wiggins? It wasn't very clear to me.
The witness: This is the paper that shows the record of the last inspection in the street at the location of DeWitt Avenue—
The Court: Before the accident?
The Witness: Before the accident.

By Mr. Timberlake:
Q. Is this the record, Mr. Wiggins, of the last
page 229 } inspection of the curb cock and line from the main to the curb cock at 216 Florence Avenue?
A. Prior to this disaster?
Q. Prior to January 21, 1958.
A. Yes, sir, that's right.
Q. And what, if anything, does that report show?
A. This report shows that there were no defects and no leakage found at this inspection.
Q. And what was the nature of that inspection? Was that a visual inspection?
A. No, this is a bar-hole test in which holes were driven in the street over the top of the main and samples taken thereof to determine if there was any leakage.
Q. And that report does not show, does it, that the curb vent, curb cock vent was completely covered?
A. This shows, by implication only, that it was open and visible. Otherwise, a record would have been made on here requiring someone to open it and make it visible.
Q. So that on the basis of that report, you would gather —assume that this curb cock vent was open at that time?
A. Yes, sir, that is right.
Q. And I believe that shows that an employee named Campbell was the man who made the inspection, is that correct?

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A. That is right, D. W. Campbell.

page 230 } Q. Well, your investigation since shows that that curb cock was covered at that time and had been covered for some year, doesn't it, Mr. Wiggins?

A. No, sir, it does not.

Q. As a matter of fact, you don't know one way or the other except from any inferences you can gather from that report, isn't that correct?

A. Other than what our employees have reported.

Q. I see. Now, whose handwriting, if you know, is that in pencil on that report?

A. No, I couldn't identify the handwriting.

Q. You don't know who made the ink insertions?

A. No, sir. No, sir

Q. Now, Mr. Wiggins, do I understand that in 1952 your company changed its policy in that prior to that time, upon the installation of service at a customer's property, the company would and generally did lay the service line to the meter and then made an appropriate charge to the customer for the portion of the work chargeable to the service line from the curb cock to the meter?

A. That is right.

Q. And that after 1952 the company went out of business in that respect, in other words, ceased performing that service and left it to the customer through his plumbing or heating contractor to install his service?

page 231 } A. Literally that is correct, yes, sir.

Q. And if the service line to the Cloutier residence were laid prior to 1952, it is a fair assumption that it was done by the Virginia Gas Distribution Corporation and the charge for that service made to the property owner, isn't that correct?

A. No, sir, that is not correct, because we did not take over the old company until that time, and this service was originally installed by the old company that we purchased.

Q. When did you purchase the old company?

A. I believe in—I can't give you the exact date—I think early in 1932, possibly.

Q. Well, then, do I understand that—I used the year 1952, not 1932.

A. I thought you said 1932. I am sorry.

Q. No, sir. If the service line to the Cloutier residence was installed between the time you acquired the Consumers Utilities Company in 1932 and the year 1952 when you

changed your policy, it is a fair assumption that the Virginia Gas Distribution Corporation laid the service line and charged it to the customers, isn't that right?

A. Not necessarily. It could be assumed, but we did not install all of those lines. We only installed them when asked to do so and that service was not available from plumbers, and so forth, but it is also a fact that plumbers did some of the installations.

Q. Well, when you were putting a new customer
page 232 } on your rolls, the usual and customary thing, up until 1952, was for the company to go ahead at the time it laid the line from the main to the curb cock, to go ahead and lay it on in to the residence, isn't that correct?

A. If requested to do so, yes, normally.

Q. You notify the customers that you will perform that service for him, and the usual was that he would request it. Isn't that correct?

A. No, sir, we did not notify anyone to that effect, because we did not solicit that kind of work.

Q. Mr. Wiggins, suppose I called you up in 1945 and said I had decided to use gas in my home and wanted gas facilities. What would be your procedure in seeing that I got those facilities?

A. You mean, as of now?

Q. No, in 1945.

A. 1945. Well, my procedure would have been—I cannot speak for these people here, of course, not having been here, but what was company policy at that time would have been to, of course, have said yes, after determining that service was available, that "we will install our service line over to the curb or adjacent to your property line, but from there in the service line is your responsibility. Now, we request that you get a plumber to do that work, but if you want us to do it, of course, we can do it." That was the normal pro-
page 233 } cedures at that time and policy.

Q. Do you have any records showing who did install the service line of the Cloutier residence and when it was installed?

A. You are speaking of that portion owned by the property owner?

Q. I am speaking of that portion that ran from the curb cock to the residence.

A. No, sir, our records do not show who installed it.

Q. Do they show when that service was initiated?

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A. I believe the records indicate that it was prior to your buying the old company that they had service.

Q. Do your records show whether or not the service line, subsequent to its installation, was changed or relaid?

A. I don't believe our records indicate that, sir.

Q. Do your records show where the service line was located at the time of this disaster?

A. Yes, sir, they do.

Q. Do they show where the curb cock was located?

A. Yes, sir.

Q. It is true, is it not, Mr. Wiggins, that sometime subsequent to the original—to the laying of the original service line to the Cloutier residence that a service line was relaid along the route that existed at the time of this explosion and then the line then broke and went down DeWitt Street to the Florence Avenue main prior to the laying of the main in DeWitt Street?

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A. I would like to have that question reread, please.

(Whereupon, the last above-recorded question was read by the reporter.)

Mr. Timberlake: I will rephrase that. That is a right verbose question. I will withdraw that question.

By Mr. Timberlake:

Q. Do your records show whether or not the service line on the Cloutier property was relocated subsequent to the time that service was initially afforded that residence?

A. Yes, sir, that is true.

Q. From those records do you know in what manner it was relocated?

A. I do know that service, according to the records, was originally supplied from Florence Avenue and then at a later date it was supplied from the line on DeWitt Street at the side of the Cloutier residence.

Q. Well, do you know whether or not between the time it was supplied from the DeWitt Street main and the time the initial service line was laid, whether there was any change in the service?

A. No, sir, I do not.

Mr. Pasco: He asked if your records indicated.

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(Whereupon, the last above-recorded question was read by the reporter.)

page 235 } The Witness: I do not know.

By Mr. Timberlake:

Q. Now, Mr. Wiggins, was there any information maintained by your company at the time of this disaster to show where the service line from the curb cock to the residence at 216 Florence Avenue was located?

A. Would you repeat the first part of that question?

(Whereupon, the last above-recorded question was read by the reporter.)

The Witness: Yes, sir.

By Mr. Timberlake:

Q. That was maintained in the local office?

A. Yes, sir.

Q. Was that made available to the employees and representatives of the gas company at the scene, or do you know?

A. I am not sure of that. I assume that it was.

Q. Was there any record maintained as to where the curb cock was located?

A. Yes, sir.

Q. And, of course, by the same token, you wouldn't know whether that information was made available to the representatives at the scene?

A. Only I have to assume it was, that's all.

Q. Were you aware of the fact that those representatives who are there didn't know where in the world

page 236 } the curb cock was located, don't you?

A. No, sir, I am not aware of that, because our employees did know or at least they have so stated to me, within the immediate vicinity of the curb cock.

Q. Do you know that the vent at the curb cock was completely covered over at the time of the disaster?

A. No, sir, I do not know that.

Q. You do not know? Now, Mr. Wiggins, you filed certain answers to interrogatories propounded by the plaintiff in this case, did you not?

A. Yes, sir.

Q. And in those answers, the answer to the first interrogatory, you state that two very small leaks occurred in the

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defendant's main or service line or appliances within 500 feet of the Cloutier residence within a year of January 21, 1958. You went on to say that the first of such leaks was discovered on May the 8th, 1957, in the main on Elizabeth Avenue between DeWitt and Alpha Streets and that the second such leak was discovered on May the 8th, 1957, in the main in DeWitt Street between Florence Avenue and Elizabeth Avenue near the intersection of DeWitt Street and Florence Avenue. That is correct, isn't it?

A. Yes, sir.

Q. Now, both of those leaks, as I understand, were discovered at the same time and in the course of, presumably, the same inspection, testing, is that correct?

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A. Yes, sir, that is right, the annual inspection.

Q. Annual test. And those two leaks were both discovered within an area of 500 feet of these people's, the Cloutier home, is that correct?

A. I believe that is correct. That is an approximation, of course.

Q. I see. And did you ascertain the cause of those leaks?

A. I have not, but I believe that our records would indicate that.

Q. So as far as your personal knowledge is concerned, you don't know what caused the leaks?

A. No, sir, I do not.

Q. Do you have personal knowledge as to what was done to remedy those leaks?

A. Other than that written reports were made that they had been repaired.

Q. You don't know what steps were taken, what measures were taken?

A. No.

Q. And do you know whether or not, in light of the discovery of those leaks, any further examination and tests of the mains on Florence Avenue and DeWitt Street in this immediate area were made?

A. No, sir, I do not know.

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Q. Subsequent to this disaster, the gas company went in and made a number of corrections and repairs in the main in that area on Florence Avenue, did it not?

A. No, sir. We made a number of inspections, but not repairs.

Q. And did you undertake at that time to seal the joints and connections along Florence Avenue main?

A. No, sir.

Q. You did not?

A. Did not.

Q. With clamps?

A. No, sir.

Q. You are certain of that?

A. Not to my knowledge.

Q. Now, you say not to your knowledge. Are you stating that as a positive fact or just to the best of your knowledge?

A. Well, I would say as a positive fact that we did not repair any leaks in the main lines, even though it would have been possible to have done that with me not being here, but it certainly has not been done. I have inquired and been told that—

Q. —that no clamping or sealing has been done of that main since this disaster?

A. That is my understanding.

Q. In that area?

A. Yes, sir.

page 239 } Q. Mr. Wiggins, it is a fact that the service line between the curb cock and the main on DeWitt Street was plugged immediately after the explosion and has remained plugged since that time?

A. That is right.

Q. Now, Mr. Wiggins, you also testified in your direct testimony that the meter at 216 Florence Avenue had been installed in January 1949 and was scheduled for replacement in 1959, is that correct?

A. No, sir, I do not believe I was asked any question to that effect, nor made any testimony to that effect.

Q. You did testify that the meter was scheduled for replacement at the expiration of a 10-year period?

A. That is right.

Q. Which would be 1959, if it was installed in 1949, isn't that correct?

A. Yes, sir, if those dates are correct, that would be.

Q. Well, is it your policy, or the policy of your company just to categorically replace meters at 10-year intervals, or only replace them if there is something wrong with them?

A. No, sir, we do that on a 10-year interval regardless of anything else, and in between if there is an indication that something might be wrong.

Q. Didn't you state in your interrogatory, in answer to

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page 240 } interrogatory No. 3 that the gas meter at 216 Florence Avenue Waynesboro, Virginia, was installed on January 26, 1949, and in accordance with the defendant's established practice it was scheduled for overhaul and replacement, if necessary, in January 1959?

A. Possibly so, if that is in the interrogatory, that is true.

Q. Well, if the answer to the interrogatory is correct, they don't just categorically replace them at 10- year intervals but only do it if it is necessary?

A. No, we do it at a 10-year interval regardless, and do it earlier if it is indicated that it is needed.

Q. Now, what record, Mr. Wiggins, do you have of a visual inspection being made at 216 Florence Avenue prior to January 21, 1958?

A. I have none, sir. Our inspector might have, but I do not have any.

Q. When was the main on Florence Avenue adjacent to the Cloutier property installed, Mr. Wiggins?

A. I believe our—on Florence Avenue?

Q. Yes.

A. I believe our records indicate it was prior to the time we bought the old company.

Q. That would be prior to 1932?

A. Yes, sir.

page 241 } Q. Do you have any record to show the year in which that main was installed?

A. I do not believe we have, sir, other than it was a part of the property taken over by us.

Q. Well, didn't you state positively and under oath in answer to an interrogatory, to Interrogatory No. 4 that it was installed in the year 1929?

A. Well, that was the date in which the lines were installed, according to the records by the company that we purchased.

Q. Well, then, you do know that it was installed in 1929?

A. Well, I believe yes, based on those records, yes.

Q. Well, you filed a statement under oath—

A. That is correct.

Q. —Mr. Wiggins, in this proceeding that this main was laid in 1929. Do you know that as a fact?

A. Well, according to our records, that is true.

Q. Well, then, you were in error when you said you didn't know when it was laid, isn't that correct?

A. Well, personally, yes, that I didn't personally know,

except from what was indicated by the old company records, that is true.

Q. Well, you had sufficient knowledge to make a solemn statement under oath of your own knowledge that it was laid in 1929, didn't you?

A. Yes, sir.

page 242 } Q. And when was the main in DeWitt Street laid?

A. I am not sure. Our records would indicate, but I can't personally testfiy to that date.

Q. Well, you personally testified, making oath to it in answer to your interrogatories, did you not?

A. Yeah, but I do not recall that date. It is in our records.

Q. You stated under oath in answer to the interrogatory that the transmission line in DeWitt Street—that would be the main, would it not?

A. Yes, sir.

Q. —was laid or was installed on April the 27th, 1950, is that correct?

A. Yes, sir, that is correct, based on our records, that is true.

Q. When was the service line from the DeWitt Street main to the curb box at 216 Florence Avenue installed?

A. I believe that our records show that it was the same year that this main was installed. I believe you just said 1950. Same date that the main was installed on DeWitt Street. I just don't recall exactly, but the records do indicate it.

Q. And would that be the same date in which the curb box was installed?

A. Yes, sir, I would think so.

page 243 } Q. And outside of slips such as the one filled in by D. W. Campbell, or D. N. Campbell, as you exhibited a few moments ago in your testimony, do you have any other record of a check or examination or test of the line between the DeWitt Street main and the curb box and the curb box and the vent itself from the time of its installation to the time of this disaster?

A. No, sir, I do not.

RE-DIRECT EXAMINATION.

By Mr. Pasco:

Q. Mr. Wiggins, you testified that the odorization started November 1957, but you didn't know when it stopped. Can

you tell us whether or not you know it was going on at the time of this accident?

A. Yes, sir, I do know that, from being told verbally.

Q. Have you smelled the gas?

A. Yes, sir.

Q. Then you know it from your personal knowledge?

A. That's right.

Q. Who maintains the records of the company's operations in Waynesboro? Do you maintain those?

A. No, sir.

Q. Who maintained them?

A. Mr. Mozingo and his staff of people in the local office.

page 244 } Q. Who is the inspector who makes these inspections about which you have been interrogated?

A. Mr. Shorter is our inspector for the entire Virginia properties, and then we have a local man who does local inspection under the supervision of Mr. Shorter.

Q. He works for Mr. Shorter?

A. That's right.

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ARTHUR V. SHORTER,

was called as a witness by and on behalf of the defendant and, being first duly sworn, was examined and testified as follows:

page 249 } DIRECT EXAMINATION.

By Mr. Pasco:

Q. Will you state your name, residence and occupation, please?

A. Arthur V. Shorter; residence is 1615 13th Street, Supervisor of Inspection for the Virginia Gas Distribution Corporation.

Q. Where is your residence?

A. 1615 13th Street.

Q. Waynesboro?

A. That's right.

Q. And what are your responsibilities in your present job with the company?

Arthur V. Shorter.

A. I train our inspectors and see that they carry out the job of inspection of our lines, mains, public buildings, schools and make visual inspections and check on our records that we keep on the job of inspecting.

Q. Can you tell us what inspections you have made of the company's mains and lines in Waynesboro in recent years?

A. Do you mean the personal inspections that I have made or the ones that was made under my control?

Q. The ones that are made under your control for which you are responsible.

A. Our inspections consist of checking our medium pressure lines twice a year. Our mains we bar test once each year. We test our public buildings, inspect our public buildings once each year. That includes schools and so on, business areas downtown. Visual inspection of mains once each year.

page 250

Q. Are you familiar with the inspections made of the company's mains in the vicinity of 216 Florence Avenue in the year prior to this explosion?

A. Yes, sir.

Q. When were the inspections made?

A. They were made in May, May the 8th, 1957.

Q. And what were the results of those inspections?

A. The result of that inspection, there was two leaks found in that area.

Q. I show you a drawing of the street in the immediate vicinity of Florence Avenue and DeWitt Street and ask you if you can take a pencil and indicate the approximate location of these two leaks that were found in the annual inspection in 1957.

A. Yes, sir. This being the Cloutier home—

Q. You put a "C" at the corner where you believe the Cloutier home is located, just for the record.

A. (Writing on drawing.)

Q. Now will you locate the two leaks?

A. We had a leak at this location here and a leak at this location here (indicating on drawing).

Q. Have you found any other leaks in the immediate vicinity of the Cloutier home?

A. No, sir.

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The Court: I was under the impression that Mr. Wiggins said there was a leak between Florence and Wilson, if I am not mistaken.

Arthur V. Shorter.

By Mr. Pasco:

Q. Do you have a record of any leaks between Florence and Wilson?

A. No, sir.

The Court: Possibly I was mistaken.

By Mr. Pasco:

Q. How were those leaks detected?

A. Those leaks were detected with a meter designed to register a very minute amount of gas, and we drive the bar hole down in the close proximity of the main and draw a sample of the air out of there and take a meter reading with this meter.

Q. And at what intervals were those samples taken in this area?

A. The intervals that the samples were taken is a standard of 20 feet, and if we see anything unusual, we take a reading at the spot that might look unusual, or if there is a curb box off to the side we also take one on that.

The Court: Are you the fellows that go around and drive this iron thing down in the road?

The Witness: Yes, sir.

page 252 } The Court: I thought that was the water department.

By Mr. Pasco:

Q. And when you determine a leak of this kind, what do you do about it?

A. When we determine a leak?

Q. What do you do about it, your department?

A. We make our report, file a report on it.

Q. With whom?

A. With the local manager in the town, in this case Mr. Mozingo.

Q. Do you have the direct responsibility for making the repairs?

A. No direct responsibility for making the repairs.

Q. That is Mr. Mozingo's job?

A. That's right.

Q. Do you make any other bar hole tests other than right along the main?

A. Yes, sir; if we see anything that looks unusual, we will also bar test that.

Arthur V. Shorter.

Q. What are the little holes in the top of the curb box there for?

A. Well, we use them for our probe to go down through to determine if there is any gas leakage. It also tells us if the curb box might be filled up with sand or something that might have washed in there.

page 253 } Q. When do you inspect the curb boxes?

A. We inspect the curb boxes at the same time we inspect our mains.

Q. Then you take a sample of the gas out of the top of the curb box through those holes, is that what you would say?

A. That's right, sir.

Q. Did you testify the date that you made this 1957 inspection?

A. That was made May the 8th, 1957.

Q. How would you describe these leaks? Were they major leaks or minor leaks, or how would you describe them?

A. One was a very small traceable leak. The other was—it wasn't a large leak, according to the way we classify them, but it was a little larger than the smallest leak that we measure.

Q. Which was that, the one nearest—

A. The one on DeWitt was the larger of the two.

The Court: Were they leaks of the pipe or joints, or what were they?

The Witness: They were leaks that was picked up by our test with our explosive meter.

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By Mr. Pasco:

Q. Are any vegetation or visual inspections made by you under your supervision?

A. Yes, I make the visual inspections that we make annually personally.

Q. When do you make that?

A. In the spring of the year when the foliage just begins to come out is the best time for a visual inspection.

Q. Is that when you make it?

A. Yes, sir.

Arthur V. Shorter.

Q. And explain briefly to the jury what you mean by "foliage inspection."

A. The foliage consists of a survey of the grass and the leaves on trees. If we have a gas leak it will turn
page 255 } grass brown. It will stunt the growth of leaves on the trees and turn them—if it's great enough, it will turn them brown.

Q. Did you notice anything of this nature in the neighborhood of the Cloutier home in 1957 when you made your annual inspection?

A. I did not.

The Court: How do you make that? Do you walk around these things?

The Witness: No, sir, you drive by in a car. To inspect that much area, you have to make it in a car.

The Court: Do you do the driving?

The Witness: No, sir, someone drives for me and I make the inspection.

The Court: What sort of speed do you move at?

The Witness: Very slow.

The Court: You take one side and he takes the other, is that the way you do it?

The Witness: Well the mains are usually on one side. Of course, that is the predominant side, and you do have to look for both sides if you are in a narrow street.

By Mr. Pasco:

Q. Are you familiar with the results of the 1958 annual inspection?

A. Yes.

Q. What were they?

page 256 } A. The 1958 annual inspection showed all clear for this entire area.

Q. Was that inspected with the bar hole test?

A. Yes, sir, that was tested with the bar hole test.

Q. How about the vegetation or visual inspection?

A. The vegetation inspection showed all clear also.

Q. Now, Mr. Shorter, were you at the scene of the fire on the night of the catastrophe?

A. No, sir, I didn't go there.

Q. When were you there?

A. The next morning.

Q. For what purpose?

A. When I came in the next morning and I found that

something like that had happened, of course, like everyone else, I rushed up there to make as many checks as I could.

Q. What sort of checks did you run that day, if any?

A. We run various bar tests that day, my men did, and also I made some bar tests. This information was given to Mr. Mozingo and a special form was compiled on that.

Q. Did you see Mr. Cox up there that day, who testified yesterday?

A. Yes, sir.

Q. Was he working with you that day?

A. Yes, sir, he was working for the gas company and also working for me.

page 257 } Q. Did you receive any report from him?

A. Yes, sir.

Q. What was the format of it? Describe briefly what the nature of the report was.

A. Well, the report that we got from the fellows up there was just on scrap paper that give the location and the readings that we got on our meters, and that was complied into a regular form.

Q. And who made up that form?

A. Mr. Mozingo made it up.

Q. From the information you gave him?

A. Yes, sir.

Q. And he is today, I believe, to testify?

A. That's right, yes, sir.

Q. Did you make any tests after the first day?

A. No, sir, after the first day there was a great deal of activity up there that night, including some lines being cut, and that contaminated the ground with gas, and as always after a job of that kind, a repair job, we go back until we are sure the lines are completely clear.

Q. How long did you continue your inspections—tests up there?

A. I continued the tests for approximately a week until it completely cleared.

Q. Did you keep any records of those tests?

page 258 } A. No, sir, we don't keep a record on something like that. If our gas contamination is going down, which we expect it to do, we don't keep records on that.

Q. You don't keep records—

A. Yes, sir.

Q. —on these tests? In what area were you conducting these daily tests?

Arthur V. Shorter.

A. The daily tests that I conducted there was in the immediate area around the house. That is where our gas—

Q. On the mains?

A. Yes, sir, on Florence and DeWitt out beside the house.

Q. And what was the situation there at the end of a week of tests?

A. It was clear. It cleared up in about a week.

Q. What did that indicate to you?

A. That indicated that there was no leakage, that the gas was just free in the ground and it dispersed.

Q. What position did you hold with the company in 1950 and 1951?

A. I was manager of the gas company here in 1951.

Q. Did Mr. Riddlebarger, who testified here yesterday, work for you.

A. Yes, sir, he did.

Q. Can you tell us the circumstances under which his employment was terminated with the company?

page 259 } A. Well, we made it convenient for him to resign.

Q. Was he a satisfactory employee?

A. No, sir, I didn't find it that way.

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CROSS EXAMINATION.

By Mr. Allen:

Q. Mr. Shorter, as I understand these tests, the last tests in this area were made in May of 1958 before the explosion?

The Court: 'Fifty-seven.

By Mr. Allen:

Q. 'Fifty-seven?

A. Yes, sir, that would be '57.

Q. And that's the last ones that were made in this area?

A. On my inspection program. We get over once a year, and our program took in that area on May the 8th, 1957.

Q. You, I believe, testified your median pressure lines were tested twice a year and the mains only once a year. Now, in this instance here, is this a median pressure line?

A. No, it's an I. P. line.

Q. What is an I. P. line?

A. It's an intermediate-pressure line. It is—maybe I can

best explain that, our medium pressure lines is the lines coming from the station where we purchase our
page 260 } gas from the transmission company into our regulator stations that serves the immediate area of the customers. Now, our lines coming from the transmission station into our regulator stations, they are median pressure lines, but the pressure is dropped from there down to our I. P. pressures, and that supplies the customer servicing.

Q. And it is that line that is examined or tested with the bar test, only the one inspection a year other than your visual examination, from the visual test, moving?

A. Yes.

Q. And that examination of once a year consists of a bar test, is that what you call it?

A. Yes, sir, we term it as a bar test.

Q. Is that the only test that is made on the line?

A. No, sir, our visual inspection is made additional to that.

Q. That is made on an annual basis from a moving automobile, isn't it?

A. That's right.

Q. Other than those two, are they the only tests that are made on the line?

A. Without we suspect trouble in an area or we get a call that we might have a gas leak, then we make additional.

Q. Make more frequent examinations when you have reason to think you might have a gas leak, is that correct?
page 261 } A. What I want to say is we make our regular inspection. This was a regular inspection that I was speaking of. If someone notifies us or we find a condition that might be a leak, then we will go out additionally on this and make our inspection.

Q. I see. If you have reason to think there might be additional leaks, you will make further tests and examinations?

A. That's right.

Q. And as I understand it, on this inspection you found two leaks in this area close or relatively close to the Cloutier house?

A. We found one leak on DeWitt and one back on the next block on Elizabeth.

Q. And that would be, at the most, a block and a half away from the Cloutier residence, the Elizabeth leak?

A. Yes, sir, approximately.

Q. But you made no further test other than the bar meter tests and the visual inspection?

Arthur V. Shorter.

A. I don't follow you exactly.

Q. I say, after finding these two leaks you made no further tests other than your bar meter test and your visual inspection?

A. We made our repairs and necessary follow-up checks.

Q. You didn't make the repairs?

A. No, sir.

Q. But you made no further tests than the two
page 262 } you have testified to even after finding two leaks?

A. No, sir.

Q. Now, Mr. Shorter, in the examination of the DeWitt Street line, it appears in evidence, or rather it appears by paper that Mr. Wiggins had that—somebody by the name of Campbell, a Mr. D. M or D.—would you give his name, please?

A. Mr. Dan Campbell.

Q. Dan Campbell made the inspection in May of 1957 of the DeWitt Street line?

A. That's right.

Q. Were you present at the time that inspection was made?

A. No, sir.

Q. Then it was not made under your immediate supervision in the sense of your being present.

A. I was not present, no.

Q. Do you know whether or not he followed standard procedure—what you call standard procedure and put his test down every 20 feet.

A. I am quite sure he did, because—

Q. Do you know that?

A. I wasn't with him; I couldn't know that.

Q. Now, you say one of the procedures that the gas company is responsible for, one of the fixtures is the curb box? Are you responsible for the curb box?

A. Yes, sir, we check the curb box.

page 263 } Q. You check the curb box. Do you know whether Mr. Campbell on this 8th day of May 1957 checked the curb box?

A. I have reason to believe he did.

Q. Do you know he did?

A. I wasn't with him.

Q. If he had checked the curb box and the curb box had been covered, what would be your view as to whether or not he would report such a condition?

A. If he would have inspected the curb box and he would have found the curb box covered, he would have indicated it on the form.

Arthur V. Shorter.

Q. He would have indicated it on the form?
A. Yes, sir.
Q. He is supposed to do so?
A. Yes, sir.
Q. Is that considered to be a hazardous condition, one that is to be shown on your form?
A. I wouldn't say it would be a hazardous condition, but it is a condition that we would have cleared up.
Q. Promptly remedied?
A. (Nodding affirmatively.)
Q. Now, do you recall, and if so, would you detail for the jury, please, and report of a leak on the morning of the 21st of January that was classified as sizeable or that you could cut with a knife?
page 264 } A. No, sir.
Q. You have no recollection of any leaking reported on that morning?
A. No, sir.
Q. Do you recall whether you worked on that particular morning?
A. I don't recall whether I worked or where I worked. I work all over the state. Sometimes I am not in town.
Q. You don't know whether you were in Waynesboro on the 21st or not?
A. No, sir.
Q. Now, in the instance of the visual inspection, as I understood your testimony, it is a matter of driving in a car with someone operating the vehicle at a speed sufficiently slow so that you can look at the shrubbery, the grass and the trees, is that correct?
A. That is correct.
Q. And do you in all instances follow the gas line?
A. Yes.
Q. Then you are quite personally familiar with the location of the gas mains in the City of Waynesboro?
A. I am right familiar with the location of the mains. However, on these visual inspections, as well as this type of inspections, we don't trust our memories, we go by maps.
Q. Go by maps?
page 265 } A. Yes.
Q. Then you do have maps for the location of the mains and the curb cocks?
A. That's right.
Q. And when you make these visual inspections, you also go by maps?

Arthur V. Shorter.

A. Yes, sir.

Q. Now, in an instance such as the Cloutier home, where I believe you will agree the main is under the pavement in DeWitt Street—

A. I believe that is correct.

Q. —and the curb cock, whether exposed or unexposed, is that at the end of the river rock driveway on DeWitt Street, is that correct?

A. I don't know. When I got there, I will say, there had been a great deal of changing there.

Q. Well, haven't you familiarized yourself with the map that you have of that area since the explosion so that you would possibly know where the curb cock was supposed to have been?

A. No, sir, I cannot pinpoint the curb box.

Q. When you arrived there the next day after the explosion, was the curb box still there?

A. That had all been dug up, and I don't know what its location was.

page 266 } Q. Including the service line between the main and the curb box?

A. Yes, sir.

Q. It was not there when you arrived?

The Court: Where was the gas cut off when you got there if the curb box was removed?

The Witness: It seems—I don't know. I didn't see this small section that the curb box was located on there. That had been taken out. They had dug this opening out.

The Court: You said that before, but where was the gas cut off if the curb box was gone?

The Witness: Oh, where was the gas cut off that day I was up there? That was plugged at the main.

By Mr. Allen:

Q. At the main opposite the curb box?

The Court: In the main itself?

The Witness: Right where the line came off the main.

The Court: Your inspections, then, wouldn't have disclosed if one existed between the main and the curb box?

The Witness: You mean the next morning?

The Court: Yes.

The Witness: No, sir, that had all been changed.

Arthur V. Shorter.

By Mr. Allen:

Q. Now, then, you know where the plug in the main was, then, that the gas had been plugged that night?

page 267 } A. Yes, sir.

Q. And the curb box would be relatively close to that, would it not?

A. Yes, sir.

Q. And you are familiar with the existence of the customer service line passing under the river rock driveway, are you not?

A. Yes, sir.

Q. Then what visual inspection in the spring of 1957 could have disclosed damage to shrubbery, trees, etc., with the main and the service line all being beneath covered surfaces?

A. You mean the previous year?

Q. Right.

A. I don't recall of anything that was disclosed there.

Q. Let me rephrase my question. I think you misunderstood it. What chance of any disclosure would there be as to the escape of gas along the main and the company service lines?

A. There was grass around the area. Had there been free gas in the ground—

Q. And what you are saying, if there was free gas in the ground, it would have left and permeated into the area to affect the grass and the shrubs?

A. Yes, sir, I would think so.

Q. That would be in the springtime when warmer weather has brought the shrubs and the grass to green?

page 268 } A. That is right.

Q. Now, Mr. Shorter, you weren't at the scene of the fire, so you personally have no knowledge of what transpired that night, I believe?

A. No, sir.

Q. But you do have knowledge of tests made; I believe you called them bar meter or bar tests. You do have knowledge of the tests the next day showing gas in the ground along the DeWitt and Florence Avenue main?

A. That's right, yes, sir.

Q. Which you say subsequently dissipated after this plug had been left in the main for about a week's period?

A. Yes, sir, the gas diminished, and in about a week it was clear.

Q. So you have no idea at all of what effect, if any, this

service meter would have had on gas that your explosive meter found?

A. You mean the night before?

Q. Right.

A. No, sir, I wasn't there.

Q. Now, these papers that were made by Mr. Cox and the others that conducted these tests—and I take it there were several people there doing these tests on the morning after the explosion. Am I correct in that?

A. That's right, there was—

page 269 } Q. I believe you said the fellow who made the tests just put them on scrap paper?

A. That's right, we made our notes on scrap paper.

Q. Where are the scrap papers?

A. We didn't save those after we complied that information.

Q. You didn't compile the information?

A. No, Mr. Mozingo did that.

Q. Mr. Mozingo compiled the information?

A. Yes, sir.

Q. And that was then filed as a company record, but the scraps of paper were destroyed?

A. Without he kept them.

Q. Now, Mr. Shorter, in the course of these inspections and examinations, I take it that you have several employees assisting you in the City of Waynesboro?

A. Yes, sir, we have at least two regular employees on that.

Q. That handle the lines in this city, the mains?

A. That handle the inspection.

Q. Now, what is the footage or mileage of mains and lines in the City of Waynesboro?

A. I wouldn't know accurately.

Q. And these bar tests every 20 feet are made at least once a year?

page 270 } A. Yes, sir.

Q. But you don't know the total amount of area that is covered?

A. No, sir.

Q. And do you know how many meters there are in the City of Waynesboro?

A. No, sir, I do not.

Q. Or reduction valves?

A. That changes so fast you could hardly keep up.

Q. Curb boxes, you wouldn't know that, either?

A. No, sir.

Q. Your responsibility is the examination of those three items also, is it not, the inspection of the curb box, the meter and the reduction of that?

A. The inspection of the curb box, yes, we take that in our regular inspection. Our meters are not.

Q. Who does the meters?

A. The meters are handled by the local office.

Q. The meter reader?

A. Yes, sir, the meter reader.

Q. Who makes a call once a month?

A. The meter reader, I believe catches that; I don't know.

Q. And he also, of course, would have the opportunity to check the curb box, obviously?

page 271 } A. Yes, sir.

Q. Because the curb box was supposed to be exposed so he would visually examine the curb box, would he not?

A. I don't know what is the policy for that. The meter reader doesn't come under my jurisdiction.

Q. But you are responsible for the inspection of leaks and so on in the gas system?

A. That's right, sir.

Q. Mr. Shorter, is it true that the curb box serves several functions, very important functions, one of which is a vent?

A. Yes, sir, it has holes in the top that filter—

Q. And that is one of its important functions, is it not?

A. Yes, sir, it could be.

Q. Is it true that when a service line is installed under concrete or a concrete ramp, the company's requirements and rules and regulations require a curb box as a vent set at the point where the service would enter the house?

A. No, sir, I don't believe that is true.

Q. You don't believe that is true?

A. No, sir.

Q. Your employer put into evidence here this morning supplemental rules and regulations, or supplemental requirements for inspection July 1st, 1957, which on page 4 of Section 7 it says, "The customer service line shall not be laid under concrete or other hard surface walks or

page 272 } driveways, except where it may be necessary to cross under such walks and driveways and except where such walks or driveways extend from curb to foundation and the full width of the property, such as service stations and places of business. Where a customer service line

is installed under these conditions, a vent shall be installed at the customer's expense over the line in the foundation wall."

Now, one other question: Is it the policy of the company to prohibit the installation of customer service lines, that is, the lines from the curb box to the home in the same trench with a water pipe?

A. I think we should clear these up in stages.

Q. I am asking the question, if you please. If you will answer the question. The question was—if you will read it, please.

(Whereupon, the last above-recorded question was read by the reporter.)

The Witness: That is true, they try to avoid it.

By Mr. Allen:

Q. Try to avoid?

A. Try to prohibit the customer from laying the line in the same ditch with a water line.

Q. Is it not possible to prohibit it absolutely?

A. As far as I know, they do prohibit.

Q. Absolutely?

page 273 } The Court: This is getting far afield. I don't think there is anything in evidence here about water line.

Mr. Allen: I think it may appear so now, Your Honor, but perhaps it won't in further developments.

The Court: I think we are getting right far off the path. It seems to me that is not very instructive.

Mr. Allen: I think that is all the questions.

RE-DIRECT EXAMINATION.

By Mr. Pasco:

Q. Mr. Shorter, did you instruct the men who work under you as to how to conduct the bar hole test?

A. Yes, sir.

Q. Can you state whether you are familiar with the methods that they use?

A. Yes, sir, I am familiar with them.

Mr. Pasco: That's all.

Floyd Mozingo.

(Witness excused.)

Mr. Pasco: Mr. Mozingo.

Whereupon,

FLOYD MOZINGO,

was called as a witness by and on behalf of the defendant and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Pasco:

Q. You are Mr. Floyd Mozingo?

page 274 } A. That's right.

Q. And where do you live?

A. I live at 204 Loudoun Avenue.

Q. In Waynesboro?

A. Yes, sir.

Q. And you work for the Virginia Gas Distribution Company?

A. Yes, sir.

Q. What is your position with that company?

A. My position with Virginia Gas Distribution Corporation is Local Manager.

Q. Local Manager involves the Waynesboro area?

A. Yes, sir.

Q. How long have you been with the company, Mr. Mozingo?

A. I have been with the company almost 12 years.

Q. Where else have you served with it outside of Waynesboro?

A. I served with it in Culpeper, Virginia.

Q. I believe you are a native of Northern Virginia, is that correct?

A. Yes, sir.

Q. When did you become the manager of the local office?

A. In July 1952.

Q. And you have been the manager ever since?

A. Yes, sir.

Q. Now, what sort of service do you provide

page 275 } the public for emergency calls from your office?

A. From the office? When an emergency call comes into the office, an order is prepared and the men go on the emergency call as soon as possible.

Floyd Mozingo.

Q. Suppose an emergency should arise after hours. Have you made any provision for handling those?

A. Yes, sir; we have telephone listings in the local telephone directory for after hours, holidays and Sunday calls.

Q. For how long has that been true?

A. It's been true as long as I have been here, sir.

Q. Will you tell us what records you keep of service calls that are made out of your office?

A. When a service call—to begin with, a service call is originated by putting it on what we call a service order, giving the customer's name and address and the nature of the order. The bottom part of it has information for the service man to fill in what he has found, what was done, and he signs it and dates it.

Q. How long do you maintain those records?

A. We maintain those records for six years.

Q. Let me ask you, do you keep those records under your immediate supervision?

A. Yes, sir, we keep the records in the local office under my supervision.

page 276 } Q. At my request have you reviewed the records on the Cloutier home for the year preceding the explosion?

A. Yes, sir.

Q. Do you have those cards that you—

A. Yes, sir.

Q. Do you have them with you?

A. Yes, sir.

Q. How many service calls were made in that area?

• • • • •

The Court: This would be only that immediate environs such as you show on this sketch.

By Mr. Pasco:

Q. You are referring to the immediate area, two or three blocks?

A. Yes, sir.

Q. Just approximately.

page 277 } A. It's approximately seven or eight of them.

Q. Approximately seven or eight during the year. Any of them by the Cloutier home?

A. Yes, sir.

Floyd Mozingo.

Mr. Timberlake: How many was that during the year preceding January?

The Witness: Seven or eight.

The Court: He said one involved the Cloutier home.

By Mr. Pasco:

Q. Will you give us the dates of that and the nature of that?

A. Yes, sir; the date of that was 3-11-57, and the customer called in and reported that the furnace was not heating properly. Investigation found that the furnace was working O. K. and was nothing wrong and no repair made.

Q. Did you receive any call since then from the Cloutier home until the time of the accident?

A. No, sir.

Q. Were there any of the other calls in the immediate area involving leaking in the lines of mains?

A. No, sir, they just involved adjustment of appliances, no heat, and so on.

Q. Are you familiar with whether or not the gas you were selling in the month of January 1958 was specially odorized?

A. Yes, sir.

Q. What is the basis of that information?

page 278 } A. The basis of the information is that I had the occasion to witness the odor level of the gas, and it was three times stronger than was normally detectable.

Q. When did this happen?

A. It happened several days after the accident.

Q. Do you have any knowledge of odorization prior to that?

A. Yes, sir, I was informed that the odorization was being—

Q. Testify as to what you know, now. To your knowledge, do you know that it was—

A. No.

Q. You do not?

A. Yes, sir, in that I could smell the gas come out of the range.

The Court: You didn't have it for breakfast?

The Witness: Yes, sir.

By Mr. Pasco:

Q. You smelled odorized gas prior to the accident?

A. Yes, sir, in making tests, and so forth.

Floyd Mozingo.

Q. Do the meter readers operate under your supervision?
A. Yes, sir.
Q. Will you tell what your instructions to your meter readers are as to their responsibilities?
A. The meter readers' instructions are that
page 279 } they are to read the meter and also report any unsafe condition that they might come across.
Q. And do you have a summary of a report of the meter readers for the year preceding this explosion?

The Court: What meter?

By Mr. Pasco:
Q. At the Cloutier home?
A. Yes, sir.
Q. Will you take it out of your file so I can show it to Mr. Allen and Mr. Timberlake?
A. (Handing.)
Q. Did you prepare this page?
A. Yes, sir.
Q. From what did you prepare it?
A. From meter reports.
Q. What does it show?
A. The report shows that it is a normal consumption.
Q. What data does it report?
A. It shows the dates and reading and the consumption—the reading of the meter and the consumption that it passed through the meter since the previous reading.
Q. For a period of how long?
A. For a period of from 1-21-58, back to 1-10-57.

Mr. Pasco: If Your Honor please, we would like to introduce this as the Defendant's second exhibit.

page 280 } (The document above referred to was received in evidence as Defendant's Exhibit No. 2.)

By Mr. Pasco:
Q. Did that report indicate to you anything abnormal?
A. No, sir, it does not.
Q. Do your records reveal any report of the meter reader concerning any of the facilities at the Cloutier home during the year prior to this accident?
A. No, sir.
Q. Now, Mr. Mozingo, will you take this chart and describe

briefly to the jury what facilities you maintained in Florence and DeWitt Street and at the Cloutier home, the Cloutier home having been designated on this chart by a "C"?

A. The red line shown on Florence Avenue is a 2-inch, screw-coupled gas main. The line shown on DeWitt Street in red is a 2-inch welded gas main and proceeds down Wilson Avenue. Off *od* DeWitt Street a service from main to curb served the Cloutiers' residence.

Q. What facilities were in the Cloutier home that you know about?

A. As far as I know, there was a floor furnace and a water heater.

Q. Maintained by the company?

A. Maintained by the company is a gas meter and a gas regulator.

page 281 } Q. Now, at my request have you reviewed the records under your supervision to determine what changes may have been made in the facilities serving this residence during the time that this company has operated the gas company in Waynesboro?

A. Yes, sir.

Q. Will you tell the jury as briefly as you can what your investigation of the records disclosed?

A. Investigation of the records disclosed that when the two-inch welded main was installed on DeWitt Street a service line was installed to the Cloutier residence. When the service line belonging to H. C. Cloutier was installed, the company does not give the exact date. The records reveal no exact date of the installation of it. So it was prior to 1940 when we began keeping service line orders showing the installation of customers' lines.

Q. Was there a service line to this residence when the company took over from Consumers?

A. The records reflect that they have used gas since when the other—

Q. Since what date?

A. Well, since 1929.

Q. And when was the main in DeWitt Street installed?

A. The main in DeWitt Street was installed in 1950.

Q. What do your records disclose with respect to the installation of the main in Florence Avenue?

page 282 } A. The records show that the line was installed in 1929.

Q. How do you arrive at that date?

A. Well, it's on inventory maps.

Floyd Mozingo.

Q. At the time you bought the company?

A. And that is what their present maps show—reflect that it was in 1929.

Q. Now, prior to the installation of the DeWitt Street main, how was service provided to the Cloutier home?

A. From the available information I have, it seems like a two-inch main—I mean a three-quarter-inch line extended off of the Florence Avenue main, proceeded up DeWitt Street, turned right and in at the Cloutier property.

Q. Now had that always been a situation, or is there any indication of any other service line?

A. It's another pipe that enters the basement wall on what we call the south side extending out into Florence Avenue. The pipe is still in there. We can locate it with a pipe locater, and when it was installed or what its purpose was I do not know.

Q. Is it in use now?

A. No, sir.

Q. Been in use since you have been in charge of this office?

A. No, sir.

Mr. Pasco: If Your Honor please, before I
page 283 } forget it, may I introduce this chart as Defendant's third exhibit?

The Court: No. 3, yes, sir.

(The document above referred to was received in evidence as Defendant's Exhibit No. 3.)

By Mr. Pasco:

Q. When the DeWitt line was put in in 1950, can you tell us what facilities were installed by the company to afford service to the Cloutier home?

A. When the main on DeWitt Street was installed in 1950 the records showed that a service line was extended from the main to the curb at the Cloutier home to serve the Cloutier home.

Q. Main to the—

A. —to the curb.

Q. What do you mean by the curb? There is no curb in the sense that we know it.

A. From the main to the curb cock is that portion of the company line.

Q. Do you know whether or not a curb cock was installed at that time?

Floyd Mozingo.

A. The records show that it was.

Q. Do the records show the installation of any facility beyond the curb cock on the customer's side?

A. No, sir.

Q. Then the connection installed at that time was a curb box and the line to the main in the street?

page 284 } A. Yes, sir.

Q. Now, will you tell us briefly in your own words what occurred on the night of the fire insofar as you were personally involved?

A. I was home when I heard the blast. I went to my back window and looked out, which was in the general—I could have a general view of this direction, and the sky was lit up. I immediately called my foreman, who lived near-by, to meet me outside, and we got in the car.

Q. Who is your foreman?

A. Mr. Terry.

Q. Do you know about what time this was?

A. It was approximately 10 o'clock.

Q. All right, go ahead.

A. We were guided by the light in the sky to determine our destination, and we got within possibly one block of the house and we got out of the car and ran forward and saw that the house was in flames. They had begun to string fire hoses then, and we could not proceed down Flyorence Avenue, so we ran back to the car and we took—had to take a roundabout way to get back to the office.

Q. Why?

A. Because of the fire hoses that were strung across the street and the traffic was on the narrow bridge leading to that area.

page 285 } So we got back to our warehouse, and we called two of our servicemen and got tools and equipment loaded in the car and proceeded back to the area. When we got back there, the house was still in flames, and the heat was so intense that we couldn't get to the area where the curb box location was.

Q. Did you know where it was?

A. I knew the approximate location of it, yes, sir.

Q. How did you happen to know that?

A. Mr. Terry told me.

So after the fire had subsided somewhat, we went to the area. Debris was all around and water, and we couldn't find the curb box cover because of the debris and everything else around.

Floyd Mozingo.

Q. What was the nature of this debris?

A. Well, it was pieces of the house, wreckers pulling parts of it away over the top of where we had to work at, mud from the water.

Q. What did you do then?

A. So we took our pipe locater and we got to the vicinity of the main where the service line was installed. So then we started digging for the curb box. We uncovered the service connection after we finally got through the hard frozen ground.

Q. By "service connection," now, what do you mean?

A. The service line from the main to the curb cock. We uncovered that.

page 286 } Q. Who was doing that digging?

A. Various ones of us. I was help doing it part of the time myself.

Q. Who else?

A. Mr. Cary. I think R. Clark and Earl Thomas was on that, too.

Q. Those are the men primarily working with you?

A. Yes, sir.

Q. All right, go ahead.

A. So after we found out where the service connection was, we pecked ahead and found the curb box. We took the top off, and I could not put a curb key in it because ice was in it, so we immediately sawed the line while we were going on trying to find the curb box and trying to uncover the service line all at the same time.

Q. Where did you cut the service line?

A. Between the curb line and the main.

Q. How did you cut it?

A. Cut it with a hacksaw, and we cut it part of the way, and we couldn't get the hacksaw down any farther, so we had to stop and dig some more.—

Q. Did the gas start escaping immediately when the line was cut?

A. Yes, sir.—to make the hole longer. Finally we got through and took the fittings off and plugged it

page 287 } back to the main.

Q. When you got it cut through by the saw, then what did you have to do next?

A. After we got it cut through by the saw, we had to take it loose and screw the fittings back to the main on the service.

Q. Why was that necessary?

A. Because we couldn't—it was hard digging up front,

and we wanted to get the gas off as soon as we possibly could, because it had cement and river rock around it.

Q. You couldn't put a plug right where you sawed it off?

A. No, sir.

Q. Explain to the jury why you couldn't.

A. If I had put the plug where it was sawed off, I would have had to had pipe dies to thread it.

Q. So you went back to the nearest thread that you could plug?

A. Yes.

Q. Could you estimate about how long the end of the pipe was opened between the time you cut into it and the time you were able to plug it up?

A. From the time we cut into it till the time we plugged it up I would estimate as between 10 and 15 minutes.

Q. Was any gas escaping?

A. Yes, sir.

page 288 } Q. In what quantities would you estimate?

A. Well, it was blowing—I mean, you could hear it blowing out of the pipe and you could smell it.

Q. Did that create any hazard in your view?

A. Well, yes, sir.

Q. Did you issue any instructions?

A. Yes, sir.

Q. What were those?

A. I didn't want anybody smoking around while the line was cut.

Q. In digging into this service connection, did you notice anything unusual or indicative of any defect or anything of that kind?

A. No, sir.

Q. Was it wet around there?

A. Yes, sir, it was raining and spray from the fire hoses was still falling on us.

Q. About what time would you estimate it was when you got back to the Cloutier home with your equipment and your workers?

A. My best estimate of it is approximately 10:30.

Q. After you got the gas cut off that night, did you do anything else with respect to the company facilities that night?

A. Yes, sir. We took the fittings out to the

page 289 } curb cock and then we covered up—

Q. Took the fittings up to the curb cock. Now, tell the jury just what you mean.

Floyd Mozingo.

A. That's from where we sawed the line fittings back to where the curb cock was located.

The Court: You took up the line, in other words?
The Witness: Yes, sir, we took the line up.

By Mr. Pasco:
Q. Between the curb cock and the main?
A. Yes, sir.
Q. And what did you do with it?
A. We carried it back to our warehouse.
Q. How about the curb box and cock?
A. No, sir, I didn't.
Q. Why didn't you take them up that night?
A. Well, we had them up, but I just didn't take them.
Q. Were they located in the macadam or in the dirt or in the river rock—it, I mean.
A. It was located in the river rock and cement.
Q. Was the top covered or uncovered?
A. When we found it, I mean, it was mud or dirt or something over it, had washed over it from the—only thing I can surmise, from the terrific amount of water when it ran from the house.

Q. Describe the level of it with respect to the
page 290 } level of the surrounding ground.

A. It was in the cement with the rock embedded around it. The customer's driveway, which is made out of this river rock and cement, extended out on the city property and extended around the box.
Q. I would like for you to describe the level of the top of the box with respect to the immediately surrounding area?
A. It was level with it. It was level with the rock and the cement.
Q. Now, what did you do with this service connection between the curb box and the meter that you cut off and took with you?
A. We cleaned it up in our warehouse the next day.
Q. When, the next day?
A. Yes, sir.
Q. Were you present?
A. Yes, sir.
Q. And what was the purpose of that?
A. To test the fittings out to make sure that all of them was all right.

Floyd Mozingo.

Q. And what was the result of the test?
A. The result of the test was that the fittings was in good shape.

Mr. Timberlake: I didn't catch—what fittings is he referring to?
page 291 } The Witness: The service.
Mr. Pasco: The service connection between the curb box and the main.

By Mr. Pasco:
Q. I believe you said you tested the pipes and connections you took back?
A. (Nodding affirmatively.)
Q. About how long was this service connection?
A. The service connection was approximately a foot long.
Q. Foot long, and consisted of approximately how many pieces of pipe and fittings?
A. Approximately five.
Q. What were they, roughly speaking?
A. Well, it was a street "T" and street "L" and saddle, main connection, short piece of pipe and curb cock.
Q. You took the curb cock out with you, left the curb box there, is that right?
A. We left the curb box there.
Q. Now, how did you detach the curb cock from the customer's service line?
A. We unscrewed it.
Q. It has screws on both ends?
A. Um-hum.
Q. And you say you tested those back yourself?
A. Yes, sir.
page 292 } Q. And what did you do with these pieces of equipment that tested out satisfactory?
A. We had them around for quite a while, and when all the pipes at the home were being hauled away, we just threw it away. We don't keep severed pieces of pipe around.
Q. Were they usable?
A. No, sir. We do not use fittings a second time.
Q. Now, what else did you do immediately after the fire besides testing this service line?
A. We installed a mercury gauge cast on the customer's service line from the meter location back to the curb.
Q. How did you do that?
A. We did that by pumping air into the line, and when

the air got up to a certain pressure, it raised the mercury in this gauge.

Q. Wasn't the line open at the meter box—I mean, at the curb box?

A. No, we plugged it off. And so—

Q. And which end did you pump the air?

A. We pumped it from the basement side.

Q. Basement side?

A. Immediately below where the service regulator was installed.

Q. What was the purpose of pumping air into this pipe?

A. The purpose of pumping air into it was air is similar to—I mean, it's a gas like—it's a gas itself, air
page 293 } is, and putting it in there we can, to a certain pressure level. If any of it leaks out, we can tell whether a leak exists on it or not.

Q. And what did the pressure gauge indicate?

A. The pressure gauge indicated that the pressure dropped from 10 inches of mercury down to 9 and three-eighths in a period of ten minutes.

Q. What does that indicate?

A. That indicates a very slight leak.

Q. In what portion of the line, now, was that?

A. That was in the customer's service from the meter location back to where the curb cock was.

Q. And did you make any other tests that day?

A. Yes, we tested the area over the main.

Q. In what manner was that tested?

A. That was made with a combustible gas indicator.

Q. And who was in charge of those tests?

A. Mr. Shorter?

Q. Did he report those findings to you?

A. Yes, sir.

Q. What did you do with the information Mr. Shorter brought to you?

A. Compiled it on a form.

Q. On a chart? I hand you a chart and ask you if that is the chart that you compiled it on.

page 294 } A. Yes, sir.

Q. Was Mr. Shorter present while you were undertaking that?

A. He wasn't present when I was making the sketch up.

Q. Did he give you the information?

A. Yes, sir.

Q. And what was the form of this information?

Floyd Mozingo.

A. It was on a piece of scratch paper.

Q. And what does the report show? Describe briefly what it showed.

A. The report showed that there was some indication of gas.

Q. I want you to describe the piece of paper or papers he gave you, just briefly what it was.

A. Oh, just a piece of scratch paper torn off of something.

Q. What did it have on it?

A. It had a rough sketch of the main with these indications on it.

Q. And these are the bar hole tests from the DeWitt main the day after the explosion?

A. Yes, sir.

Q. And what did they reveal?

A. They revealed there is a slight trace of gas.

Q. At what locations?

page 295 } A. At the main adjacent to where the service line was severed.

Q. And what are those figures along the main there in little circles?

A. Those figures are per cent LEL readings on the scale.

Q. On the scale of what?

A. On the scale of the gas meter detecter.

Mr. Allen: What figures?

The Court : What is "LEL," whatever that is?

The Witness: LEL is these figures here are 10, 20, which shows here 10, 20 would be 10 per cent of four and a half or four, which they want to call the lower explosive limits of natural gas.

The Court: This is very unclear.

The Witness: So this would be 20 per cent of four and a half, five, whatever they want to establish. Different people do it differently. So it would be 20 per cent of 5 per cent, in round figures.

By Mr. Pasco:

Q. Why do you use 5 per cent, now? You might explain that to the court.

A. Because 5 per cent is considered the minimum amount of gas-to-air mixture for gas to explode.

Q. And these readings show the percentage of

page 296 } that per cent?

Q. What do the readings really indicate over all?

Floyd Mozingo.

A. The readings really indicate that it's a slight trace of—just a slight trace of gas.

Q. Did the samples taken out contain sufficient mixture to be explosive in that condition when they are detected?

A. No, sir.

Q. Does it disclose the presence of gas along this main?

A. Yes, sir.

Q. Have you prepared the balance of this drawing?

The Court: Why do you say 20 per cent of 5 per cent? Why don't you just say 1 per cent?

The Witness: Well, that's true, too, yes, sir.

The Court: Seems to me it would be a lot simpler.

By Mr. Pasco:

Q. It is the way the meter is made?

A. Yes, sir, just the way the meter shows it.

Q. Do you have one of these meters here in the room?

A. Yes, sir.

Q. Would you get it and show the judge and jury just briefly?

A. This particular meter is called a Gascope. It has a dial reading on it, and with this you can pick up, like I said, the LEL or the per cent of the lower explosive limit of what the judge said, of which 20 would be 1 per cent. And the men make a bar hole in the ground and insert page 297 } this test tube which connects to the stub into the ground, and by working the aspirator bulb is able to pull samples of the air from the ground through this meter, which will make a register. This meter will pick up combustible gases.

Q. Is it distinguished between the different types of combustible gases?

A. No, sir.

Q. What other types of combustible gases are likely to be found in street areas?

A. Well, the fumes or vapor from gasoline on the street or something, or it could pick up sewer gas or it would pick up marsh gas. It will pick up cigarette smoke.

Q. You have no reason to believe that this was anything but natural gas in this test?

A. No, sir.

Mr. Pasco: We would like to introduce in evidence as

Defendant's fourth exhibit the drawing Mr. Mozingo has testified to.

Mr. Timberlake: Let's see, does this drawing purport to be an accurate drawing as far as location of service lines and what not are concerned?

The Court: Is it drawn to scale?

The Witness: No, sir, it is not drawn to scale, sir.

The Court: Mark it, "Not to scale."

The Witness: I believe it is marked, "Not to
page 298 } scale."

Mr. Timberlake: I suppose, Your Honor, the only thing we can do is concede to it being accepted now subject to cross examination.

(The document above referred to was received in evidence as Defendant's Exhibit No. 4.)

By Mr. Pasco:

Q. Who in your office receives the reports of leaks detected by annual inspection?

A. Mr. Terry does.

Q. Mr. Terry. And is he responsible for the repair of those leaks?

A. Yes.

Q. And he is here today, I believe, to testify?

A. Yes, sir.

Q. Now, before you got this service line cut on the night of the fire, were you able to get up into the house at any time?

A. Sometime during the interval of the operation I proceeded and crawled up on top of the front porch, which was leaning towards the Florence Avenue side.

Q. What did you observe from there?

A. I could observe the gas burning in the immediate location and apparently, from all indications, to me it was burning a low-pressure flame.

Q. Describe briefly what the flame looked like
page 299 } to you.

A. Well, it was red or orange looking, yellowish-looking color approximately the size of that desk.

Q. What appeared to be the source of the flame?

A. It was coming out of the pipe at the other side of the meter from the best I could see.

Q. How much pipe was on there?

A. Oh, it was a foot of so, the best I could remember.

Floyd Mozingo.

Q. What did that indicate to you, the size?

A. It would indicate to me that the house regulator was still working.

Q. Is the replacement or exchange of meter and regulator under your supervision and direction?

A. Yes, sir.

Q. Explain to the jury just what that involves and the purpose of it.

A. When we install the meter, the test date of the meter is recorded on a form, and then when a 10-year period is up, we change the meters, which they stagger along due to the way that we install meters as a customer applies for gas service, and we change these meters and send them back to the meter shop for any repair that is necessary on them and for what we call testing the meter.

Q. What do you do with them when you get them in working order again?

page 300 } A. When we get them in working order again we install them somewhere; most likely be in somebody else's residence.

Q. You take them out whether anything is wrong with them or not?

A. That's right, we take them out whether anything is wrong with them or not.

Q. Is anything done about the accuracy of the meter operation?

A. Yes, the meter is checked for worn parts and also for accuracy.

Q. Are you familiar with the odor of the natural gas that you sell here when it is not odorized?

A. Yes, sir.

Q. Are you familiar with it when it is odorized?

A. Yes, sir.

Q. Did you have occasion to smell the gas when it came out of the pipe which you cut?

A. Yes, sir.

Q. Will you state whether or not it was odorized?

A. Yes, sir, it was very strong.

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page 301 }

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Floyd Mozingo.

CROSS EXAMINATION.

* * * * *

By Mr. Timberlake:

Q. Mr. Mozingo, as I understand, you have been local manager of the defendant, Virginia Gas Distribution Corporation, since July 1952, is that right?

A. Yes, sir.

Q. And continuously from that time until the present you have served in that capacity?

A. Yes, sir.

Q. Now, Mr. Mozingo, your company has introduced several rules and regulations into evidence as Exhibit 1. Those rules and regulations are based upon reasonable safety requirements, are they not?

A. Yes, sir, they are based upon the general—I mean the general safety requirements and other items.

Q. And to the extent that they are applicable,

page 302 } constitute reasonable safety requirements, do they not?

A. Yes, sir.

Q. Now, Mr. Mozingo, it is in evidence that in May of 1957 two leaks in your company's gas mains were discovered in reasonable close proximity to the Cloutier home, that's right, is it not?

A. Yes, sir.

Q. One of them, the larger of the leaks on DeWitt Street in the immediate area of the Cloutier home, and the other possibly a block and a half away on Elizabeth Street?

A. One of them, if I remember correctly, was across Florence Avenue on DeWitt Street, and the other was on Elizabeth.

Q. And did you supervise the repair of those leaks or did you simply turn it over to your subordinate charged with that duty?

A. I supervised the repair of the leak, and I was also present when the one on DeWitt Street across the street from 216 Florence Avenue was repaired.

Q. And what was the nature of the repair made at that leak?

A. As far as I can remember, the pipe was replaced across the street. The pipe was replaced across Florence Avenue on DeWitt Street.

Floyd Mozingo.

Q. The main was replaced—the DeWitt Street main was replaced where it crossed Florence Avenue?

page 303 } A. Yes, sir, for a distance of approximately 40 feet.

Q. You mean the total replacement length was 40 feet?

A. Approximately 40 feet.

Q. And as I understand it, no further tests were made for leaks in that immediate area between the time these repairs were made and the time of this explosion?

A. That section of pipe that was replaced, naturally we checked that to make sure that it was clear before—

Q. I am talking about the balance of the main along DeWitt Street.

A. No, sir.

Q. And to your knowledge no further checks were made of the curb box or curb cock to the Cloutier residence after that time?

A. To my knowledge, since that inspection, no, sir.

Q. Except that it was and is the duty of the meter reader to check any unsafe conditions that may exist?

A. Any that easily comes to his attention; his duty is primarily to read meters. Any other condition that he could easily observe in making his rounds he would notice.

Q. He could easily observe when the curb box was covered up, couldn't he?

A. If the curb box was covered up and he had occasion to look where it was at, he could say it was covered up, yes, sir; he could see if he looked.

page 304 } Q. You mean that it is not a part of his function and duty to look and check the curb boxes?

A. I restated that his primary function is to read meters, and if this should come to his attention in making his rounds, he would make note of it.

Q. Does that mean that some third person would have to bring a defective condition to his attention, such as a covered-up curb box?

A. Well, the inspection—our routine annual inspection covers that.

Q. And you shut your eyes to it between annual inspections?

A. No, sir, we don't shut our eyes to it.

Q. But you wait for some third party to bring a condition such as that to your attention?

A. Not necessarily so.

Q. Well, that's what was done in this instance, wasn't it?

A. Would you please reword that question, sir?

Mr. Timberlake: You can read the question to him.

(Whereupon, the last above-recorded question was read by the reporter.)

The Witness: I know of nothing done like that in this instance.

By Mr. Timberlake:

Q. Do you have one regular meter reader that reads the meter at this particular location?

page 305 } A. The meter reader generally reads all the meters except during his vacation, during when he is sick and also once in a while we have another meter reader to recheck the readings that the previous meter reader has turned in by what we call an alternate meter reading.

Q. Now, according to this Exhibit 2 that was filed in the course of your direct testimony consisting of a summary of the meter readings at 216 Florence Avenue, this shows that the meter at the Cloutier residence was read on January the 10th, 1958. Do you have a copy of that?

A. Yes.

Q. I will hand you the exhibit. I have a copy.

The Court: I thought Mr. Wiggins put that in, didn't he?

Mr. Timberlake: I think Mr. Mozingo put it in.

Mr. Pasco: Mr. Mozingo put it in.

By Mr. Timberlake:

Q. That is correct, isn't it?

A. Yes, sir. This shows it was read on January the 10th.

Q. And it also shows a reading on January 21, 1958, does it not?

A. Yes, sir.

Q. What time of the day, if you know, was the reading made on January the 21st, 1958?

A. This gives you the date and the reading. This reading is when the gas was turned off. That's not necessarily the date this particular reading was taken.

page 306 }

Q. Well, was or was not the meter read on January 21, 1958?

Floyd Mozingo.

A. No, sir.

Q. Well, why did you introduce an exhibit undertaking to show that it was read on January 21, 1958?

A. Well, the meter couldn't pass any more gas after January 21, 1958.

Q. Do you know on what date this reading that is set forth as January 21, 1958, was made?

A. This reading was made the next day, on January the 22nd, as far as I can remember. It was the 22nd or 23rd. I think it was the 22nd.

Q. Are there any other inaccuracies that you know of in this exhibit?

A. I don't consider this an inaccuracy, sir.

Q. Well, I will ask you this: Do all the other dates other than January the 21st, 1958, show the exact date on which the meter was read?

A. It shows the dates and the reading of the meter. Well, on January the 21st, if the meter could still read the same on the 22nd or 23rd.—

Q. My question was that excluding the first line or the line having to do with January 21, 1958, do all the other items on that list show the exact day on which the meter was read?

A. Those dates was taken from the dates en-
page 307 } tered in the meter book.

Q. So you do not know whether they are the exact dates or not, is that correct?

A. No, sir, I obtained these records from the meter books.

Q. Now, Mr. Mozingo, as I understand, the service line from the DeWitt Street main to the curb cock at 216 Florence Avenue was installed by your company in the year 1950?

A. The records reflect this.

Q. Do you have any record of an examination or inspection being made at that time to determine the safety of the connection from the standpoint of location and with reference to its connection to the service line leading to the house?

A. No, sir, I have no records.

Q. Was an inspection made?

A. I don't know, sir. I wasn't here in 1950, sir.

Q. So far as your knowledge as gained from the records is concerned, there is no evidence that an inspection was made at that time, is that correct?

A. No, sir, I do not know.

Q. Do you know the depth from the surface of the ground that the curb cock installed in 1950 was placed?

Floyd Mozingo.

A. No, sir, I do not know how deep it was installed in 1950, sir.

Q. What is the depth of the main in DeWitt Street?

A. Approximately 18 inches.

page 308 } Q. And you do not know whether the curb cock is nearer or farther from the surface of the ground than the main?

A. It would be closer to the ground than the main is.

Q. Closer to the surface?

A. (Nodding affirmatively.)

Q. Now, do you know where the curb cock that was formerly used prior to 1950 was located?

A. No, sir.

Q. The only thing you know—and that is based upon the company records, is that the curb cock and the service line from the DeWitt Street main to that curb cock were installed in 1950?

A. The service line from the main to the curb cock through the company part was installed in 1950.

Q. And, Mr. Mozingo, as I understand, that curb cock remained in the same location in which it was installed in 1950 until it was removed following this explosion at 216 Florence Avenue?

A. As far as I know, it hasn't.

Q. Then do I understand from your direct testimony that the curb cock was removed under your supervision within a few hours after this explosion occurred?

A. Yes, sir.

Q. And it was removed after the service line had been detached from the DeWitt Street main?

page 309 } A. Yes, sir.

Q. And the main was plugged, is that correct?

A. Yes, sir.

Q. And at the time of its removal, was the connection between the service line and the curb cock severed?

A. Yes, sir.

Q. And then, as I understand, the following day at your company office an examination was made of the curb cock and the piping that had theretofore connected the curb cock with the main?

A. Yes, sir.

Q. And you do not have those in your company's possession at the present time?

A. No, sir.

Q. And it follows, of course, does it not, Mr. Mozingo, that

Floyd Mozingo.

having served the connection between the service line and the main and the service line and the curb cock there on the premises following the explosion you had no means of testing those connections later, did you?

A. Yes, sir.

Q. Just what means did you have?

A. We had a means of first cleaning the fittings up with a wire wheel and then we was able to inject the air pressure on the fittings and put soap on them.

Q. You didn't test the fittings between the service line and the main?

page 310 } A. Yes, sir.

Q. Where did you remove the service line? By what means did you remove the service line from the main?

A. We unscrewed it, sir.

Q. You had previously cut the service line, isn't that correct?

A. Yes, sir.

Q. And then you unscrewed it?

A. Yes, sir.

Q. And you had no means of testing it thereafter in the condition in which it was screwed at the time of the explosion, did you?

A. We could hold our hand over the end of it where it was sawed off and still maintain pressure inside of it.

Q. After you had rescrewed it, isn't that right?

A. Yes, sir.

Q. And you didn't have the connection there—did you take the connection immediately adjacent to the main, just disattach that and take it in?

A. No, sir.

Q. You had no means of checking that, did you?

A. Yes, sir.

Q. How did you check that?

A. We checked that with soap the next day. We use a policy of soap checking a pipe like that with air,

page 311 } with soap on it.

Q. The point I am making, Mr. Mozingo, you had no means of testing the next day, those connections in the condition they existed at the time of the explosion?

A. It wasn't the same situation, sir.

Q. Did Mr. Craig report a leak to you on the day of this explosion?

A. No, sir.

Q. Did not? Did a leak in your gas mains in this area

come to your own personal attention prior to this explosion?

A. No, sir.

Q. And after May of 1957 when you ceased making any—which was the last time you made any tests?

A. No, sir.

Q. Now, Mr. Mozingo, as I understand, on the day following this disaster and after the main had been plugged at its point of juncture with the service line leading to the curb box, various tests were made in the area of this residential property by the apparatus that you have produced and shown to the jury, is that correct?

A. Yes, sir.

Q. What do you call that apparatus?

A. "Gascope" is the actual name of it. It is a combustible gas indicator.

Q. And you commonly call it a Gascope, is that
page 312 } right?

A. Yes, sir.

Q. Now, when those tests were made and after this connection had been sealed off, the following day, as I understand, these circled numerals on Defendant's Exhibit No. 4 show the readings on that Gascope, is that right?

A. Yes, sir.

Q. And as I understand, these all show zero down on Florence Avenue?

A. Yes, sir.

Q. And Florence Avenue topographically is considerably lower than DeWitt Street as you proceed up the hill, is that correct?

A. Yes, sir.

Q. And then you get a short distance up DeWitt Street at a point that is opposite or just beyond the wall on the Cloutier property line and there you found a reading of 20, is that correct?

A. Yes, sir.

Q. That reading of 20 indicated that at that time there was no sufficiently high gas concentration to make an explosive mixture, isn't that correct?

A. That reading is not an explosive mixture.

Q. And then you get to the point of where you are just opposite the plugged portion of the DeWitt Street main and that shows a reading of 10?

page 313 } A. I don't know, sir. That map is no true scale.

Q. Well, approximately, then? It is approximately correct, isn't it? Did you prepare the map?

Floyd Mozingo.

A. I prepared the map, sir.

Q. Well, you tried to make it approximately correct, didn't you?

A. Well, it's all out of proportion to scale.

Q. Well, wouldn't you say that in reasonable proximity the plugged portion of this DeWitt main that you got a reading of 10?

A. These—I do not know it, because these were not segregated by footages between them, they were just bar holes which was indications—

Q. What is this supposed to be to indicate if it is not reasonably accurate, Mr. Mozingo? As I understood, this is for the information of the court and jury.

A. This is indication of combustible gas. It shows the reading.

Q. Does it purport to show the approximate locations that those readings were made?

A. It is possible. It is possible they could be the approximate location.

Q. I am not asking if it was possible. You made the diagram, and I am asking you if this purports to show the approximate location of those readings.

page 314 } A. I made the diagrams and I inserted the readings to the best of my knowledge upon the slip of paper that was given to me.

Q. Do you have the slip of paper?

A. No, sir.

Q. What did you do with it?

A. Threw it away, piece of scratch paper.

Q. In other words, just as soon as it had served your purpose to make this diagram, you threw the paper away, is that correct?

A. Yes.

The Court: Does this purport to be a copy of what you had on this rough plan?

The Witness: Yes, excepting for the drawing of the house and the distances.

The Court: Is it in the same proportion?

The Witness: Similar, sir. I just applied it to the sketch I had.

By Mr. Timberlake:

Q. Did this paper that you destroyed contain a sketch, or did it just show readings?

Floyd Mozingo.

A. It just showed readings over a line drawn on it.

Q. Just a line, and did the line undertake to show any scale or distance?

A. No, sir, but generally put down approxi-
page 315 } mately 10 feet apart.

Q. Mr. Mozingo, isn't it reasonable to assume that within the ranges of common and human error and with full recognition that this doesn't purport to be a drawing to true scale, that you tried to show this in a reasonably accurate manner?

A. As reasonable as possible.

Q. And if it is reasonably accurate, it shows a reading of 10 in the vicinity of where this DeWitt Street main was plugged, doesn't it?

A. In the vicinity, yes, sir.

Q. All right, sir. Then you move on up the hill, and the reading goes up to 20 when you get away from this plugged place, isn't that correct?

A. Yes, sir, that's the way the sketch shows it.

Q. And it is still not an explosive mixture?

A. No, sir.

Q. And then you go further up the hill and it is still 20?

A. Yes, sir.

Q. And then you go up to a place somewhere near the rear of the Cloutier residence and it jumps up to 75, doesn't it?

A. Yes, sir.

Q. And it is a common characteristic of gas when it is enclosed and has some means of travel, whether it is by trench or in the trench or in the ground or otherwise, for it to go up?

A. It has the specific gravity lighter than air.
page 316 } Q. And it will go up, won't it?
A. It will go up.

The Court: What point along there—I don't quite understand it—what point along that line there was it explosive if at all, sir?

The Witness: None.

Mr. Timberlake: The next day, Your Honor, according to the diagram, it had reached a point in the vicinity of the rear of the Cloutier house, that is, in DeWitt Street opposite the rear of the Cloutier house, it showed a reading of 75.

The Court: Just what does that mean?

The Witness: It would be three-fourths of the low explosive rate. Seventy-five would be 75 per cent of 5.

Floyd Mozingo.

The Court: I don't know why you make it so complicated. To be explosive it's got to be 5?

The Witness: Generally accepted, sir. Some of them say 4 1/2, some say 5.

The Court: I say, to be explosive?

The Witness: Yes.

By Mr. Timberlake:

Q. Assuming that this explosion occurred, Mr. Mozingo, at 10 p. m., on the night of January 21st, 1958, how long after that time were these tests made?

A. They were made the next morning.

Q. Do you know the approximate time?

page 317 } A. I would say somewhere about nine o'clock.

Q. Around 9 o'clock?

A. 9:30.

Q. And how much time did it take to make the tests?

A. I don't know. It required driving the bar holes down over the main. I wasn't there the entire time. Mr. Shorter, who testified earlier, could more or less give you the time and requirements on it.

Q. Well, they were begun, then, as nearly as we can fix it with reasonable accuracy, some eleven hours after the explosion?

A. Somewhere in that neighborhood.

Q. Now, when did you remove this curb cock and the fittings? Was that the night of the explosion or the next day?

A. It was the night of the explosion.

Q. Now, Mr. Mozingo, in your direct testimony I believe you stated that you knew as a fact that this gas was odorized, or the odor additive had been supplied to the gas that was in use on January the 21st, 1958, is that correct?

A. To my knowledge, gas was being odorized.

Q. To the best of your knowledge?

A. Yes.

Q. And then I believe you said that three days after the explosion you ascertained that three times the normal supply was being used, is that correct, or did I mis-

page 318 } understand you?

A. I believe it was two days afterwards that I said that the odor level of it was three times higher than what was needed to detect it.

Q. And that was based upon the test that you, yourself, made?

A. Yes, sir.

Floyd Mozingo.

Q. And have you undertaken to ascertain when the odorizing ingredient was first added to the gas that your company used?

A. I understand it was added in 1957 in November.

Q. What is the basis of that understanding? Do you have any records, data or reports to show that?

A. I was informed that it was.

Q. You don't have anything on file in your office?

A. No, sir.

Q. And do you have anything on file in your office to show to what extent the odorant or odor additive was varied from the time it was first put in use?

A. No, sir.

Q. Do you know as a fact whether or not it was materially increased after this explosion?

Mr. Pasco: Just a second. If Your Honor please, I haven't objected to this line of testimony before, but it seems to me what was done after this explosion is immaterial and prejudicial to the defendant's case. I have nothing to hide, but it seems to me it is not connected with the trial.

page 319 } Mr. Timberlake: Your Honor, this witness opened it up on his direct examination. I certainly think I have a right to cross examine him on it. On his direct examination he testified that—I thought it was three days, but he corrected me a moment ago and said two days—after this explosion occurred that he ascertained that it was three times the necessary amount to give the gas an odor.

The Court: I don't know why either of you opened it up, but since it has been—

Mr. Pasco: I didn't mean for it to be opened up.

The Court: —I will permit it to be cross examined. I don't think it is germane, but it was very interesting.

(Whereupon, the last above-recorded question was read by the reporter.)

The Witness: I do not know for a fact that it was materially increased afterwards.

By Mr. Timberlake:

Q. In other words, do I understand that you are telling the jury that you don't know whether or not it was increased after the explosion?

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A. You asked me, sir, did I know it for a fact. I do not know it for a fact, sir.

Q. How do you know it?

A. From working around it.

Q. That it was?

page 320 } A. Yes, sir.

Q. And as a result you received a materially increased number of reports on leaks, didn't you?

A. Yes, sir.

Q. Now, Mr. Mozingo, did I understand you to tell the jury in your direct examination that this curb box was placed in the river rock driveway leading to the Cloutier residence?

A. It was river rock around the curb box.

Q. And how far did that river rock extend toward DeWitt Street from the curb box, approximately?

A. Didn't extend very much farther, sir.

Q. Well, can you be more specific than that?

A. Apparently it stops just about at the curb box, what I could gather.

Q. Did I understand, then, that the curb box is in the river rock driveway right where the driveway ends?

A. Yes, sir, the river rock was around—I don't know the exact termination of the driveway, but I do know that the river rock was around the curb box.

Q. On all sides?

A. I know as far as I could determine it was around all sides.

Q. So that the curb box was in the river rock driveway rather than on the property line if the river rock driveway marked the property line?

page 321 } A. Would you please say that question again, sir? You made two questions out of it.

Mr. Timberlake: Read the question, please.

(Whereupon, the last above-recorded question was read by the reporter.)

The Witness: The property line was hard to distinguish at that area because of the driveway being extended out on the property line and actually, I never did know where the property line really was until the city engineer informed the foreman.

* * * * *

J. GUY RUSMISELLE,
was called as a witness by and on behalf of the defendant and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Pasco:

* * * * *

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* * * * *

Q. Did you see Mr. Terry up there the next day?
A. Yes, sir.
Q. I am going to hand you a piece of pipe and ask you if you can identify this.
A. Yes, sir, that looks like the pipe that Mr. Terry had that morning.
Q. And will you tell the jury what was the nature of the end that's got the elbow on it at the time you saw it the day after the accident?
A. Well, the circumference here, part of it appeared to be a broken piece at that time, a rusty spot.
Q. A rusty spot?
A. Yes.
page 325 } Q. How much of it, would you estimate?
A. Oh, I'd say perhaps a half an inch. I didn't measure it.
Q. Perhaps half an inch around the side?

* * * * *

Q. Where did you see that pipe the first time?
A. In Mr. Terry's hands.
Q. Where were you all standing, approximately?
A. Now, I don't remember whether we were standing in the foundation or just outside.
Q. Right at the foundation of the house?
A. Yes.

* * * * *

ORVILLE M. TERRY,

was called as a witness by and on behalf of the defendant and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

page 326 } By Mr. Pasco:

Q. Will you state your full name for the record and your occupation, please?

A. Orville M. Terry; reside at 208 Loudoun Avenue, Waynesboro, Virginia. I am foreman for the Virginia Gas Distribution Corporation.

Q. You are foreman?

A. Here in Waynesboro.

Q. How long have you had that job?

A. Three years.

Q. What did you do before then?

A. I was gas pipe line welder.

Q. Mr. Terry, can you tell us whether or not you made any repairs or supervised the making of any repairs in the mains in the vicinity of the Cloutier home in 1957?

A. Yes, sir. We had two leaks in that vicinity. Mr. Shorter testified this morning, the same two leaks I was on the job when they were repaired.

Q. After they were repaired, did you—were any tests performed?

A. Yes, sir. Our usual procedure when we repair a leak, we take the same—

Mr. Timberlake: I think this witness should give an answer that is responsive to the question. We are not concerned with the usual procedure.

page 327 } By Mr. Pasco:

Q. Don't tell us usual procedure, tell us what you did with respect to these leaks.

A. Yes, sir. We made the same bar hole tests after the leak was repaired as we made before. I keep the leakage sheet until I am satisfied or the test revealed that there is no more leakage in that area. I do that in every leak. Every leak repaired, marked on a form.

Q. We want to confine it to this one.

A. Yes, sir.

Q. Can you tell the jury that you were satisfied as foreman that the leaks were repaired?

A. Yes, sir.

Q. Where were you on the night of the fire when this explosion occurred?

A. I was at home.

Q. Did you go to the fire with Mr. Mozingo?

A. Yes, sir.

Q. Why don't you tell us briefly in your own words what you did from the time that you learned of the fire until you got the gas cut off?

A. Well, Mr. Mozingo called me and told me that he had heard an explosion, and I, too, had felt a rumble, and told me to look out the window. I did and saw a glow in the sky, and I immediately grabbed my coat and my hat page 328 } and met him in the front yard, and he picked me up in the matter of a minute or two, and we proceeded in the general direction of the glow in the sky. We couldn't get within—after we determined where it was, we parked about a block away from the scene and went down to it, turned around and went back to get the car to come back to the office to summon some service men, also get some tools that we might have need for. We didn't know the cause then, but we just picked up a lot of different tools.

Q. About what time did you get back to the fire?

A. I don't remember exactly. It took us at least 15, 20 minutes to a half an hour. I couldn't say.

Q. Then when you got back there, what did you do?

A. Well, I knew where the service entered the Cloutiers' house, and I knew the approximate location of the curb box, but the heat was so intense that I couldn't get very close to it, to that side of the house. I knew that it was on the north side of the house, but I couldn't—about the center of the road was about as close as I could get.

So we waited, I don't know how long, five or ten minutes, maybe longer than that, I have no way of remembering. And we looked for the curb box after the heat was subsided enough to get close. We looked for the curb box but couldn't find it. We had the pipe locater, and I took one—it takes two men to work the pipe locater—I took one end of it and went down the hill, and Mr. Mozingo proceeded to locate the main. page 329 } And judging from the previous knowledge I had about where the curb box was, we dug a hole down on the main to the service connection on the main. It's a little saddle that bolts around the pipe. There is a little

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hole on top with a fitting that you screw into and therefore take off into the house.

While we were digging the hole, about the same time that we got down on top of the main, somebody had picked around and they found the curb box, discovered the curb box back about a foot or so from where we were digging. So we stopped digging, took the cover off the curb box, put the curb key down in and tried to turn it off but couldn't get the curb key all the way down in it; something in it. We took a flashlight and looked and could see it was full of ice.

So we went back to the hole we were already digging and dug a little bit more and took a hacksaw—I took a hacksaw and started sawing through the pipe itself, tried to kill it at the main, cut it off at the main. Sawed a little ways through the pipe, dirt and debris and everything kept getting in the hole and I probably didn't have the hole deep enough to start with, and I stopped a little while, and we opened the hole a little larger, and I continued to saw it in two. And when I got the pipe sawed in two, I pulled it out. I stuck a handkerchief in it, while another employee screwed it off the top of the main and screwed it into the hole.

Q. Tell the jury whether or not you noticed any
page 330 } presence of gas in the immediate area when you
started digging down to the main.

A. No, sir, I didn't.

Q. Tell them when was the first time that you did notice the odor of gas.

A. The first time I noticed the odor was when I sawed into the pipe, into the service.

Q. Did you notice anything unusual about the soil as you dug down?

A. No, sir.

Q. Describe the general conditions of the area around there.

A. I couldn't notice anything, because it was dark and I was working by flashlight and it was raining, water was running in the hole, and it was muddy, the ground.

Q. Where was this water coming from?

A. Well, a combination, I guess, from the ground thawing from the heat and from the fire hose being played on the house and from the rain.

Q. You were right down at the bottom of that driveway, weren't you?

A. Yes, sir. The driveway is inclined, ramp, would make kind of a natural drain off the side of the hill.

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Q. Could you estimate how long gas was escaping after you cut it before you plugged the line?

page 331 } A. Between five and ten minutes, I would say. It would take me five minutes to saw through the line, and I had to stop once and wait and have the hole excavated, and then we had to screw the fittings on. It would be at least ten minutes.

Q. Now, before you got the pipe cut and while the digging was going on, did you have occasion to go up on the porch of this house?

A. No, sir. I was around on this southwest corner at one time.

Q. Were you able to see into the basement of the house?

A. Yes, sir.

Q. Did you notice anything unusual?

A. No, sir.

Q. Did you get in such position that you could see either the meter or the regulator?

A. Yes, sir; that's the reason I went around on the side of the house.

Q. What was going on at the meter regulator, if anything?

A. Gas was burning out of it, burning out all the top of the meter. It's small, and the outlet side of the meter had a piece of pipe on it about a foot long and it was burning out of there. Flames floated approximately 18 inches burning out of the side of the meter.

Q. What was the color of that flame?

A. It was yellowish.

page 332 } Q. Did the flame vary in size appreciably?

A. No, sir.

Q. Constant flame?

A. Yes.

Q. Was there anything significant about the constant flame, Mr. Terry?

A. It indicated—

Mr. Timberlake: He described the constant flame, Your Honor. I don't think—

The Court: He is expressing an opinion. He can describe what he saw.

Mr. Pasco: Withdraw the question, then.

The Court: A rank conclusion, I should have said.

Orville M. Terry.

By Mr. Pasco:

Q. Mr. Terry, after you got the line cut and plugged between the curb box and the main, what did you do with that line?

A. We brought it back to the warehouse.

Q. And you didn't go back to the fire that night, then?

A. No, sir.

Q. What did you do with that line, if anything, the next day?

A. Well, that morning we put it on a wire buffer wheel and cleaned it.

Q. Who is "we"?

page 333 } A. Mr. Mozingo—excuse me. Mr. Mozingo and myself cleaned the fittings up, and from the visual inspection they looked in good shape, and we proceeded to test it for air holes by capping the ends off—held one end off with our hand, capped the other end off, pumped it off, soaped it. We didn't see anything wrong.

Q. Tell the jury what is the purpose of the soap.

A. Well, if there would have been a leak anywhere on the fittings, the soap suds would have bubbled out through the soap suds.

Q. Did you go back to the Florence Avenue location the next day?

A. Yes, sir.

Q. What was the purpose of your visit up there?

A. I took one crew of men and went back to check the bar hole test to see if the explosion had ruptured the main in any way, and there was going to be any repair work in the street that we had to do that day.

Q. Who was in your crew, do you know—let me ask you this: Was Mr. Cox in your crew?

A. Mr. Cox was taking bar hole tests.

Q. For you?

A. Yes, sir.

Q. And who else was working with you? Was Mr. Shorter?

A. Mr. Shorter and James Carter.

Q. And what did you all do with the results

page 334 } of that test?

A. I don't know. I didn't have access to it. The main thing I was interested in was I wanted to see if the explosion the night before had hurt the main in any way, and I was going to proceed to try to repair that, but I found out that the test showed very little gas in the ground. So I

took the men and went someplace else on another job, I don't remember what.

Q. Did you make any repairs on the main in Florence Avenue and DeWitt Street that day?

A. No, sir.

Q. Have you made any since then to your knowledge?

A. Haven't made any on DeWitt Street. Between Florence and Wilson I haven't made any repairs on DeWitt Street, according to the records, since the 1957 leak that we were talking about on DeWitt Street. But that was over in the other block. It wasn't between Florence and Wilson.

Q. Do I understand your answer is that you recall no repairs on Florence Avenue in front of the house and DeWitt Street since the night of the explosion?

A. No.

Q. And did you ever go into the foundation of this house after the explosion?

A. Yes, sir, the next morning about ten o'clock I went back up there and went in and looked at the furance and water heater and tried—we were just trying to

page 335 } determine what might have caused it.

Q. Did you notice anything unusual?

A. Didn't notice anything irregular about the appliances but found that the piece of pipe that you introduced a while ago—

Q. Is this the piece of pipe you are talking about?

A. Yes, sir.

Q. Tell the jury in your own way where you found this and what condition you found it in and what you did with it.

A. Well, this pipe is from the outlet side of the meter.

Q. Which end was connected to the meter?

A. This end had a three-quarters nipple down into the meter swivel, and the meter was here, and as the meter passed gas it come through the meter up and out into the house. This pipe went into the house line. I found this, and I also found evidence of a—

Q. Where did you find this located, first?

A. It was laying beside the meter.

Q. Right by the meter?

A. Yes, sir.

Q. Describe the condition of the end of the pipe when you found it.

A. I could see it was shiny about two-thirds of the way around.

Orville M. Terry.

Mr. Allen: Where are you talking about it was shiny about two-thirds?

page 336 } The Witness: This broken piece of pipe inside of this "L" where the crack—where it was broken was shiny about two-thirds of the way around and about a third of it was rusty.

By Mr. Pasco:

Q. Was that wire on it?

A Juror: May we inspect that peice of pipe?

The Court: Yes, sir. Let the jury see it.

The Witness: This end up here is where it was rusty, the thinnest part where the threads are.

A Juror: This was a new break right here?

The Witness: Yes, only you could see it better then than you can now. (Inaudible.)

The Court: Just show it to them. Don't make any explanation.

By Mr. Pasco:

Q. Mr. Terry, how does the end of this pipe that you have been looking at differ in appearance now from the time that you found it in the Cloutier home?

A. The shiny part is not as evident now as it was the next day when I first found it.

Q. And were these wires that are wrapped around there on the pipe when you first found it?

A. Yes, sir.

Q. This rag, of course, was not?

A. No, sir.

page 337 } Mr. Pasco : If Your Honor please, would like to introduce this piece of pipe as the Defendant's Exhibit No. 5.

(The pipe above referred to was received in evidence as Defendant's Exhibit No. 5.)

By Mr. Pasco:

Q. Did you bring the pipe back to the office and keep it?

A. Yes, sir.

Q. It has been over in the office since that time?

A. Yes, sir.

Q. Did you notice anything else about it out of the ordinary when you picked it up?

A. No, sir.

The Court: Mr. Terry, why did you keep this piece of pipe and didn't keep the other pieces of pipe?

The Witness: Mr. Rusmiselle suggested to me that I keep it. He said it looked like it might be—

Mr. Timberlake: Now, you can't state what Mr. Rusmiselle told you.

The Court: I asked you why you didn't keep the other piece. Why didn't you keep the other piece?

The Witness: Wasn't anything to indicate that I should keep the other, that there was nothing wrong that would prove any satisfaction to me.

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HOWARD LORDLEY,

was called as a witness by and on behalf of the defendant and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Pasco:

Q. Give your name, residence and occupation, please.

A. Howard E. Lordley, 4112 Kensington Avenue, Richmond, Virginia. I am a professional chemical engineer.

Q. What is your present employment, Mr. Lordley?

A. I am presently employed as Assistant Director for the Department of Public Utilities in the City of Richmond, where we operate the gas, the water and a street lighting utility.

Q. What sort of gas does the City of Richmond sell?

A. The city distributes natural gas to approximately 55,000 customers.

Q. Is that done under your supervision?

A. I am responsible for operation, maintenance and engineering of the system.

Q. You come from Hampton, Virginia, originally, I believe?

A. That is correct.

Howard Lordley.

The Court: What is the educational background? Will you go into that?

page 349 } By Mr. Pasco:

Q. Will you tell us what your educational background is?

A. Graduated from Hampton High School in 1930, went to V. P. I. and graduated in 1934 with a B. S. degree with honors in chemical engineering. I worked in Covington for about a year, went back to V. P. I. and received my Master of Science degree in chemistry in 1936 and from 1936 to 1940 I spent my nights at night school in Richmond studying electrical engineering and received the equivalent of a degree in electrical engineering.

Q. From what school was that?

A. That is Virginia Mechanics Institute.

Q. Tell us briefly what your experience has been in this general field.

A. In the gas field since 1946 I have been in the design and engineering of gas distribution systems, all the appurtenances and the service problems of our appliances. Shortly before we received natural gas in Richmond in 1950 I wrote the rules and regulations for the maintenance and installation of gas equipment. I was supervisor and in charge of our change-over from the manufactured gas operations to natural gas within the city. Since that time we have installed some $15 million worth of underground facilities. All of those plans and specifications have been approved by me. I have designed warehouse facilities and storage facilities, written department regulations on the proper method of installing gas services, regulators and other equipment.

page 350 } I have designed, in cooperation wtih other engineers, our water purification plant and its facilities.

Q. Are you a member of any professional associations?

A. Yes, I belong to the American Gas Association, American Water Works Association, and American Society for Testing Materials, and American Standards Association, the Federation of Sewage Works and Industrial Wastes Association, the James River Basin Association, and several others.

Q. Do you hold any registered status with the State of Virginia?

A. I am a registered professional engineer in the State of Virginia.

Howard Lordley.

Mr. Pasco: If Your Honor please, we submit this witness as an expert in the sale and distribution of natural gas to consumers.

The Court: Yes.

By Mr. Pasco:

Q. Mr. Lordley, have you at my request made a study of the operating methods and procedures of the Virginia Gas Distribution Company and conferred with its representatives responsible for the operation of its business in Waynesboro?

A. I have, sir.

Q. Give us briefly the extent of that investigation.

page 351 } A. On April 28th I came to Waynesboro and talked with the company representatives. I examined the records, the pressure charts, the regulations, inspected their stock of materials. I visited the site of the explosion.

Mr. Timberlake: Excuse me. That was May 28, 1958?

The Witness: April 28th of this year. I visited the site of the explosion, I studied the case with Mr. Edmunds and with the fire chief.

By Mr. Pasco:

Q. Has your investigation been sufficiently detailed to enable you to formulate an opinion based on your general experience of the caliber of the company's operation in the Waynesboro area?

A. Yes, sir.

Mr. Timberlake: Your Honor, I don't think that that is the issue in this case, the nature and caliber of the company's operation.

The Court: The caliber of the company is hardly the word, I think. I think the manner in which it is conducted with the business and the character of the regulations would be a little better designation.

Mr. Pasco: Delighted to accept the Court's amendment.

By Mr. Pasco:

Q. Will you answer that question?

A. Will you repeat the question?

Howard Lordley.

Mr. Allen: May be it would be best to rephrase
page 352 } the question.
Mr. Pasco: I will do that.

By Mr. Pasco:
Q. I asked you if your investigation had been sufficiently detailed to enable you to formulate an opinion as to the adequacy or the effectiveness of the company's methods of operation in Waynesboro.

Mr. Allen: That is the rules and regulations he is speaking of, rather than the method of operation.
The Court: That would include them, I presume.
Mr. Pasco: Includes them.
The Witness: It has.
The Court: That includes the regulations which they have on file with the Corporation Commission?
The Witness: Yes, sir, it does.
The Court: Have you examined those?
The Witness: I examined those, sir, not on the trip to Waynesboro, at that time, but since the 28th.
The Court: At any time?
The Witness: Yes.

By Mr. Pasco:
Q. What is your opinion?
A. In my opinion this company follows modern practices of the gas industry. I would rate it as an excellent operation for any gas company in the United States.
page 353 } Q. Can you tell us what, if any, factors you considered in arriving at that opinion?
A. One of the main factors in gas systems, of course, is the prevention, detection and repair of leaks. In the gas business we use an index known as unaccounted-for gas to determine that index of leakage. The average leakage throughout the country is approximately 5 per cent as unaccounted-for gas. Some of that may not be unaccounted-for, but the unaccounted-for figure for the United States is around 5 per cent. When a company first receives natural gas, the leakage increases and your unaccounted-for gas may go as high as 20 per cent. Then by using various methods you reduce your leakage and your unaccounted-for gas will come down to approximately the average, which is 5 per cent for the country.

Howard Lordley.

This company's records indicate that they have a slight plus figure, and that would, in my opinion, give the company only a few minute leaks on the system. There are no gas systems that are completely free of leaks, but the number of leaks can be determined by studying the unaccounted-for gas and comparing it to those of other companies.

Q. Have you studied the company records of unaccounted-for gas?

A. I have.

Q. How do they compare to the records of other companies with which you are familiar?

page 354 } A. This company has a better record than any company I have examined.

Q. I was referring to the adequacy of the records, not what they reflect. How do they compare in detail and apparent thoroughness to other companies with which you are familiar?

A. The records of this company are in accord with the standards of other companies. The records are about the same. It lists the amount of gas purchased and the amount billed to get the unaccounted-for gas.

Q. What other factors, if any, did you consider in arriving at your opinion?

A. I checked on the maintenance instructions and procedures to the employees to see that the company had given to the men the proper instructions for repair of its facilities. I checked on the method of handling service calls. They have 24-hour service here in Waynesboro, and they have a system of coding their service calls so that any service call received during working hours or after working hours will be made a matter of record, and the auditor from the parent company comes in at intervals to check those service calls.

Q. Did you consider any other factors, Mr. Lordley?

A. I went into detail on methods of construction of facilities of the company to see if they complied with the modern practice prescribed in the code known as the ASA Code B-31.1.8 for the Design and Operation of Gas

page 355 } Distribution Systems. The regulations that the parent company had sent down to these companies are in accordance with good practice, and the construction methods meet all the standards in the field.

Q. Did you consider the company's system of inspection of its mains?

A. I did.

Q. What was the result of that examination?

Howard Lordley.

A. It is already in evidence today that they conduct leakage surveys by a number of methods. One is by bar hole test, another is a leakage survey in the street openings, such as water boxes. Another method is by the vegetation survey, and we have even had the soap test brought in, which is another method. Most companies conduct only the street opening surveys and the vegetation surveys. It is an expensive procedure to put down bar holes every 20 feet in your street. It is an excellent method of checking for leakage, but most companies cannot follow that procedure, because in our city streets in particular, where we have heavy pavement, the Department of Public Works or the street people don't like for us to dig holes down through eight, ten, twelve inches of concrete. So as a result, very few companies do bar hole testing as a regular procedure.

This company follows the ASA Code in that respect, but they exceed the code in that our code or the gas code requires that in the outlying sections, such as Florence Street, that you only have to make a survey once every five page 356 } years. This company makes it every year. That is one example of the way in which we exceed the standards in Waynesboro.

Q. What is the ASA Code that you have just referred to? Is that the one that you gave the number of a few minutes ago?

A. Yes, that's the one. That's the code published by the American Institute of Mechanical Engineers. It was originally compiled by a committee of the American Gas Association and other companies and associations. The American Standards Association actually assigned the number to it, as is true of all codes in industry.

Q. Did you find out whether this company employed any outside assistance in its inspection?

A. Yes, this company employs an outside consultant to check on the properties at various times. It is more like a policeman going around to check on what the boys are doing to make sure they haven't missed any leaks. There are several companies in the business. They have employed Heath in New England, who will send a consultant into Waynesboro, and he will run the leakage surveys for the company and render a report. They conduct vegetation surveys also by the method described earlier today of riding on the back of a pick-up truck or in a car and observing vegetation.

Q. Is that the usual way of operating a vegetation survey?

A. That is the usual way to conduct a vegetation survey.

Howard Lordley.

Q. Are these visits by the outside consultant
page 357 } announced ahead of time?

A. The visits by the outside people are not announced ahead of time. They come in on request of the parent company to its various properties.

Q. Mr. Lordley, at my request did you make a study of the service calls made in the area of the Cloutier home—

A. I did.

Q. —of about a year preceding this explosion?

A. I did, sir.

Q. And what did you conclude from your study of those service calls?

A. There were approximately eight service calls in this area, one of which indicated any leakage. Those calls consisted mostly of appliance repairs or pilots out, to turn on the heat or turn the heat off.

Q. As based on your experience in the business, is that a significant record for an area of four or five blocks?

A. That is a good record, because it indicates that there was no leakage reported by the customers. A large percentage of the leak calls for any gas company comes from the customers, either on the property or when they walk out of the house and smell gas at the street, and they, in turn, will call the company and it will be reported on a service call. Those calls are important and in all companies receive first priority.

Q. Will you tell us briefly just how a gas ex-
page 358 } plosion occurs?

A. Gas explosions don't follow any regular pattern. As we have heard previously, gas has an explosive range of from 5 to 15 per cent. If we are under 5 per cent, it will not explode. If we go above 15 per cent, it will not explode. That is the reason that we quite often will weld on one of these big gas tanks in the city and the gas might come out in the man's face and he can keep on welding, because the gas is above 15 per cent concentration.

If we assume that we have a room and gas reaches a concentration in that room above 5 per cent and we have a source of ignition, such as an electric light switch, a pilot light on an appliance, static electricity spark, the gas will catch on fire. Immediately when it catches on fire it releases heat, energy, which is transferred into a pressure wave. That pressure wave moves out in all directions from the source of ignition. In this room it would move out and hit all four walls. The weakest point will usually be pushed out.

Howard Lordley.

In this case we had a front wall of the basement which had no dirt on it; that being the weakest point, the wall apparently was pushed out by the explosion. The gas that is pushed out by the explosion tends to suck behind it other gas which may be in the basement or in the room. If that gas falls within the range of 5 to 15 per cent, either by mixing with more gas or with air, it in turn will catch on fire, and we have, along with the explosion, a fire.

page 359 } In one explosion in Rochester, New York a number of houses were involved in one block.

Mr. Allen : Is this pertinent?

Mr. Timberlake: I don't understand if this is based on this witness's personal knowledge or not.

The Court: Did you investigate this?

The Witness: No, sir, I just read some reports. I will withdraw that.

On personal, I have been investigating gas explosions since 1946. On some of those explosions we have only the explosion itself and no fire following the explosion. On others we have a fire following the explosion which either destroys the building or the room, depending upon the time that the fire department arrives.

So in gas explosions, to summarize, you can have a gas explosion without fire following it, you can have a gas explosion with fire.

Q. Suppose gas is leaking into such a room as you are referring to in your previous testimony. Will you describe to us how that gas will act as it comes into the room?

A. If gas comes into a room, it is lighter than air, it will tend to rise towards the ceiling, to rise up a stair well going into the basement, for example, but it will not remain up in the ceiling as a perfect divided line, because in

page 360 } every room you have convection currents that cause the air to move around in the room, and some of the gas that is in the ceiling will be brought down near the floor. If we take smoke and put it in a room and there is a heating system in the room, you will notice that the smoke will twirl around to some extent. If you live in a house with two floors and you take a seat down at the stairs, you will feel cold air coming down the stairs and warm air rising, causing the circulation within the ordinary house.

Q. Mr. Lordley, have you at our request made an investigation of the explosion and fire about which this case is involved?

Howard Lordley.

A. I have, sir.

Q. Will you tell us the nature and extent of that investigation?

A. On my visit to Waynesboro I visited the site to familiarize myself with the location of the company's facilities and the customer's facilities. I examined the reports made by the local office to Mr. Wiggins, I read the newspaper accounts, I looked at photographs and the meter and regulator and a piece of pipe at the office of the company.

Q. Tell us whether or not in the light of your professional experience your investigation was sufficiently extensive to enable you to formulate an opinion as to the cause of this explosion and fire.

A. It was, sir.

Q. Did you consider more than one possible
page 361 } cause?

A. Yes, sir.

Q. What were they?

A. In the first place, I looked for a break on the company's mains in the street. I looked for a break on the company's part of the service connection to the house. I looked for a break on the company's service line and piping within the house. I looked for faulty gas.

Q. Are you referring to the company service rather than the house, did you intend to say that?

A. I am sorry, the customer's service line and piping within the house, with the possibility of a faulty appliance. I also checked the possibility of a slow leak in each of those locations.

Q. What did you conclude with respect to a slow leak, Mr. Lordley?

A. The amount of gas required in an explosion of this type runs into such a considerable amount that I concluded that a slow leak could not deliver to this basement a sufficient quantity of gas in a period of approximately 45 minutes to have caused this explosion.

Q. Why do you say 45 minutes?

A. It has been put into evidence in this court that the floor furnace in the basement was inspected by the plaintiff at approximately around 9 or 9:15 on the night of the explosion
and that there was no odor of gas and everything
page 362 } was functioning properly. Then some 45 minutes
later the house blew up. A slow leak could not deliver a volume of gas into a basement in that period of time.

Q. Have you made any computations of the volume of gas

that would be required to be in this basement to reach explosive proportions?

A. I have, sir.

Q. What are your computations of that?

A. First, I took the approximate size of the basement, which is about 24 feet by 26 feet. That gives me 624 square feet. The ceiling, including the space between the joists, is approximately 7, so 7 times that will give me 4,368 cubic feet of space in the basement.

We can use either of two figures. If we need 10 per cent gas in the basement, we would have to have 437 cubic feet of gas to mix with the air to produce 10 per cent.

Q. Why did you select 10 per cent?

A. I selected 10 per cent because the evidence shows that the expert witness for the plaintiff in this case has testified that 10 per cent is the figure normally used, and it is a reasonable figure to use.

Q. All right, go ahead.

A. In the gas industry we have assigned certain leakage barriers to certain types of leaks. On leaks of the type found on the service connection here and on the main it required—

page 363 } Mr. Timberlake: Now, this witness is testifying about a leak found in a service connection, Your Honor, and there is no evidence whatever in this case that there was a—

The Court: Leak on a service line?

Mr. Timberlake: I presume that he is testifying with reference to this piece of pipe.

The Witness: No, sir.

By Mr. Pasco:

Q. What are you referring to, Mr. Lordley?

A. The company's witness has already testified that they put a mercury pressure test on the service pipe from the curb cock to the meter and that the pressure dropped three-quarters of an inch of mercury and therefore it indicated a small leak on the service pipe. It is that leak that I am referring to.

The Court: All right, go ahead.

The Witness: A leak of that nature couldn't be greater than 5 cubic feet per hour. Five cubic feet per hour divided

into 347 gives you approximately 88 hours to build up a 10 per cent mixture. If we go to the lower limit of 5 per cent that would be 44 hours to build up that concentration in this basement.

By Mr. Pasco:

Q. Have you examined this piece of pipe that has been introduced as Defendant's exhibit in this case?

A. Yes, sir.

page 364 } Q. What does this indicate to you, sir?

A. May I examine it again?

Q. Yes. (Handing.)

A. I can talk better with something in my hands. A nipple was screwed into this elbow. In my opinion there was a fracture in the nipple prior to the time of the explosion. Now, that fracture may or may not have gone all the way through the metal, but we are dealing with such low pressure on a gas system within your house that the pressure can be retained by just the dope that was on the threads or by the paint that may have been there.

About two-thirds of it appears to me to have been fresh, and about a third of it where it is thin was probably fractured when the thread of this nipple gave way. It is a common type of failure in a pipe nipple where you have threads.

Q. Did you reach any conclusion as to the probable cause of this explosion?

A. I did.

Q. Will you tell the Court and jury what that conclusion is based on in your professional experience?

A. Before I give you the probable cause, I have already explained that—tried to work on a slow leak, first, and I have given you reason why I do not believe it could have been a slow leak. I next checked the possibility of a failure of the appliance. I eliminated this, because the appliances used on gas systems are approved by the American Gas

page 365 } Association. They have the necessary safety precautions and controls to eliminate accidents.

I talked with company witnesses and read their reports and there was no indication that the floor furnace itself had exploded. It was removed from the house without damage.

I then came to the probable cause of the explosion was a sudden rupture of the piping beyond the meter in the

customer's premises. It had to be a rather sudden rupture to deliver this volume of gas into the basement in a period of 45 minutes to build up the necessary concentration for the explosion, and I concluded that the probable source of that gas came from this ruptured pipe.

The Court: You mean through that little space you pointed out there?

The Witness: Yes. The pipe itself was in position. It had already been stretched to a point that a movement of any type on the pipe was the straw that broke the camel's back; that pipe just sheared off at that point. I have investigated at least six explosions in which this same type of thing has happened, where the elbows and nipples have broken and caused gas to spew into the wall or into the building.

The Court: I understand you to say that this factor, which obviously had been there for some time, was probably brought about when the thing was installed, that for some unknown reason this pipe all at once just on its

page 366 }

own motion, so to speak, just sheared off?

The Witness: I will explain that to you, sir.

The Court: I wish you would.

The Witness: The pipe was under what an engineer refers to as a maximum stress. Any movement of the pipe will cause it to finally shear off completely. Now, that can be caused by a number of things. If a person went into the basement and hit the pipe, if he hung a heavy weight on it—for example, along this pipe is lots of copper wire; I don't know whether there was anything hanging on it or not, it's just wire there—that pipe, the vibrations of the floor furnace starting up could have caused this metal to shear. It has been introduced in evidence that the floor furnace made a funny noise. Maybe the gas valve that opened caused it to vibrate. That, in turn, went back through the pipe and caused it to break.

Outside of the house we had the cold weather, and the evidence will show that the ground was frozen. Now, frozen ground tends to heave. If it was already sheared and we got a little ice under the pipe outside, it lifted the whole pipe and meter assembly up a little bit and the pipe broke. The reason that it broke at this point was because this pipe was probably under and attached to the joists and it couldn't move up or down. It was attached at that point. It is for that reason

that I believe that the pipe broke by either vibration, by movement or by temperature change.

page 367 } Q. Mr. Lordley, what sort of flame does natural gas make when it is burning at the end of a service line?

A. It burns with a yellow flame.

Q. Under what conditions does it burn with a blue flame?

A. Well, the best example is a gas range. It burns with a blue flame then, and the reason that it burns with a blue flame, you have a burner tube which has a funny name called a venturi. When the gas jet goes into the throat, this little throat of a tube, it creates a suction. It pulls along with it what we call primary air. That air goes in along with the gas, and when it comes out of your burner it is blue. If you take the burner off your gas stove and light the gas right at that little spud where it is coming out, it will burn a yellow flame, but it must be properly mixed with air in a designed device.

Q. Can you tell us whether or not in your opinion it was natural gas burning at the end of this drain pipe about which there has been testimony in this case?

A. In my opinion, if it was burning with a blue flame, it was not natural gas.

Q. Are you familiar with the type of floor furnace that was in this house?

A. Yes, sir.

Q. Does the operation of that furnace create a vacuum?

A. No, sir. It does not—I will have to qualify that. The operation of a furnace in an air-tight room would page 368 } create a vacuum. In the average basement there is enough cracks and air known as infiltration air to keep the furnace from creating a vacuum in the basement.

Q. Suppose you had an air-tight basement. Where would the air come from?

A. The air in that case would come down the same stack or vent pipe that the fumes were trying to go up, because that is an open pipe that goes on out through the roof.

Q. Could you make a little rough design to explain that to the jury?

A. Yes, sir. May I move over to the wall? I am not an architectural engineer, but I will try to draw. Let's put the basement floor down first and cut a hole in it. This is the

Howard Lordley.

first floor. Now, when you put a floor furnace in this house, we come in and put a metal container down in the floor. I know all of you have seen them. It has a little grillework over here that gets very hot.

Now, within that box we build what is called a heat exchanger. It is nothing but a stove built inside of this box, and I will build a little flame down in the box, and that is natural gas burning. Put a little baffle plate up in here, and when this thing burns in here, you have to have a smoke stack on it or a vent pipe, so just for the purpose of this drawing I am going to put a little vent pipe up here and make it black to show where it is going.

page 369 } Your air in the house will come in and spill down into this metal box. It doesn't go down in the basement, it just stays in the metal box. This heat exchanger is hot, so that takes the air around here and warms it up and it comes on back up and keeps you nice and warm. The baffle keeps the cold air from mixing with the flame. Some of them are fancy and put a little blower down in here so as to make it move a little faster.

But this air in the house never gets to the basement. There is a little bit of air down in the basement that goes in with this gas, and it is that small amount of air that is required for combustion.

Now, I want to move over away from our floor furnace and show you what we do to make your gas equipment safe. This is a floor furnace, this part right here. This is called a downdraft converter, this mechanism we see here. If this room was tight and we pull a vacuum on a room, in other words, we create and try to pull something in, this is a chimney, so the air comes down the chimney, comes right into the room. That downdraft converter is there for a purpose. If the wind is blowing real hard and it blows down your chimney, if we didn't have this downdraft converter to blow it out on the room, it would blow right down on this fire and put the fire out, and then you wouldn't have any heat. So the downdraft converter is built to relieve downdrafts and also to pull in a little bit of air in here

page 370 } and mix with the flue cloud that goes on out. So when you have a vacuum in the room and this is coming down this way and the floor furnace is sending heat up in here and combustion products, this air pulls those combustion products out in the room and you have carbon monoxide. Carbon monoxide, sometimes you can smell it and

sometimes you can't, and that is the reason that many people are killed by closed houses, because the flue becomes stopped up from bricks dropping in it, something *appens* and the flue product just spills right out into the room, and that is the reason we have many carbon monoxide deaths.

Q. All right, Mr. Lordley, thank you.

Are you familiar with the type of curb cock box that was installed at this premises?

A. Yes, sir.

Q. What is the purpose of that curb cock box, Mr. Lordley?

A. The purpose at this premises was to protect the gas cock and make it accessible.

Q. Did it have any other safety function?

A. The particular design used by this company has three holes in the top of it. Those holes are convenient places to put your probe of your combustible gas meter in, and if you had leakage, it would vent leakage out. It is not installed for that purpose. In many companies and in my own company the top of the box is a solid cover and does not have any holes in it. They use this same box in the Virginia page 371 } Gas Distribution Company against the foundation walls where a pipe goes through, so this box that we are talking about can be used for two purposes in this company. It can be used out over the curb cock in the street, or it can be used as a vent at the foundation wall where pipe goes through.

To illustrate what I mean, by a vent, if this pipe goes through a concrete wall below ground, it is possible for gas to travel along the pipe and go into the building. So for safety reasons, the company installs right at the foundation wall a vent which is the same box that comes up with the three holes in it, so if gas does come by here, it will vent out.

Q. Was such a curb box necessary at this installation?

A. At this installation a vent as a curb box was not required, because the customer service pipe came over to this point and out of the ground which serves as a vent. Then it rose and went through the foundation walls.

Q. Into the house?

A. Into the house.

Mr. Pasco: That's all, thank you. Will you answer the questions of these gentlemen?

Howard Lordley.

CROSS EXAMINATION.

By Mr. Allen:

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Q. All right. Mr. Lordley, the conclusions you reached in connection with the cause of this explosion, am I correct in stating that that presupposes the prior rupture of this line that has been put in evidence?

A. Yes, sir.

Q. That is the supposition that this line ruptured prior to the explosion rather than as a result of the explosion?

A. My statement that I made as to the probable cause was based upon this pipe rupturing prior to the explosion and not as a result of the explosion.

Q. Now, then, I take it you are also basing this opinion on the supposition that there was not an appreciable amount of gas in the basement at nine o'clock when Mr. Leo Cloutier went down to the basement?

A. That is correct.

page 377 } Q. Are you also not basing this conclusion on the further supposition that there was not a strong detectable odor of gas on the exterior of the house some four hours before the explosion at the DeWitt and Florence Avenue intersection?

A. I am not basing this conclusion on that factor, no, sir.

Q. Well, then, isn't your conclusion inconsistent with the evidence that has been so far uncontradicted in this case?

A. No, sir.

Q. Your conclusion, then, did not take into consideration at all the existence of large quantities of gas outside the premises?

A. I have not examined any records that indicate the large quantities nor heard any evidence in this court that indicated large quantities.

Q. You did hear the evidence of Mr. Fuller of detecting a strong odor of gas at 5:45 and 6:35 p. m.?

A. Yes, gas can be detected at 1 per cent concentration by the average person. That is not, in the gas industry, a large quantity of gas.

Howard Lordley.

Q. But you did hear that testimony?

A. I heard the testimony that he detected the odor of gas, but in my opinion that is not a large quantity of gas.

Q. In your opinion, you say that his testimony did not indicate a large quantity of gas. Would you go further and say that it did not indicate a small quantity of gas?

page 378 } A. No, sir, because he would have to go into further evidence than was produced here to give an answer to that question, which I will be glad to do, sir.

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(Whereupon, the Court and counsel retired to chambers, where the following proceedings were had:)

Mr. Edmunds: Now, Your Honor, we want to at this time, at the conclusion of all the evidence, renew the motion we made yesterday; that is, to strike the plaintiff's evidence and dismiss the case, on the same grounds as stated yesterday.

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The Court: Well, I tell you gentlemen, I think there is some slight evidence, I don't think it is a very strong case, but I think there is a possibility to let the jury see what they can do with it. And we will have another shot at it later on, I guess. I will overrule it for the time being.

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Mr. Pasco: If Your Honor please, we move the Court at this time to set aside the verdict of the jury as contrary to the law and evidence, without evidence to support it, and on the

ground that the verdict is excessive under the evidence in this case, and for the other grounds assigned to Your Honor in support of our prior motions of a similar nature at the time of conclusion of the plaintiff's evidence and at the time of the conclusion of all of the evidence.

The Court: Well, obviously, I could not pass on page 397 } the motion now.

Mr. Pasco: If not, we would like to have an opportunity to have the transcript prepared and opportunity to be heard.

The Court: I would like to see the transcript of the plaintiff's evidence taken in a case of this kind. It is obviously impossible for me to remember the detail of evidence. I would like to have an opportunity to read it. It is of some length. So if you will have the evidence transcribed, I will fix a time for you to be heard at a later time. So that the motion will be taken under advisement.

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A Copy—Teste:

H. G. TURNER, Clerk.

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