

I N D E X.

	Direct	Cross	Redirect	Recross.
Nellie Goldstein	2	14		

0014

COURT OF SENATE SESSIONS OF THE PEACE,
CITY AND COUNTY OF NEW YORK, PART VI.

-----X
THE PEOPLE OF THE STATE OF NEW YORK : B e f o r e
vs. : HON. THOMAS C. T. CHAIN, J.
BESSIE RICHMAN. X and a jury.
-----X

New York, February 20, 1918.

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STENOGRAPHER'S MINUTES.

Frank S. Beard,
Official Stenographer.

The Court's Copy.

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duly sworn and sworn.

ancuso opened the case to the jury on behalf of the people.

MR. DICKHEISER: I ask your Honor at this time to compel the District Attorney, in view of his opening statements setting forth with great particularity the method and manner in which it is alleged the crime charged in the indictment was consummated, that he be required to elect on which count of the indictment he relies upon. Your Honor will observe that the second count of the indictment says: "In a manner unknown", and in view of the fact that the District Attorney has explicitly recited the manner--

THE COURT: No, I do not think I will compel that election now.

MR. DICKHEISER: I respectfully except.

WILLIE GOLDSTEIN, duly called and sworn as a witness upon behalf of the people, testified as follows:
(The witness states that she resided at 905 Beck street, the Bronx.

DIRECT EXAMINATION BY MR. MANCUSO:

Q Are you married, Mrs. Goldstein? A Yes, sir.

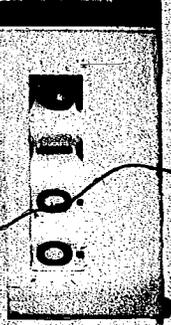
Q And you live where? A 905 Beck street.

Q How long have you been married? A Eighteen years.

Q How many children have you? A Four.

Q Do you know the defendant, Mrs. Bessie Richman?

A Yes, sir.



A It was the nickel, I suppose, the way they use it--

MR. DOCKHRISER: I move to strike out "the way they use it."

THE COURT: Strike that part out.

Q Did you see her take this article or instrument which you describe from any place? A From a little small dish; she had a white dish.

Q Where was this dish with reference to the lounge or couch where you were lying? A I was laying on here, and the table was right there. (Indicating) It being that my head was lower, I could not see exactly on the table.

Q And when you complained that the first instrument pained you, did she take that first one out? A Yes, and put a smaller one in.

Q Did you see her take the smaller one? A I saw her take the smaller one.

Q Can you give us a description of the form of the second instrument? A It was the same as the large one, the first one.

Q What color was it? A Also the same.

Q Nickel? A Yes.

Q Did she use that? A She used that.

Q What did she do with it? A She had also put that in the same way as the first one, and that also pained me, but not so much.

Q Did you say anything to her then? A Nothing; and she says, "I will fix you up", and she packed me up. That is what,

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she said. She packed me up.

Q And what did you do then? A That is all. I went out, came into the dining room where my sister was, and I told her, I says, "Did you know", I says, "that I was bleeding"-- my sister. She says "Yes, it is all right, she says. I packed her up; she will be all right. And I paid her fifteen dollars.

Q Did you go home then? A I went right straight home.

Q When you went home that day, did anything happen to you? A Nothing.

Q The next day, June 2nd? A Yes, I had pain.

Q And what did you do? A I called her up on the phone, and told her.

Q Did you speak to her? A Yes.

Q What did she say to you?

MR. DICKHEISER: I object unless the witness can identify the voice of the defendant.

Q You called her up on the phone? Did a person answer at the other end of the wire? A Spoke to me in Jewish.

Q Did you ask her who she was? A I knew her voice.

Q And you spoke to her in Jewish, did you? A Yes.

Q And she spoke to you in Jewish? A Yes.

Q Did you recognize that voice? A It was hers.

Q Whose voice? The defendant? A Yes, sir.

Q Will you tell us what she said? A She said in Jewish that everything will be all right.

Q Anything else? A That was all; told me to wait for

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another day or so.

Q Did you wait? A I did.

Q The next day did you have any conversation with her?

A No, because everything was just the same.

Q Did you speak to her on the following day? A No, Saturday; that must have been around Saturday.

Q Well, did you speak to her on Saturday? A She came down.

BY THE COURT:

Q Came down where? A To see me.

BY MR. MANCUSO:

Q You mean she came up. You lived in the Bronx, did you?

A No, in Harlem, at that time.

Q Whereabouts in Harlem? A Madison Avenue.

Q And she then came to your home? A Yes.

Q Where were you at the time when she came there? A In my room; I was in the front room.

Q Were you in bed? A No, I was walking around.

Q When she came to your home did you have any talk with her? A Yes, I told her how I felt, I had pain and all this and that, and she says it will be all right.

Q Did she look at you? Did she examine you then? A No.

Q Did she have anything else to say to you that day?

A No.

Q Did you see her the following day? A No. Sunday; I didn't see her Monday.

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Q Were you in bed on Sunday? A Yes, I was in bed Saturday day.

Q Anything happen to you Saturday? A Saturday night.

Q What? A The after birth came.

Q Tell us what happened to you? A When it came, a large tube came out.

Q What happened to you on Saturday night? A Saturday night the tube had come out.

Q What kind of a tube? A A red tube, and in the tube there was a large wire drawn through it.

Q Was it a rubber tube? A It was a rubber tube.

Q Anything else come out with the tube? A The wire out and a little piece of packing.

Q What else? A That was all.

Q You said something about after birth? A That came out a day after that.

Q This was on a Saturday night that the tube came out?
A Yes.

Q But nothing happened to you on Sunday, the following day? A Sunday it came out too-- all the other pieces came out.

Q Well, how many? A I don't know. It was a few large pieces came out, and she came up and she examined me and she said there was some more to come.

Q When was this, Sunday? A Sunday.

Q And you told her Monday what had happened to you on

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Saturday and on Sunday? A Yes.

Q What did she say to you? A She said everything will be all right.

Q She told you that some more would come out? A Yes, come out, and said everything will be all right.

Q This was on Monday. Did she examine you then? A No.

Q Did you see her again after that? A Yes, my husband called her up twice sometime, and asked her what should be--

THE COURT: No, no. Just pay attention to the question.

Q After your husband's telephone conversation, did you see her? A She was up to see me.

Q And what happened then? A Nothing. I had fever at the time when she came.

Q After Monday when she told you that more would come out, did any more come out? A Nothing.

Q When she came to you on the following day, which was Wednesday or Thursday, did she say anything to you about a doctor? A No, she didn't say nothing then.

Q Did you call a physician? A I didn't call him. She called her physician.

Q Do you know his name? A No, sir.

Q Did she tell you his name? A No, sir.

Q And did her physician come there? A He came there.

Q And he examined you? A Yes, sir.

Q Was she there at the time? A No, sir.

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Q What did the physician do to you? A Just examined me. He said that--

THE COURT: No not what he said.

Q Did he do anything to you? A Nothing.

Q And after this physician came there did you see your own physician? A A few days after that.

Q What is his name? A Dr. Raphaelson.

Q Did he examine you? A He just examined me by the pulse.

Q Did he perform any abortion or anything? A Nothing.

Q And after the talk with Dr. Raphaelson, did you go to any hospital? A To the Harlem Hospital.

Q Who was the physician that treated you there? A I don't know; there were so many.

Q How long did you remain in the hospital? A Pretty near three months.

Q At the Harlem Hospital? A Yes.

Q Was anything done to you there? A The eye was removed.

MR. DICHEWISER: I object, if your Honor please, as entirely incompetent, irrelevant and immaterial and disconnected with the issues in this case, and prejudicial and inflammatory. I submit there is no foundation laid for its connection.

Q Well, is it true that the condition, as it may have been found to exist by the doctor in the hospital, may be re-

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garded as some evidence of what was done to her was in some way connected, preceding that examination? Isn't that so?

MR. DICKHEISER: Conceding argumentatively, if your Honor please that the physician in the hospital could be deceived as to the conditions which he observed --

THE COURT: I think I will exclude it for the present.

MR. DICKHEISER: And I ask your Honor to strike it from the record and to instruct the jury to pay no attention to it.

THE COURT: I will strike out the answer.

BY THE COURT:

Q Was there anything done to you there? You will answer either yes or no or you don't remember. A Yes, there was.

BY MR. MANCUSO:

Q Was there anything done with reference to your privates?

A Nothing.

Q Was there any more after birth removed at the hospital?

A Nothing.

Q You say you remained at the hospital for a period of four weeks or ten days or what? A Three months.

Q And then where did you go? A I went home and I was home five weeks, and I called a professor, and he said --

THE COURT: No, no. Don't tell us what he said. Please just confine yourself to the question.

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Q What is the professor's name? (No answer.)

Q Was he connected with any hospital? A No, sir.

Q Do you know his name? A I don't know his name exactly.

Q Do you know where he lives? A I don't remember exactly.

Q When you called this professor, did he do anything to you; yes or no? Don't tell us what he did? A No.

Q After the talk with this professor did you go to another hospital or another physician? A Mount Sinai.

Q When did you go to the Mount Sinai Hospital? A I don't remember.

MR. DICKHEISER: I submit, if your Honor, please, this is all incompetent, irrelevant and immaterial. All of this happened after her discharge from the Harlem Hospital.

THE COURT: This is the first time you have taken an objection on that ground. I think temporarily I will exclude it Mr. Mancuso.

CROSS EXAMINATION BY MR. DICKHEISER:

Q Mrs. Goldstein, you said in answer to the district Attorney's question that you had four children? A Yes, sir.

Q You had five, didn't you? A I lost one.

Q Yes, but you have had five children? A Yes.

Q And you have had quite a few miscarriages before June, 1916, didn't you? A Yes.

Q How many? A I don't remember.

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Q Well, did you have two, three, four, five, -- A I cannot remember that.

Q Well, you had at least four of them? A No, I didnt have no four.

Q Didnt you tell the doctors in the hospital that you had four miscarriages besides five children? A No.

Q Are you sure you did not? A No.

Q Well, did you have three miscarriages before you ever saw the defendant? A No, I think I had three. I had two, may be.

Q At least two? A Two.

Q Possibly three? A I don't remember.

Q You would not remember? When I use the word "miscarriage", I don't refer to duration of pregnancy-- I will withdraw that question. Did you have any miscarriages which do not figure among the two when the pregnancy was, in a very early stage, like two or three weeks? A Yes.

Q Well, how many of these miscarriages of this kind did you have besides the two miscarriages that you have figured?

A There are the two.

Q Those are the only two? A Yes.

Q Do you remember at the hospital your history was asked of you, and you stated you had five full term children and four miscarriages? A No.

Q Did you have a still birth? A No.

Q Now, these miscarriages you had before you saw Mrs.

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Richman were natural miscarriages, or were they conducted by yourself? A They was not natural.

Q They were not natural? A No.

Q You actively aided in bringing them on didn't you? A I aid.

Q And of course, the defendant Mrs. Richman had nothing to do with any of those miscarriages? A No.

Q She had nothing to do with them? A No.

Q So that you have had some experiences in miscarriages, hadn't you before you saw Mrs. Richman? A Yes.

Q And you knew something about the method employed in bringing on your prior miscarriages, didn't you, before you saw Mrs. Richman? A Yes.

Q And you knew before you went to Mrs. Richman that your womb had to be opened up, didn't you? You have the experience? You had had instruments inserted into you before, hadn't you? Is that right? A Well, sir.

Q In fact, at the time when your children were born, instruments were used on you too, weren't they? A No.

Q Were not you torn? A No.

Q You didn't know as a matter of fact whether you were lacerated around the vagina or the neck of the womb? A I didn't know that.

Q Were not you sewed? A No.

Q You did your own housework, didn't you? Kept no servants? A No.

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Q Did the washing and cleaning and scrubbing? A Yes, everything.

Q And all the general housework? A Yes.

Q And lifted up boilers in washing? A Yes, sir.

Q Didn't you tell the doctors in the hospital that the miscarriage occurred in June, 1916 from your lifting up a boiler? A No.

Q Well, the doctors in the Harlem Hospital-- I will reframe the question. Did the doctor or doctors in the Harlem Hospital ask you how you came to have your miscarriage in June, 1916? A Yes, sir.

Q You didn't tell them anything about Mrs. Richman having produced a miscarriage on you? A No, sir.

Q You said not a word about that? You told them what? What did you tell the doctors in the Harlem Hospital in June, 1916 relative to the cause of the miscarriage-- A I just told them that I had fell down.

Q Yes, you told them you had fallen down. Did you tell them that you had lifted up your boiler or something like that?

A No, sir.

Q Did you tell them that you had douched yourself with some agate irrigator to bring it on? A No.

Q Didn't you have an agate irrigator? A No.

Q Didn't you have an agate irrigator in your ownhome?

A Yes, I have one but I did not use it.

Q What did you have the agate irrigator home for if you

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did not use it? A Well, I haven't used it for that case. You have to use that otherwise.

Q Well, did you use an agate irrigator just for a case? Don't you use an irrigator for ordinary vaginal douching, regularly? A Yes, that is what I use it for.

Q Then you did use that agate douche irrigator in May, 1916, didn't you? A Yes.

Q And you used it in June, 1916, didn't you? A No, I wasn't home then.

Q Don't you remember -- you say in your testimony that it was on the first of June, 1916, that you visited the defendant the second time, you were living home then, were you not? A I went to the hospital.

Q Well, you didn't get to the hospital until the--
A The 12th of June.

Q Well, then, you were living from the first to the 12th of June home? A Yes.

Q In the early part of June, 1916 you used that agate irrigator, didn't you? A Yes.

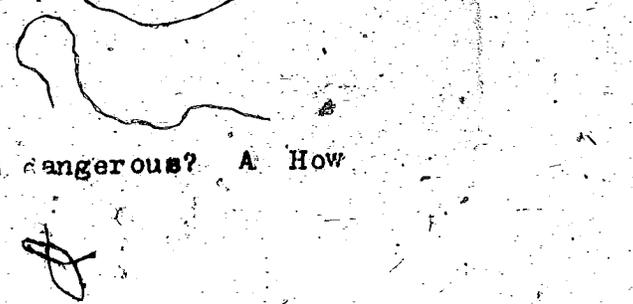
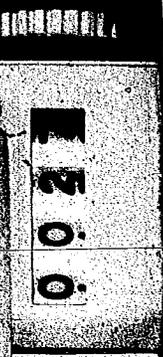
Q And when Mrs. Richman came to your house in June, 1916, she attempted to use the agate irrigator that you have in your house, and that you had used, on you, didn't she? A Yes, sir.

Q And then she declined and refused to use it, didn't she? A She did use it.

Q Did she use it on you? A Yes.

Q Didn't she say it was rusty and dangerous? A How

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could it be rusty, if it is a white one, a white enamel.

Q Didn't she say it was rusty and dangerous? Didn't she say that, whether it was a white one or whether it was not? A She said it was dusty.

Q Oh, she said it was dusty? A Yes.

Q Not rusty? A No.

Q Your understanding was she said dusty not rusty? A Yes.

Q How long before June, 1916, did you buy that agate irrigator? A I have that a few years.

Q Well, what is a few years? A Well, about six or seven years.

Q You have had that agate irrigator in your home for six or seven years? A Yes.

Q And during those six or seven years you have been using it constantly? A Yes.

Q Sometimes you put hot water in it, don't you? A Yes.

Q Sometimes cold water, don't you? A No, never used--

Q Sometimes there wasn't hot water, and then you used cold water? A No, could not use cold water.

Q Warm water? A Well, it would have to be hot.

Q And sometimes you used lysol or carbolic acid or some other chemical, didn't you? A No.

Q With plain water? A That is all, I used to use, a little salt.

Q You used a saline solution with which to douche yourself? A Yes.

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Q And you did that frequently, didn't you? A Yes.

Q How frequently did you use this agate irrigator in these six or seven years that it was in your possession prior to June, 1916? A I cannot remember how many times I have used it. You can only use it once a week and twice a week, and sometimes more.

Q Well, if it was twice a week, it would be a hundred times a year? A Yes.

Q And five or six years would be five or six hundred times?

A Yes.

Q You have used it many hundreds of times, haven't you?

A Yes.

Q Do you mean to tell the jury that in the course of these six or seven years, some of the enamel of the irrigator had not fallen off and it was all white? A Yes, it is white.

Q Have you the irrigator? A Yes, I have.

Q Home? A Home.

Q Will you bring it? A Certainly.

Q The very same one? A The same one.

Q And no part of it off? A Not inside. it might be on the edge of it.

Q Part of it? A Not inside.

Q But some part, however, of the irrigator was rusty; is that right? A There is nothing rusty.

Q Well, some of the enamel would be off? A Well, then, it remains black.

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Q Some of it was without the enamel, is that right? A On top.

Q The water came out that way, didn't it? A How could the water come out there?

Q Sometimes in carrying it the water will spill out?

A Yes.

Q Sometimes in pouring water in, the water would come on top of the irrigator, and go into the body of the irrigator, and afterwards into the tube and into your system; is that right? Is that true? A Yes.

Q That would happen quite often, wouldn't it? A Yes.

Q Now, don't you remember that Mrs. Richman, when she came to your house in June, 1915, and saw this irrigator, that she said something which you understood, according to your testimony to have been, "Is it dusty" instead of rusty; that she did not use that? A She did use it.

Q She did use it? A She did.

Q How did she use it? A She just boiled water and washed it out; that's all.

Q She boiled water? A Put water into it and washed it out.

Q Who was present besides you and Mrs. Richman at the time of her visit to you in your home with respect to this conversation about the irrigator? A I could not remember.

Q Was there a neighbor of yours present? Do you remember Mrs. Eskinson? A Yes.

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Q Was she your neighbor? A Yes.

Q Was she present at the time? A Maybe she was.

Q You won't say no? A I don't remember.

Q That is a detail that you forget? A No, I don't forget.

Q Well, do you know whether or not it was she or some other neighbor who ran-- or rather who suggested the name of Dr. Stoloff? A I don't remember that name.

Q Didn't you testify on your direct examination that Dr. Stoloff was recommended by the defendant? A I didn't say that.

MR. MANCUSO: I object to it. She said she did not know the name of the physician who had been sent there.

THE COURT: Yes.

MR. MANCUSO: That Dr. Raphaelson, her physician, came there.

MR. DICKHEISER: My recollection is, according to my notes that she called her own physician.

THE COURT: Mr. Stenographer will you read the testimony.

(Testimony read.)

MR. DICKHEISER: I was in error.

Q When Mrs. Richman called at your house did you pay her any money at your house? A I don't remember. I gave her something.

Q You gave her some money at your house? A yes.

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Q Then you did pay her at your house? A I paid her at her house.

Q You gave her some money in your own home? A Yes.

Q How much money did you give her? A I don't remember whether it was a dollar or fifty cents.

Q Either a dollar or fifty cents you gave her? A Yes, besides the fifteen dollars.

Q You didn't give her fifteen dollars in your home? A No.

Q I am asking you about the money you gave Mrs. Richman at your own home on Madison avenue? A Yes, it was a dollar or fifty cents.

Q And that was after Mrs. Richman had douched you? A Yes.

Q Are you on friendly terms with your sister, who accompanied you? A We were.

Q Are you on friendly terms? A Not now.

Q Were you on friendly terms in June, 1916, and in May and June, 1916? A Yes.

Q Did your sister visit you at the hospital? A Yes.

Q And while you were at the hospital, you did not cause the arrest of Mrs. Richman, did you? A No.

Q It was only after you came out of the hospital? A Yes.

Q And after you had attempted to get some money from Mrs. Richman, and she refused to give you any money, that you caused her arrest, is that right? A I don't know nothing about it.

Q You don't know anything about it? A No.

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Q You don't know anything about any attempt to get money from Mrs. Richman? A No.

Q You don't know anything about any demand upon Mrs. Richman for money? A I don't know.

Q Well, did you ask in any way Mrs. Richman either directly or through your husband for money? A I didn't ask nothing.

Q Did you write any letter -- A No.

Q Let me finish my question. You wrote some letter?

A I didn't write nothing.

Q You know the answer to my question before I have finished the question. Did you write any letter of any kind to Mrs. Richman, the defendant? A I said no.

Q You write English, don't you? A Very little.

Q Is this in your handwriting? (Showing paper). A No.

Q Do you know who wrote that? A No.

THE COURT: Pardon me. Mark it for identification.

(The paper last referred to is marked defendant's Exhibit A for identification.)

Q I show you this letter, and ask you to look at it carefully, and tell whether it is your letter or not, and whether it is your handwriting or not (showing letter)? A No.

Q Read the letter carefully and tell whether or not you told any one to write it for you? A No.

MR. DICKHUISER: I ask you have that letter marked for identification.

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(The letter last referred to was marked Defendant's Exhibit B for identification.)

Q Did you have any conversation with your husband in which you requested your husband to write demanding money for you from Mrs. Richman? A No.

Q You did not? A No.

Q Do you know whether or not your husband wrote any letter for you? A Not as I know of.

Q I show you this letter and I ask you whether it is husband's in your handwriting? A No; my husband can't write English.

MR. DICKHEISER: I ask to have it marked for identification.

(The letter last referred to is marked Defendant's Exhibit C for identification.)

Q Is your name Nellie Goldstein? A Yes.

Q I ask you to look at this letter and ask you whether it is not in your handwriting? A No.

MR. DICKHEISER: I ask to have it marked for identification.

(The letter last referred to was marked Defendant's Exhibit D for identification.)

Q Now, read it and tell the jury whether you authorized any one to send it to Mrs. Richman? A No.

Q Did you go to the public schools? A Not much.

Q How far did you go in school? A Very low; I don't re-

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member.

Q The primary? A Yes.

Q You can't write yourself? A Not very good.

Q You don't recognize the handwriting of any of these exhibits that were offered to you? A No.

Q Do you know whether or not your husband spoke with the defendant concerning money to be given by her to you or to him? A No, I don't know nothing about it.

THE COURT: You have answered.

Q Did you consult a lawyer with respect to demanding or obtaining money from the defendant after your discharge from the Harlem Hospital? A No.

Q As a matter of fact you never brought a civil suit against the defendant for money damages? A No.

Q Nor did your husband? A That I don't know.

Q As far as you know your husband did not? A (No answer)

Q Do you mean to say that you don't know what your husband does? A No, I didn't know that.

Q Well, I didn't say that he brought it? A Well, I don't know.

Q You discussed your troubles with your husband, didn't you? A Yes.

Q Your husband knew that you were sent to the hospital, and he visited you there regularly? A Yes.

Q And he knew pretty nearly everything that you told him? A Yes.

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Q And you told him pretty near everything that you knew--

THE COURT: Now, proceed to something else.

Q How long after you had been discharged from the Harlem Hospital did you apply for the arrest of the defendant?

A I don't understand you.

Q Now, how long after you had been discharged from the Harlem Hospital did you go to some court or District Attorney or police station to get the defendant arrested? A No.

Q Do you understand the question? (No answer.)

BY THE COURT:

Q How much time passed from the time that you left the hospital until you took some steps to have the defendant arrested? A That must have been about a few months I was pretty near five months in the hospital.

BY MR. DICKHEISER:

Q Fivemonths in the hospital? A Yes, in both hospitals.

BY THE COURT:

Q Pardon me a moment. How much time passed after you left the hospital until you had, if you did have, the defendant arrested? A I don't remember.

(The Court thereupon admonished the jury and a recess was taken until February 21, 1918 at 10.30 a. m.)

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New York, February 21st, 1918.

10:30 A.M.

TRIAL RESUMED.

NELLIE GOLDSTEIN, resumes the stand.

CROSS EXAMINATION CONTINUED BY MR. DICKHEISER:

Q You were in the Harlem Hospital only three weeks? How long were you in the Harlem Hospital? A Near three months.

THE COURT: Madam, I asked you several times yesterday, and you did not heed what I said, that you were to answer questions in a tone that was loud enough to make it easy for every one to hear you.

THE WITNESS: I am trying to talk as loud as I can.

THE COURT: Now, you will speak so that you can be heard distinctly by every one.

Q In what month did you enter the Harlem Hospital? A Some part of June.

Q When did you leave the Harlem Hospital? A About September.

Q And after you left the Harlem Hospital you went home?

A Yes.

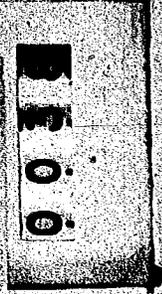
Q You stayed home? A Five weeks.

Q And after that period of five weeks you went to the Mr. Sinai Hospital? A Yes.

Q In what month did you cause the arrest of the defendant? Was it 1916 or was it 1917? A I don't remember; it must have been in 1917, I guess.

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Q It was after you had gone to Mt. Sinai Hospital; is that right? A Yes.

Q It was after you were out of the hospital? A Yes.

Q And after you were home for a long time, you caused the arrest of the defendant? A Yes.

Q You were living at home with your husband and children? A Yes.

Q When you caused her arrest? A Yes.

Q When you visited Mrs. Richman's house for the first time she did not examine you at all, did she? A No.

Q She had a conversation with you? A Yes.

Q Were you bleeding? A No.

Q Were you bleeding before you went to Mrs. Richman's house? A Not the first time.

Q Were you bleeding before you went to Mrs. Richman's house the second time? A Not as I know of.

Q Did you tell anybody before you went to Mrs. Richman's house that you were bleeding? A No.

MR. DICKHEISER: Mrs. Eskilsson, will you please step this way.

(A woman walks to the Bar.)

Q Do you know this lady? A Yes.

Q Do you recognize Mrs. Eskilsson? A Yes.

Q She was your neighbor, wasn't she? A Yes.

Q On Madison Avenue, in May and June 1917? A Yes.

Q Didn't you tell her before you went to Mrs. Richman's

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house that you were bleeding? A No.

Q Before you went to Mrs. Richman's house didn't you tell Mrs. Eskilsson that you had had a lot of experience, and you had had three or four miscarriages? A No, I don't remember.

Q Or that you had had four or five miscarriages? A No, sir; I don't remember.

Q Well, do you remember that you asked her to put lysol and other things of medicine in the agate irrigator; do you remember that? A When was that?

Q At any time? A No.

Q Did you at any time put lysol or any other acid, outside of a salty solution-- A The only time, when I was sick.

Q Did you use lysol? A Yes.

Q You did use lysol? A Yes, I was told to use it.

Q And you did use lysol in that agate irrigator, didn't you? A Yes.

Q Did you use anything else besides lysol in that agate irrigator? A No.

Q Yesterday you said you did not use any lysol. Is your recollection today better than it was yesterday? A Yes.

Q How is it you can recollect it now? Was it because you saw Mrs. Eskilsson in court? A No.

Q How is it that you recollect it now? A Because it was used. It had to be used when I was sick.

Q Didn't you complain to Mrs. Eskilsson before you went to Mrs. Richman's that you had discharges from you, from your

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privates and they were a great annoyance to you? A That only come at certain times.

Q Did you make such complaints to her? A Well, that is just--

THE COURT: Will you have the kindness to answer the question. Now, don't argue. Just answer.

THE WITNESS: Yes.

Q And were you not told by Mrs. Eskilsson that you ought to use lysol douches regularly in order to get rid of that?

A No.

Q Did you use lysol douches to attempt to relieve yourself of these discharges? A No.

Q Did you take any mustard baths before you went to Mrs. Richman? A No.

Q Or did you take any kind of hot baths for the purpose of getting rid of your pregnancy? A No.

Q Do you remember being in the bathtub, in your bathroom with Mrs. Eskilsson, and that you told Mrs. Eskilsson you had had lots of experience, that you know how to get rid of it? A No.

Q You don't remember, or you didn't tell her that? A I don't remember, and I did not tell her.

Q Which is it, that you don't remember and you didn't tell her, or is it that you did not tell her? A I did not tell her.

Q Were you in the bathroom at any time with her while you were in the bathtub? A No.

Q Did you use any tansy tea? A No.



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Q Do you know what tansy tea is? A I heard of it; I don't know.

Q Did you use any medicines of any character or any baths in order to bring on your own miscarriage? A No.

Q What did you do if anything to bring on your own miscarriage? A Nothing.

Q You know what a catheter is, don't you? A No.

Q Well, you have had five children, haven't you? A Yes.

Q Were not you ever catheterized, or water drawn out by means of a tube from you? A No.

Q Did you ever see a tube such as you have described as having come out of you with the blood clots and other things before that? A No.

Q Are you sure? A No.

Q You are not sure or you did not see one? A I didn't see any.

Q Where is that catheter or that thing or that tube that you say come out with the blood clot? A It was thrown out.

Q It was not kept by you? A No.

Q When you went to Mrs. Richman's house the first time did Mrs. Richman examine your throat, eyes, or anything? A No.

Q You didn't ask her then to perform an abortion on you, did you? A I told her I was so far back.

Q But you didn't ask her to perform an abortion? A No.

Q And she told you that you had better wait a few weeks longer; is that right? A Yes.

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Q And you paid her no money at the first visit? A No.

Q Your sister was with you? A Yes.

Q And your sister's name is-- A Rose Kleinbaum.

Q Is she in court? A Yes.

Q And you are friendly to your sister? A Yes.

Q And after you left Mrs. Richman's house the first time, what if anything did you do to yourself before you returned to her house the second time? A Nothing.

Q You didn't take any mustard baths? A No, sir.

Q And you didn't use any ergot? A No.

Q Or you didn't do anything to yourself of any character?

A No.

Q You are sure of that? A Sure.

Q Now, when you returned the second time, after a delay of a few weeks, you again called with your sister at Mrs. Richman's house? A Yes.

Q Tell this jury whether you removed your clothes or garments while you were in the room alone with Mrs. Richman? Did you take off your skirts or waist or hat? A No.

Q You kept your hat on? A No, I had that off in the dining room.

Q Well, did you take your hat off yourself, or were you told to take it off? A I was told to take it off.

Q And you had your waist on? A Yes.

Q Did you take off any underwear? A No.

Q You took no garments from yourself? A No.

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Q Excepting your hat? A Hat and coat.

Q Did you have a coat on in June? A Yes.

Q What is that? A Yes.

Q Now, you lay down on a Davenport or a couch? A Yes.

Q A Davenport, wasn't it? A I don't know whether it was a Davenport or a couch; something like it.

Q And when you say in your testimony that you were opened up, don't you mean that your external privates were widened or distended? Do you understand the question? If you don't, I will try to make it simpler. Did you understand the question?
A No.

Q Do you know what part of your privates is your womb and what part of your privates is your vagina, or the canal leading to the womb? A No.

Q You don't know the difference between your womb and your vagina? A No.

Q All you know is that when you were on the couch or Davenport, that some privates of yours were extended or separated; is that right? A No.

Q Well, they were separated, weren't they? The walls or the sides of your privates were put a little bit further away from each other than they had been before? A Yes.

Q Well, it was not a sharp pain to you, was it? A I had no pain.

Q You had no pain at all at that time? A No.

Q You had had pain before you went to Mrs. Richman's? A No.

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Q Didn't you have pains in your back? A No.

Q Didn't you as a matter of fact complain of pains, of suffering from pains all over your body and your head for upwards of six months prior to your visit to Mrs. Richman? A No.

Q Wasn't you head all bandaged up for six months or a year before you visited Mrs. Richman? A No.

Q Hadn't you consulted a specialist for your eyes, at least six months or a year before you saw Mrs. Richman? A No, my eyes were always perfect, but I had headaches.

THE COURT: Just continue to answer briefly, madam.

Q You had headaches? A Yes.

Q Wasn't your head bandaged? A No.

Q Did you wear a bandage around your head? A No.

Q Didn't your eye, as a matter of fact, six months or a year before you saw Mrs. Richman, change its position? A No.

Q You are sure? A Sure.

Q Do you know whether or not Mrs. Eskilsson, the lady in this court room, who looked at you before, ever talked with you about the change of position of your eye, at least six months or a year before you visited Mrs. Richman? A No.

Q You are sure of that? A I am sure.

Q When you were lying on the couch in Mrs. Richman's house, you had no pain when something was put into you? A Yes.

Q That thing was not left in you, was it? A No.

Q That thing was simply employed, so far as you know, to examine you, wasn't it? A I don't know. It hurted me; that's

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all.

Q But just a moment ago you said it didn't hurt you? A It did hurt me when it was set in.

Q But you said you had no pain? A Before it was set in I had no pain.

Q Well then, I want to clear it up. Did this thing or article which was put in you, and which widened a little bit the walls of your external privates cause you pain or not? A Yes.

THE COURT: Now, there are something contained in that question that are not in evidence. It assumes something not in evidence.

MR. DICKHEISER: I appreciate it, your Honor. Your Honor is perfectly right.

Q Do you know what a speculum is? A No.

Q You have seen those in a doctor's office, haven't you?

A No.

MR. MANCUSO: I object to these questions.

Q You have been to doctor's offices before, haven't you, in your other confinements, for examination? A No.

Q Were you confined by midwives always? A No.

Q The other four children were delivered by physicians, were they not? A Yes.

Q They examined you, didn't they? A No instruments.

Q When you had your miscarriages, you were examined by doctors, were you not? A No.

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Q You had doctors in other cases? A Yes.

Q I mean, in your other miscarriage cases? A Yes.

Q And did they put instruments into you after you miscarried?

A I didn't feel them.

Q Didn't they scrape your womb? A I didn't feel it.

Q Didn't they scrape your womb after the other miscarriages?

A I didn't feel it.

MR. MANCUSO: I object to the question as too remote.

It is not relevant or material.

THE COURT: I take it that the witness is unable to answer,

BY THE COURT:

Q Is that so, madam; you don't know? A I don't know.

MR. DICKHEISER: We can almost take judicial notice of the fact--

MR. MANCUSO: I object to the judicial notice.

THE COURT: Now, proceed, and ask another question.

BY MR. DICKHEISER:

Q Do you mean to say that you were scraped without feeling it? A Yes.

THE COURT: She said she did not know whether she was scraped or not.

Q Do you know whether you were scraped or not? A No.

Q Now, you were lying on your back and your head was looking and your eyes were facing on the ceiling? A No, they wasn't facing on the ceiling.

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Q Well, you were looking towards the ceiling? A No.

Q Were you looking at everything Mrs. Richman was doing?

A Yes.

Q And you saw a basin there? A Yes.

Q And water in it? A Yes.

Q Did you see anything like a bag? A No.

Q Do you know when the tubing was put into you? A I didn't know it until after.

Q I mean, do you know when the tubing was put into you at that time? A No, I did not.

Q Did you ever feel any water going inside of you? A No.

Q Were not you, as a matter of fact, douched at that time?

A No.

Q Or is it you don't know? A I was not.

Q Before Mrs. Richman did anything to you, she washed her hands, didn't she? A I don't know.

Q Did she leave your room to go to the adjoining room? A Yes.

Q Did she return to your room with a towel in her hand?

A No.

Q Wiping her hands? A No.

Q And you don't know whether or not she washed her hands, sterilized them, do you? A No.

Q Did she put some cotton on your privates after she was through with you? A Yes.

Q She told you you were bleeding, didn't she? A Yes.

Q Didn't she also tell you about a discharge? A No.

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Q Were you not discharging at that time? A I don't know.

Q Outside of bleeding? A I don't know.

Q Do you remember every word that was said, or are you trying to give your best recollection? A I don't know; the best I remember.

Q You had a lot of trouble at that time; you suffered, didn't you? A Yes, I did.

Q And it is hard for you to remember everything that happened, isn't it? A Yes.

Q So you do not undertake to tell this jury exactly every word that was uttered and every minute thing that was done by Mrs. Richman, do you? A Yes.

Q You remember every little thing? Everything that was said? A (No answer.)

Q You said you paid her some money? A Yes.

Q Did your sister see you pay that money? A Yes.

Q Where did you pay the money? A In the dining room.

Q Lest there be any mistake about it-- is your sister, who saw you give to Mrs. Richman money in the dining room on the occasion of your second visit to Mrs. Richman's house-- will you tell the Court and jury whether the sister you refer to is the sister in the court room? A Yes, Mr. Kleinbaum.

MR. DICKHEISER: Mrs. Kleinbaum, will you please rise and come forward.

(Mrs. Kleinbaum comes forward.)

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Q Is this Mrs. Kleinbaum, your sister, to whom you refer?

A Yes.

Q At that time your relationship was friendly with Mrs.

Kleinbaum? A Yes.

Q Since then it has been unfriendly? A Yes.

Q Then you sister and you are very much opposed to each other, aren't you? A Yes.

Q She does not visit you? A No.

Q Since your leaving the hospital? A No.

Q Didn't she ever have a conversation with you in which she scolded you for endeavoring to "shake down" this defendant?

MR. MANCUSO: —I object to the question "shake down". It has no meaning whatever.

THE COURT: I will sustain it.

Q Well, did you have any conversation with your sister, whom you identified in which she quarreled with you for trying to obtain money from the defendant? A No.

Q Did you have any conversation with your sister with respect to money to be received from the defendant? A No.

Q Did you have any conversation with Mrs. Eskilsson, your neighbor, with respect to money? A No.

Q To be obtained from the defendant? A No.

Q Do you know whether or not your husband, with your permission, had any conversation with Mrs. Eskilsson with respect to money? A I don't know.

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Q Did you ever tell him to talk to Mrs. Bakilsson ? A No.

Q About getting some money? A No.

Q When Mrs. Richman called at your house you had already miscarried? A Yes.

Q Didn't Mrs. Richman tell you before you left her house the second time that you were probably miscarrying then and that you would probably lose it and that the best thing you could do would be to be quiet? Didn't she tell you that? A I didn't get you.

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Q Didn't Mrs. Richman tell you when you were at her house the second time that she examined you and told you that you were bleeding, that you would probably lose it and that you ought to be perfectly quiet? A No.

Q Didn't she tell you that you were miscarrying at the time? A No.

Q Had you told her that you had lifted up a boiler? A No.

Q Did you lift up a boiler? A No.

Q You lifted up a boiler doing the washing in the house? A No, I didn't have to lift it.

Q Didn't you as a matter of fact, carry a boiler from one room to the other, full of clothes? A No.

Q Or without clothes, with water in it? A No.

Q You hire no wash woman? A No.

THE COURT: You have been over that before.

Q When Mrs. Richman came to your house after your second visit, she asked you for some cotton, didn't she, absorbent cotton? A Didn't ask me nothing.

Q Asked you nothing at all? A No.

Q Asked you no questions of any kind? A No.

Q Didn't ask you how you felt? A That was the only thing.

Q That was the only question, "How do you feel?" She didn't ask you "Have you got any pain?" A No, I didn't have any

Q Are you sure the only question she asked you is "How do you feel?" A Yes.

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Q Do you remember any conversation with her with respect to certain absorbent cotton that was wrapped up in a crocheted shawl of yours? A No.

~~Q You have a crocheted shawl, haven't you? A No.~~

Q Do you do crocheting? A No.

Q Well, you have a shawl any way -- you had a woolen shawl in June, 1917, didn't you? A No.

Q Didn't Mrs. Richman tell you that your house was in a terrible condition, that it was dirty, and that that was no way to keep cotton wrapped up in a woolen shawl, and that she refused to use that cotton? A I never kept it that way.

BY THE COURT:

Q Did she say that to you, Madam? A No, she did not.

Q As a matter of fact, didn't she tell you that the rooms needed airing and sunshine? A No.

Q You kept the windows closed? A No.

RE DIRECT EXAMINATION BY MR. MANCUSO:

Q You said that you used lysol. By whom were you told to use it? A By Mrs. Richman.

Q You didn't use the lysol in the irrigator, did you?
A Yes.

Q And you said that when you went to Mrs. Richman you were some months back. Do you know how many months? A No.

Q About two or three? A I don't know.

Q Did Mrs. Richman tell you? A No.

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Q What kind of a coat did you wear in June, when you went to Mrs. Richman on the second occasion? A A black coat, a long coat.

Q A long thin or a heavy coat? A Well, it wasn't a thin it was a heavy.

Q You said you had a miscarriage after you went to Mrs. Richman on the second occasion? A Yes.

Q Was that miscarriage of one or two unborn children?
Two.

MR. DICKHEISER: I object to it.

THE COURT: I cannot prejudice the defendant for the reason that you interrogated a number of the jurors regarding it before they were sworn. You asked the question yourself of those jurors. Under the circumstances I will allow the answer to stand.

MR. DICKHEISER: I respectfully except, on the ground that the interrogation by the counsel for the people--

THE COURT: It is immaterial, I will tell the jury now.

MR. MANCUSO: Your Honor permits the answer to stand?

THE COURT: Yes, I will allow the answer to stand.

BY MR. DICKHEISER:

Q Besides lysol you used iodine too, didn't you? A No, I didn't use it.

BY MR. MANCUSO:

Q You say that when you paid the fifteen dollars to Mrs. Richman your sister was present? A Yes.

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Q You would not swear as to whether or not she saw you give the money? A Yes, because she had the pocket book.

Q Your sister had the pocketbook? A Yes.

Q And did she give you the money? A Yes, she handed me the pocketbook, and I gave her right there.

Q Was that your pocketbook she handed you? A Yes.

Q Did you give it to her before you went into the room?

A No, sir.

Q Where did you leave the pocketbook? A By my sister.

Q With your sister? A Yes.

Q And when you came out you extracted the fifteen dollars, and you paid it to Mrs. Richman? A Yes.

R O S E K L E I N B A U M, duly called and sworn as a witness on behalf of the People, testified as follows:

(The witness stated that she resided at 133 West 116th street, New York City.

DIRECT EXAMINATION BY MR. MANCUSO.

Q Are you married, Madam? A I am.

Q And you are the sister of Nellie Goldstein? A I am.

Q Where did you live on the 1st of June, 1916? Did you live with your sister or uptown? A Oh, no. I really don't remember whether it was in 5 West 117th street or where I live to-day, 133 West 116th street.

Q Do you know Mrs. Richman, the defendant? A Since the occasion.

Q Do you remember visiting the defendant, with, your sister, during the month of May, 1916? A I remember I was with her.

Q On this first occasion, will you tell us what occurred? A Nothing really occurred.

Q Did you have a talk with Mrs. Richman? A No.

Q Did your sister have a talk with her? A Nothing that it amounted to much, just hello.

THE COURT: Madam, just have the kindness to tell us what took place. Now, you went in with your sister, and after you went in, what took place?

A Nothing outside of saying hello and how do you feel.

Q Did your sister have any conversation with the defendant at that time? A No.

Q Did you hear anything said about calling within two or three weeks later? A She did say she would come down two or three weeks later if she didn't feel any better.

BY THE COURT:

Q Who said that? A My sister.

BY MR. MANCUSO:

Q Now, on June 1st, did you again go to the defendant's place? A I did.

Q And what room did you go into with your sister? A In the dining room we were.

Q How long did you remain there? A I can't just remember.

Q Did your sister leave you at any time while you remain-

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ed in the dining room? A A few minutes.

Q Where did she go to? A That I can't say.

Q Did she go outside of the premises? A She went outside of the dining room into a private hall. The first room you come into is the private hall.

Q And you say she left the dining room and went into a private hall? A Yes, that is as far as I could see.

Q Did she leave alone or with Mrs. Richman? A I think Mrs. Richman and her went out together.

Q And at the time your sister left the dining room did she leave her hat in the dining room? A I really didn't see.

Q Or her pocketbook? A I think she gave me her pocketbook.

Q Within how many minutes after that did she return?

A Two or three minutes.

Q Did Mrs. Richman, before her sister came back to the dining room return to the dining room alone? A No.

Q Did they come together? A Yes.

Q Did you see your sister pay Mrs. Richman any money?

A No.

Q Did you give your sister the pocketbook? A She asked me for the pocketbook and I gave it to her.

Q Did she receive the pocketbook before she put her hat on or after? A That I don't remember.

Q Did you see her open the pocketbook? A No, I was reading.

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Q You don't know then, whether she took any money out of the pocketbook? A No, I didn't pay no attention.

Q When she took the pocketbook from you, how distant was she from you? A About three or four feet.

Q Did she walk away from there? A No.

Q Where was the defendant, at the time when you handed your sister the pocketbook? A About the same amount of feet away from her.

Q And then did you see your sister walk from the place or position where Mrs. Richman was? A No, she stood right there.

Q How long did you remain there after you handed your sister the pocketbook? A A few minutes.

BY THE COURT:

Q Were you seated while you were reading? A Yes, sir.

BY MR. MANUSO:

Q And when you gave your sister the pocketbook, did you continue reading? A I did.

Q What were you reading, a book or a newspaper? A A magazine.

Q Was the magazine held in such a position that you could not see what went on? A I didn't pay no attention.

Q You were not interested? A I was not.

Q Was anything said by Mrs. Richman on the second occasion after they returned from the other room? A No, only when we went home.

Q What did she say? A She says, "Go home and lie down,"

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and take it easy.

Q You say Mrs. Richman said that? A Mrs. Richman said that.

Q Anything else she said?

MR. DICKHEISER: I don't know that we understand the witness. The question is what did the witness's sister say.

MR. MANCUSO: No, I said what did the defendant say.

THE COURT: And the witness has told what this defendant said. Is that so, Madam?

THE WITNESS: Yes, sir.

Q Did she use any other words? A No, not that I remember, only that she says that she should go home and lie down, and take it easy, and she would be all right.

Q Was there anything said about her mental condition, not to worry, or anything like that? A That she told her. She said, "Don't worry; you will be all right."

Q Did your sister make any reply? A No, not that I remember.

Q And then what did you do? A We went home.

Q Did you see your sister after that day? A I think it was the following Saturday or the Saturday right next to that-- the Saturday that came after, we were down there, when they sent over for me.

Q Did your sister send for you? A Yes, they sent for me.

Q And you went to your sister's home? A Yes.

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Q Did you have a talk with her? Don't tell us what you said? A No, I am not going to.

Q Did you have a talk with her? A No.

Q How long did you remain there? A I never remained over fifteen or twenty minutes at any time.

Q Where was she at the time? A In bed.

Q You had no talk with her whatever? A No.

Q Did you see her again the following day? This was on a Saturday? A Saturday is right, and I came there Sunday for a few minutes again.

Q Was she in bed then? A Yes.

Q Did you have a talk with her on that occasion? A Yes.

Q Did you see her on the following day? A I don't think so.

Q Did you at any time see Mrs. Richman at your sister's home from that Saturday on up to the time she went to the hospital? A No.

Q Now, how many times did you call at your sister's home from that Saturday when you were first called-- up to the time she went to the hospital? A I really don't remember, but I don't think over two or three times.

Q Now, do you remember Sunday that you had been to Mrs. Richman's and Mrs. Richman was at her home? Do you remember that occasion? A Yes, she was there.

Q Were you there? A No, I think she came after I was there.

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Q Did you see her? A Yes.

Q You had come there first and she came there later?

A Yes, I think that is how it was.

Q Did you have a talk with Mrs. Richman? A No.

Q Did you visit your sister at the hospital? A I did.

Q Which hospital was it? A The Harlem.

Q How many times did you go there? A A half a dozen times.

Q You are not on speaking terms with your sister now, are you? A No.

Q How long had this condition existed? A Well, we were never very chummy.

Q And particularly so, after this-- A After this affair.

Q But you were friendly on the first and second occasions that you went to Mrs. Richman's? A Never very friendly.

Q You were more friendly then than you are now? A Yes, more so than than today.

CROSS EXAMINATION BY MR. RICKHEISER.

Q When you accompanied your sister the first time to the defendant's house, in answer to Mrs. Richman's question how do you feel, your sister said that she wasn't feeling very extra; is that right? A Yes.

Q Did your sister before that time complain to you about pains? A She did. She complained right along that she wasn't feeling well.

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Q Well, for how long a period of time before you visited the defendant with your sister, did your sister complain that she was not feeling well? A I guess about four or five weeks.

Q State to the jury what your sister said to you was troubling her? A Well, she said she was not feeling well, and didn't know what was the matter with her.

Q Did she communicate to you what part of her body was not feeling well? A She knew. She complained, she did not come around, and she thought there was something wrong.

Q Did you see your sister bandaged around the head? A She always kept a handkerchief over her head, always complained of headaches.

Q And she kept a handkerchief over her head? A Always did.

Q Explain how she always kept a handkerchief over her head? A Around her forehead.

THE COURT: I think I will hold, Counellor that you are making this witness your own, in these respects, because this is not proper cross examination.

MR. DICKHEISER: I will do so at my peril.

Q And these handkerchiefs that were around your sister's head were tightened, were they not? A Naturally.

Q They were naturally tightened? A Yes.

Q The head was bandaged? A Yes.

Q Can you tell the jury how long a course of time was it

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that you saw her with her head bandaged? Six months? A No, off and on. She always kept a handkerchief on her head, always complaining of a headache.

Q Was this long before you visited Mrs. Richman? A Oh, yes.

Q Do you know whether your sister ever visited a physician or professor with respect to her eye? A She was with me at one time to an eye--

Q What is that? A She went with me. She went with me when I went to an eye specialist to get glasses, and he examined her eyes, and he told her she had double astigmatism as he called it, and she ought to get glasses.

Q And did she get and wear glasses after that? A She did before that --

Q Did she get and wear glasses after that? A She did not.

Q But she wore glasses before she visited the defendant? A Oh, yes.

Q Glasses for one eye or two eyes? A Both.

Q And returning to Mrs. Richman's house the first time-- nothing was said about money? A No.

Q Mrs. Richman said, or did your sister say, that she would go home? A She said to come back in two weeks if she didn't feel any better. Mrs. Richman told her so, to come down in two weeks, but if she felt all right, she should not bother, to stay home and take care of herself.

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Q Now, on the occasion of the second visit you don't know exactly how long your sister and yourself-- your sister and Mrs. Richman went into the dining room? A They were not gone over three or four minutes at the most.

Q When they returned to your room, did you discontinue reading for a moment? A No, I kept on reading.

Q Well, your sister asked you for the pocketbook? A Well, I was still reading when she asked me for the pocketbook, and I handed it to her, and still kept on reading.

Q Were you seated at the time? A Yes.

Q Did you hear the conversation? A I didn't pay any attention to it.

Q When you left Mrs. Richman's house ^{did} your sister tell you that Mrs. Richman had examined her and found her to be bleeding? A Yes.

Q Did you hear Mrs. Richman say to your sister, "Go home and not worry; lay down and rest"? A I did.

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Q Did your sister say to you at any time that the defendant had performed an abortion upon her? A No.

Q Did she ever tell you that she had miscarriages before? A No, not exactly that she had miscarriages.

Q Or abortions? A No abortions.

Q What did she tell you about that? A But I know she was curetted.

Q How do you know she was curetted and scraped? A Well, they say curetted.

Q Well, I used the word scraped before. I wanted to have the word repeated. How did you know your sister had been curetted? A I was there.

Q How long was this before your visit to Mrs. Richman's? A I really don't remember.

Q A year or two years before? How long before was it? A Long before.

Q Not the same year? A I don't think so.

Q Was your sister under ether at the time? A She was.

Q Did she know she was curetted? A That I could not say.

Q Did you ever talk with her about being curetted? A Well, I did tell her.

Q What did she say? A Nothing.

Q Did you describe to her how she was curetted? A No.

Q Did your sister ever tell you how many miscarriages she had before? A No.

Q Did you have any conversation with your sister since

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she left the hospital, the Harlem Hospital, with respect to any money that she desired from the defendant? A I did.

Q What was that conversation? A She told me she wanted to get some money and that she was going to get it.

Q Did she tell you that she had written letters? A I understood that from her conversation.

Q What did she say with respect to having written letters?

THE COURT: I think I will strike out what this witness understood. The jury will disregard it.

Q What did she say with respect to letters to the defendant?

A She says that she wrote her and asked her for some money, that she thought she ought to give her some money on account of her having such big expenses.

Q Did she tell you what she had said to the defendant she would do, in the letters, if she did not get some money? A No.

Q Your sister does not write herself? A No.

Q Did she tell you who wrote the letters? A No, I don't think so.

Q Did you tell you that the letters had been written for her demanding money of the defendant? A Yes.

RE DIRECT EXAMINATION BY MR. MANCUSO:

Q When did you go to the eye specialist? A I guess a couple of years ago, at least.

Q Was it after your sister had been down to Mrs. Richman?

A Oh, no.

Q And she didn't go down for herself, did she? A No.

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Q She happened to be there with you and had her eyes examined at the same time? A Yes.

Q Now, you said that your sister was curretted or scraped?

A Yes.

Q By whom? A Some doctor. I don't really remember his name.

Q And on that occasion she was under ether? A She was.

Q And you said that you told her that she had been scraped?

A Yes.

Q Did you see it yourself when it was being done? A I was there.

Q You said that your sister told you that she had written a letter to Mrs. Richman that she wanted money; is that right?

A Yes.

Q Did she tell you who wrote the letter? A No.

Q You did not see any of the letters at all? A No.

Q But she tried to get the money because she was under a big expense? A Yes.

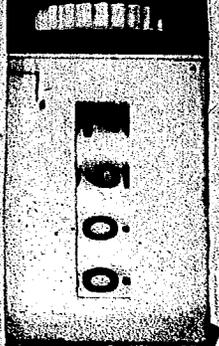
Q You know she was treated by a doctor at the Harlem Hospital?

A Yes.

Q You know that the Harlem Hospital is a charitable institution? A Yes.

Q And you know that the Mt. Sinai Hospital is a charitable institution? A I didn't visit her there. At least, I was told she was paying there.

Q Where? A In the Mt. Sinai.



Q Well, what expenses did she have there? A I could not tell you.

BY MR. DICKHEISER:

Q Do you know your nieces' handwriting? A No, I do not.

Q Did you ever see them write? A Yes.

Q Look at Defendant's Exhibit B for Identification, and tell the jury if you can identify the handwriting (handing paper)? A You don't mind my using my glasses, do you?

Q You should use your glasses.

THE COURT: Just yes or no to the question.

A I don't think so.

Q You don't recognize the handwriting? A No.

ANNA SHAPIRO RUCK, duly called and sworn as a witness on behalf of the People, testified as follows:

The witness stated that she resided at 122 West 121st Street, New York City.

DIRECT EXAMINATION BY MR. MANCUSO:

Q Where are you employed? A At the Mt. Sinai Hospital.

Q What position do you occupy? A Custodian of the records.

Q Have you brought the records here this morning? A Yes.

MR. DICKHEISER: May I invite the District Attorney up to the Bench to confer with your Honor?

(Consultation between Mr. Mancuso, Mr. Dickheiser and the Court, not within the hearing of the jury.)

(The witness leaves the stand.)

MANCUSO: I am just informed that the physician

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that treated this woman at the Harlem Hospital are in France, one in the Navy, and one in camp in Georgia.

MR. DICKHEISER: I will consent to have the records of the hospital go in.

MR. MANCUSO: Of the Harlem Hospital?

MR. DICKHEISER: Of the Harlem Hospital.

THE COURT: I will tell you: you get into the evidence here in this case everything that is disclosed by the records of the hospital, and you may make the evidence then in the case the basis of a hypothetical question to be addressed to any physician whom you ^{may} call, and you may elicit from the physician, from his answer to the hypothetical question, as to whether on the basis of such testimony, he can express an opinion with reasonable certainty as to whether or not an abortion was committed.

MR. DICKHEISER: I am willing, without being technical, to allow the records of the Harlem Hospital in evidence, without, however, being bound thereby. In other words, I simply waive the necessity of the District Attorney producing the persons who made the entries.

THE COURT: In other words, you do not concede what is recorded was really the fact, but you place yourself in the same position that you would be in if the person should be brought here as a witness, and if that person should give testimony along the lines indicated by the record. In other words, you simply say that you are willing to concede

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that the records show certain things, and that if the persons named in the records were produced, they would testify orally to the facts indicated by the records. I think the best form of the concession is that it is conceded by the defendant that if So and So were produced as a witness, he would testify as follows, respecting his treatment of the complaining witness, professionally, at such time.

MR. DICKHEISER: The trouble with that, if your Honor please, that it is very hard from the records to tell exactly who made the particular entries on this page and that page, because some of them are medication charts, but I am willing to allow you to produce everything--

MR. MANCUSO: I am in this position. Dr. Jennings cannot be found, Dr. Brasted is in Hornell, New York, Dr. Glucksmann is in camp in Georgia, Dr. Leshin is in Virginia, and Dr. Di Palma is in France, and I am unable to obtain the appearance of any of these doctors.

MR. DICKHEISER: I am willing to help you on the record--

THE COURT: I have indicated what may, with the defendant's consent, be done, and the way it must be done, if it is done at all. In other words, if the defendant consents to it, I will allow you to put upon this record certain statements descriptive of the alleged physical condition of the complaining witness when in the hospital, and the treatment that she received there in the hospital,

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and by whom she was treated, on the understanding that if the persons named, whom you say are absent, were produced as witnesses upon the stand, they would give oral testimony as indicated by the concession.

MR. DICKHEISER: I will agree to do that.

MR. MANCUSO: It is conceded that if Dr. Jennings were called as a witness he would testify as follows:

THE COURT: Pardon me. You want a concession to the effect that So and So, naming them, is a physician, in practice, duly licensed to practice medicine in the County of New York, and that he was such at such and such a time, and that he was connected with such and such a hospital --

MR. DICKHEISER: I don't know that. He may have been simply an interne.

THE COURT: Well, then, leave that branch out.

Then it will be up to you in addition to prove that he was--

MR. DICKHEISER: There are the doctors in the hospital-- the ordinary doctors are not fully licensed to practice.

THE COURT: Sometimes they are not. Sometimes they are only permitted to practice inside.

MR. MANCUSO: It is conceded then that Dr. Clucksman is in camp in Georgia and Dr. Leshin is in Virginia and Dr. diPalma is in France and Dr. Brasted is in Hornell, N.Y., and that Dr. Jennings cannot be found. Is there any one from

the Harlem Hospital here ?

DANIEL HOGGARD, duly called and sworn as a witness on behalf of the people, testified as follows:

The witness stated that he resided at the Harlem Hospital.

DIRECT EXAMINATION BY MR. MANCUSO:

Q Are you employed at the Harlem Hospital? A Yes.

Q As what ? A Record clerk.

Q Do you know Dr. Glucksman? A No, sir.

Q Have you such a physician in the hospital, or did you know such a physician in the hospital during the year 1916? A I wasn't there in 1916.

Q How long have you been there ? A I have only been there since the 21st of January. I was transferred from Bellevue up there.

Q Can you send a more experienced man down here --

THE COURT: No, the way is-- some representative of your office should go to the telephone, and telephone to that hospital, or send a process server up and get a physician down, somebody who is connected with it, somebody who can testify what these men are, who they are, and all about them.

MR. MANCUSO: All right. That is all.

THE COURT: It would have been desirable to have had that all ready at this time.

MR. MANCUSO: It is conceded that if Dr. Glucksman were called and brought here as a witness, that he would testify

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in the following manner--

MR. DICKHEISER: Will you pardon me. Suppose you put it in this form: It is conceded that if Dr. Gluckman, formerly connected with the Harlem Hospital, were present in court, he would on direct examination of the District Attorney testify that the exhibit which the District Attorney offers in evidence is a correct transcript of the records of the hospital as made by him at the time they were entered, and I consent to the admission in evidence of said proposed exhibit.

THE COURT: That is the concession you are willing to make?

MR. DICKHEISER: Yes.

THE COURT: You are now in the hands of the enemy, Mr. Mancuso.

MR. DICKHEISER: The enemy is a little bit courteous, though.

MR. MANCUSO: If counsel is going only to concede that, he is conceding that only which is to his advantage. I want a concession whereby both sides can get in all the records. I don't want to admit a part and not the others.

MR. DICKHEISER: I am satisfied that you take all these papers, just to show you that I am not discriminating in anything that is in my favor. I am willing to have all the papers in your hands go in evidence as records of the hospital. I will be very magnanimous.

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MR. MANCUSO: You will let all the records go in, then?

MR. DICKHEISER: Yes.

MR. MANCUSO: (Reading): Name, Nellie Goldstein; Nativity, U. S.; Surgical Division, Ward 5; Occupation, housewife; Age 32; Admitted 6/12/16; Discharged - - - - - Diagnosis - - - - - Complication, O.U.R.; 137 septicaemia (puerperium); Visiting Surgeon, Dr. Brodhead; House Surgeon, Dr. Brasted; Family History - - - -; Previous History: Venereal; gonorrhoea denied; lues denied; alcohol, glass of beer to each meal; menstrual, started at 12, regular, monthly, last period, February 27, 1916; obstetrical, 5 full term children, 4 miscarriages, last miscarriage 10 days ago; no still births. Present History, Onset about 11 days prior admission when patient began to bleed and discharge pieces of blood. At the same time she complained of pains in lower abdomen and small of back. Bleeding continued and four days after onset first foetus was born, and a few hours later the second foetus was born. The following day the "afterbirth" was born, piece by piece. Bleeding stopped about five days ago, stopping thereafter. Five days ago breasts began to swell and became painful. Then patient became very feverish. No chills.

Glucksmann.

(The hospital records last referred to were received in evidence and marked People's Exhibit 1. and read to the jury by Mr. Mancuso.)

MR. MANCUSO: Your Honor, I want to save time, and I

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will not read all the exhibits, but I will pick out such parts which may be needed for the foundation of the hypothetical question.

THE COURT: You have got to put enough in the record to make it the basis of your hypothetical question, and counsel for the defendant may put into the record any part of the exhibit--

MR. DICKHEISER: I understand that all the papers are in evidence and that counsel on either side may refer to any such portion thereof as in their judgment are proper in their summation to the jury.

THE COURT: Very well. But you had better have them in court so that when your expert is called they may be accessible.

MR. MANCUSO: Then, we rest with the exception that the hypothetical question will be given to the expert as stated before.

MR. DICKHEISER: The defendant now moves the Court to direct the jury to acquit upon the ground that the evidence fails to show that whatever act or acts were done by the defendant, assuming the testimony of the complaining witness to be true, were done in violation of Section 80 of the Penal Law; specifically, that they were done with the intent to produce a miscarriage. Non constat, a miscarriage actually did occur, assuming that it did occur for the purposes of this motion, there is not anything in the testimony

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of the complaining witness to the effect that either on the occasion of the first or of her second visit to the defendant, she either asked the defendant to perform an abortion or that the defendant agreed to perform an abortion, or that there was any corrupt bargain or agreement or performance on the part either of the complainant or of the defendant in the doing of the things that were done by the defendant, assuming the complainant's story to be true. It does appear affirmatively that at the time of her visit to defendant she was bleeding. That is strong evidence that the complainant was already miscarrying, and therefore, not only there being no affirmative evidence to show the intent to produce an abortion, there is positive evidence to the contrarywise, that there was something already going on, and therefore the defendant could not have started something which had already started. In other words, I contend that on the evidence there is not anything to show that what was done was done with the intent to violate Section 80 of the Penal Law, but was done with the intent to produce, to originate, to start a miscarriage, and the language of the statute is the word produce, which means, not to miscarry, not to complete, not to finish, but means to produce, but must originate--

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THE COURT: You are in error Counsellor as to the word in the statute. It is the word procure. You said produce.

MR. DICKHEISER: Yes, or procure, which implies the word producing, but if a miscarriage had already started, and if the defendant, assuming the complainant's story is correct, manipulated around her person, she was not procuring something--

THE COURT: I ought not to pass upon your motion until the case of the People is in. I will reserve decision upon it. In fact, I will allow you to make it at the conclusion of the People's case.

MR. DICKHEISER: Then, I will reserve this motion.

THE COURT: Oh, yes; you will reserve it until all the evidence is in. You have got to bring yourself, Mr. Mancuso, within the provisions of Section 80.

MR. MANCUSO: I will have to have our expert, Dr. Schultze, and put to him a hypothetical question founded upon the record.

MR. DICKHEISER: Let me save time, if I can. Assuming that a physician would testify that septicemia had set in--

THE COURT: Counsel, it would serve no useful purpose to argue any proposition now. I do not propose to pass upon any proposition until the People's case is in. The language of the statute is very plain, and if the people make out a prima facie case under that section, against the defendant, I will deny your motion; and if they fail, I

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will advise this jury to acquit.

MR. MANCUSO: The hospital records, which are a part of this case as exhibits show that septicemia had set in. If counsel wants to make any concession upon the exhibits offered in evidence, without submitting to experts a hypothetical question, he may do so.

MR. DICKHEISER: Dr. Schultze cannot testify that this defendant performed any operation. He was not present.

MR. MANCUSO: Neither can the doctors from the hospital, but we want to show from the question, founded upon the records here, put to Dr. Schultze, that septicemia existed, and what was the originating cause of the condition of septicemia.

MR. DICKHEISER: I am willing to concede that Dr. Schultze or any other expert will state that this woman was suffering from septicemia following an operation, not necessarily induced by an operation. There is quite a difference between something following and induced by an operation. This woman may have miscarried and have aborted, and septicemia may have set in from an infection which was independent of the abortion.

THE COURT: I endeavored to indicate that argument now is useless. I do not intend to pass upon any question until the doctor has been here. The question for the doctor will

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be whether or not he is able to express an opinion with reasonable certainty, assuming certain things appearing upon certain records to be true, that there was from the person of the complainant, an abortion. Have you any further evidence at this time?

MR. MANCUSO: Not at this time, your Honor.

(The Court thereupon admonished the jury, and a recess was taken until 1:30 P.M.)

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AFTER RECESS

1.30 p.m.

D.R. OTTO H. SCHULTZE, duly called and sworn as a witness on behalf of the people, testified as follows:

DIRECT EXAMINATION BY MR. MANCUSO:

Q Where do you reside? A 47 East 58th street.

Q You are a physician duly admitted to practise in this State? A Yes.

Q And you are the medical assistant of the District Attorney of this county? A Yes.

Q And how long have you been practising, Doctor?

MR. DICKHEISER: I will concede the qualifications of the doctor as an expert gynecologist ^{and} pathologist.

Q Are you also connected with Cornell University? A Yes.

Q In what capacity? A Professor of medical jurisprudence

Q Doctor, assuming that if a woman of the age of thirty two years, had five children, four of whom were living and one dead, about four months pregnant, went to a midwife during the month of May, and returned subsequently about the first of June, and on this occasion the midwife placed her upon a couch, spread her legs apart and inserted an instrument known as a speculum; that the woman at the time complained that she was suffering from pain; that the midwife removed that instrument and inserted another, that thereafter she stuffed her privates with cotton; that this woman then went home, and within two or three days later she discovered that she was bleeding. Assuming, further,

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that within three or four days after this occurrence in the midwife's home, that a foetus dropped, and within two or three hours later another foetus, and that also a long instrument, as described by this woman -- I believe a catheter -- she described it as a long instrument with a rubber tube -- and within a short time after the instrument or this long tube came out a quantity of placenta or after birth came out; that within a day after that she was taken ill and had a fever, and was taken to her bed; that on the same day or a day after she had been taken ill, this midwife again called at her home, and there she sent for a physician; that this physician had a talk with her; that her condition did not improve and she called her own physician, Dr. Raphaelson; that Dr. Raphaelson then advised her to go to a hospital; and that on June 12th, 1916, this woman was removed to the Harlem Hospital, and that doctor reading to you from the records of the hospital which have been accepted and conceded as exhibits in this case -- that on the day of entry in the hospital she was confined, in the history as entered by the doctor; menstrual, started at twelve, regular, monthly, last period February 21, 1916; obstetrical, five full term children, four miscarriages, last miscarriage ten days ago; no still birth; and that two days following miscarriage had fever and chill, and that about -- reading further from the records of the hospital -- about eleven days prior to the admission when patient began to bleed and discharged pieces of blood;

at the same time she complained of pains in the lower abdomen and small of back; bleeding continued and four days after onset first foetus was born, and a few hours later the second foetus was born. The following day the after birth was born, piece by piece. Bleeding stopped about five days ago, stopping thereafter. Five days ago breasts began to swell and became painful. Then patient became very feverish. no chills; and that on the day of admission her temperature was 105.2/10 degrees, pulse 140. Respiration 42. And further, Doctor, reading to you from the record of the hospital, made upon the time of her admission, June 12th, abdomen distended and resistant; slight vaginal discharge, and inflammatory edema of upper lid, limitation of motion of eye ball, pupil oval in shape, pupil reaction to light nil; diagnosis, septic ophthalmitis prognosis; septic ophthalmitis. Further, that on the 14th of June, the following entry or record was made: Vitreous fluid, direct smear shows fairly long chains of gram positive cocci; and on the 15th of June, 6/15/16, blood culture and vitreous culture showed streptococcus hemolyticus; and further, Doctor, that on the day of admission, which was June 12th, 1913, her temperature was found to be 105 degrees, and thereafter, during the following seven weeks or more, the temperature was continuously above normal with morning remissions and evening exacerbations; and on the 17th day after her admission, a chill existed with temperature

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104 2/10 degrees, and that on the 6th of July, 1916 a ?
was performed. Can you, Doctor, with reasonable certainty,
express an opinion as to whether or not an abortion was in-
duced upon this woman?

MR. DICKHEISER: I object to the question upon the
ground that it is not properly hypothetical in form,
that it does not embrace facts material or facts proved,
and that the question does not conform to the requirements.

THE COURT: What fact do you contend is in evidence
or has been testified to, which has been omitted from the
question?

MR. DICKHEISER: The admission of the complaining
witness that she employed in irrigating herself following
her visits to the defendant and the miscarriage--

THE COURT: I think I will allow you to put that in--

MR. DICKHEISER: Of an irrigator that was either rus-
ty or dusty, the enamel having been work off.

THE COURT: I think I will allow you to put that as
a qualifying question when you examine. Overruled.

MR. DICKHEISER: Exception.

A Yes, sir.

Q And can you, Doctor, assuming all the other facts and
bearing in mind what was read to you before, state whether or
not her subsequent illness was caused by an abortion?

THE COURT: Pardon me. He has not yet testified

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that there was an abortion.

MR. MANCUSO: Yes, he said yes.

THE COURT: I beg pardon. He simply has testified that he can express an opinion with reasonable certainty as to whether there had or had not been. Now, you want to ask him what his opinion is in that regard.

MR. MANCUSO: Yes.

Q What is your opinion, Doctor about the abortion?

MR. DICKHEISER: I object, upon the ground that the word abortion is an ambiguous term, and unless the District Attorney clearly indicates to the witness in what sense he uses the term abortion--

MR. MANCUSO: Yes.

Q (Continuing) Was there an induced abortion?

MR. DICKHEISER: I object upon the same grounds, that the question is not clear. Does ^{the} District Attorney mean by the word abortion premature expulsion of the fetus by instrumentation, criminally, or does he mean in the purely medical sense?

THE COURT: We will regard it as in the medical sense in the first place.

A It is my opinion that the abortion was induced by the insertion of a catheter.

Q Do you mean, Doctor that by the ^{instrument} which this woman dropped, two or three days after, it leads you to the opinion that the abortion was induced? A Yes, sir.

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Q And can you, Doctor, tell whether or not her subsequent illness was caused by the abortion?

MR. DICKHEISER: I object to the question.

THE COURT: Objection sustained. That is merely allowed-- all testimony regarding subsequent illness is merely allowed for the purpose of giving data for the hypothetical question. It has served its purpose.

MR. MANCUSO: Might I ask another question?

THE COURT: Yes.

Q Can you tell, Doctor, whether the septic condition was due directly to the abortion? A Yes, I could.

Q Was it?

MR. DICKHEISER: I object.

THE COURT: Objection sustained.

CROSS EXAMINATION BY MR. DICKHEISER:

Q Doctor, in answering the questions put to you, did you permit the fact that it was a midwife mentioned as the person to whom the visit was made, to influence you in your judgment?

A Not at all.

Q Were you influenced at all by the fact that there was a doctor called in by the defendant, in the question put to you?

A Not at all.

Q Doctor, in the questions put to you, will you indicate to the jury where there was anything which showed that this woman was not miscarrying at the time of the insertion of the

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catheter into her? A The passage of the foetus thereafter with the catheter.

Q Is there anything in the question put to you to indicate that there was not an imminent or a progressing abortion at the time of the insertion of the catheter? A The facts in the question are that two or three days, if I recollect correctly, after the visit to the midwife, the introduction of the speculum, the packing of the vagina, that the woman noticed that she was flowing, and then passed a foetus and a catheter, and subsequently another foetus and the after-birth.

Q I think you may misconceive the question. I think the testimony is that at the time of her visit to the defendant, she was bleeding? A That was not in the question that was asked me.

Q Suppose, however, that the question did incorporate that fact that at the time of her visit to the defendant, and before the insertion of either the speculum or the catheter, the patient was bleeding; would that in any way change or alter your opinion?

MR. MANCUSCO: I object to the question. That is not part of the proof.

THE COURT: If you will call my attention to the testimony going to the point that the complaining witness was bleeding before the insertion of anything, then your question is proper. There is evidence that she was bleeding

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upon the occasion of her visit to this defendant, and that her attention was called by the defendant to the fact that she, the complaining witness, was bleeding; but I do not recollect that the evidence shows that that condition was brought to the complainant's attention before the insertion of anything into the plaintiff's person. I will let you have the minutes here, and if you can point out anything --

MR. DICKHEISER: My recollection in my notes is that at the time --

THE COURT: See, if you can find it in the minutes.

(The stenographer thereupon read part of the testimony of the complaining witness.)

THE WITNESS: The question is whether that would affect the answer?

Q Yes. A Bleeding may be the first symptom of an abortion or a miscarriage. At the same time, a person may be pregnant and have bleeding and not abort. There mere fact of the woman bleeding, if it were taken to be the first symptom of a miscarriage, there would be no reason to introduce into the womb a catheter, and it would be highly improbable that any one would introduce a catheter into a womb from which he had observed bleeding and had taken that bleeding to be the first symptom of a miscarriage; so in that regard the mere fact of the bleeding in this particular question would not influence my answer.

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Q Doctor, isn't it the procedure where there is a threatened abortion to accelerate it? A No, sir.

Q If it is not preventable? A By no means.

Q Isn't it the procedure to ask the patient to remain-- to go home and remain quiet? A In a threatened abortion?

Q Yes? A One would pack the vagina.

Q Would pack the vagina and tell them to go home and remain quiet? A Surely.

Q Assuming in the hypothetical question put to you that the patient was told that the vagina was packed and the patient was told to go home and rest and take it easy; wouldn't that evidence influence you? A Taken in connection with the other facts in this question?

Q Yes? A Or as an independent question?

Q No, taken in connection with the other facts? A Taken in connection with the passage of a catheter with the foetus?

Q In connection with all the facts of the case? A No.

Q It would not change your opinion? A No, sir.

Q Suppose, however, there was no passage of any catheter or tube, would that influence your opinion? A Entirely; because that is what my opinion is founded upon.

Q Your opinion is founded solely, practically, on the passage of the catheter? A With the foetus, in regard to saying that this was an induced abortion.

Q And if the catheter had not passed? A That would alter the opinion entirely.

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Q Would change your opinion completely? A Yes.

Q Then you would say that the symptoms as described, as observed in the hospital, could have been the symptoms following an abortion caused by a mis step or the carrying of a boiler, or any other uninstrumental means? A Simply the symptoms of an infected abortion.

Q In the infection in this case, it is apparent that the woman was infected? A Yes.

Q Now, in the absence of the catheter, can you reasonably, as a scientific man, predicate any opinion as to what caused the infection? A No; I would have to have the facts.

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Q It is impossible to gauge the cause of the infection without facts? A The infection may have been occasioned from the introduction of the catheter.

Q A scientific man would have to predicate his opinion upon the history of the case? A Yes.

Q And without history, without a recital of things the scientific man could not determine whether the infection was produced this way or that way? A Without facts, he could not determine, no.

Q In the records of the hospital, part of which was incorporated in the questions put to you, nothing was said about the passage of a catheter or the insertion of an instrument? A Not in the hospital.

Q Would the absence of such a history influence you in arriving at a conclusion that this woman did not abort by reason of instrumentation? A Your question is not clear. Can you make it clearer?

Q I will put another question, to save time. The blood from poisoning/~~of~~ which this woman was suffering could have been caused in a variety of different ways, could it not? A Yes, sir.

Q Irrigation by a woman, following her miscarriage, of her private parts with a rusty irrigator could cause infection, could it not?

MR. MANCUSO: I object to it. That is not the proof. The proof is that the woman testified it was dusty with the enamel off. There is a difference between rusty and dusty.

MR. DICKHEISER: Well, I will adopt your suggestion.

A Even with a dusty irrigator, that could occur.

Q Such an infection? A The infection would not depend upon whether it was a rusty irrigator or a dusty irrigator.

It would depend upon whether it had on it the streptococci hemolyticus with which she was eventually affected, as far as the blood current and the eye was concerned; whether that instrument was rusty or dusty or clean or polished would make no difference. It would be a question of whether it was sterilized or not.

Q The streptococci, or germs, could have come from the non-enameled surface of an irrigator? A The question is not based upon a non-enameled surface, but on an unsterilized irrigator.

Q But a rusty surface, dusty or rusty? A If dusty, of course, the implication is that it is not properly sterilized.

Q In simple language, it is more liable to occur where there is dust.

Q Yes, but a rusty instrument, may be sterilized, and would not infect anybody.

Q How long would a rusty instrument require to be sterilized before it becomes sterilized? A It might be sterilized in a very short time.

THE COURT: I don't think we will go any further into that, Counsellor.

Q Now, Doctor, bleeding, though, is a symptom of threatening miscarriage? A If a woman is pregnant; yes, sir.

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Q If a woman is pregnant? A And bleeding from the vagina.

Q The mere fact that some women do have their menses while they are pregnant does not mean that it was the same kind of bleeding as vaginal bleeding, as a symptom of abortion? A I don't get that question.

Q Is the bleeding prior to a miscarriage of the same character as the menstrual flow of a pregnant woman? A Well, a pregnant woman, if she remains pregnant, really has no menstrual flow; she may have a hemorrhage. A menstrual flow in a woman who is not pregnant means, that the hemorrhage, the inner lining of the uterus disintegrates and passes out and a new lining is formed for the next month's menstruation or the reception of a fructified ovum; so that a pregnant woman never has a menstrual period in any sense.

Q Doctor, very frequently, catheters are introduced into the vagina for purposes of either procuring or speeding on a miscarriage without causing septicemia, are they not? A A catheter wont cause an abortion unless it is introduced into the cavity of the uterus. The infection--

Q I mean now the vagina, and into the os uteri? A Even introduction into the mouth of the womb wont do it.

Q Into the uterus itself? A Yes, they are introduced for the purpose of inducing an abortion.

Q Or accelerating it? A No, sir.

Q Sometimes women use them on themselves, don't they?

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A Those cases have been on record; yes, sir.

Q And very frequently so? A I don't know about their frequency. I think it is rather difficult for a woman to introduce a catheter into herself, into her own uterus.

Q In your experience as a Coroner's physician, haven't you seen cases where catheters have been self inserted? A I do not know from the evidence that they have been self inserted. I have not seen any myself.

Q A catheter may be introduced into a woman's private parts to produce a miscarriage without causing any infection? A Yes, sir; if the catheter is aseptic.

Q A catheter is very easily procurable? A Yes, sir.

Q They can be purchased by anybody at any drug store? A I presume so.

Q Any man, woman or child can go to a drug store and buy them? A I would not say that. There are probably some druggists in town who would not sell them to any man, woman or child.

Q As a matter of fact, there are very few of them that don't-

THE COURT: You have proceeded along that line far enough, Counsel.

Q In other words, from your experience as a physician, you know that very frequently women do go to drug stores and purchase them themselves?

THE COURT: I think that is right in the line of what I indicated to you was not to be followed up.

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MR. DICKHEISER: I respectfully except, I did not mean to be contumacious.

THE PEOPLE REST.

MR. DICKHEISER: I move to dismiss the indictment and discharge the defendant upon the grounds and for the reasons already announced by me at the time the District Attorney rested with a reservation, and upon the further ground, if your Honor please, that the quality of the evidence produced is so inherently dangerous, to submit it to the jury, because of contradictions between the testimony of the complainant and the testimony of the so-called corroborative witnesses, the complainant's witnesses--

THE COURT: I think I will submit it to the jury, Counsellor, and give you an exception.

MR. DICKHEISER: I respectfully except.

Mr. Dickheiser thereupon opened the case to the jury on behalf of the defendant.

ELIZABETH ESKILSSON, duly called and sworn as a witness on behalf of the defendant, testified as follows:

The witness stated that she resided at 1847 Madison Avenue, New York City.

DIRECT EXAMINATION BY MR. DICKHEISER:

- Q Mrs. Eskilsson, are you a married woman? A Yes, sir.
- Q In the months of May and June 1916, did you reside at

your present address, 1847 Madison Avenue? A. Yes.

Q With your husband and children? A. Yes.

Q And you knew and were well acquainted with Anna Goldstein, the complainant in this case? A. Yes; went in her house many times.

Q Lived on the same floor? A. Lived on the same floor; always had our doors open.

MR. MANCUSO: I move to strike out that they always had their doors open as irresponsible.

THE COURT: Yes, she lived on the same floor. I will strike out the balance. Now, madam, just answer the questions; nothing else.

THE WITNESS: Yes.

Q How long before June 1917 had you been living together on the same floor? A. About two years.

Q Do you remember before June 1917 whether Mrs. Goldstein complained of her head? A. Yes, sir.

Q And eye? A. Yes, she always complained. She had her bandage on her head from the time she got up in the morning until she went to bed at night, and her eyes was always bothering her. She went to a specialist, some woman, I don't know who the woman was, to have her eyes attended to--

MR. MANCUSO: I move that that be stricken out.

THE COURT: "she went to a specialist," and so forth is stricken out. You will disregard it.

Q You had conversations with her regarding her eyes? A. Yes,

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sir.

Q How long before she went to the defendant? A I can't just remember that.

Q A week before, a month before, a year before? A What do you mean?

Q Before June 1917, how long before that? A Before the time she had-- about a year or six months before; I can't remember. It was in the summer anyway. She was dressed in white.

Q Well, in June 1916, she went to the hospital. Was it the same summer or the summer before that? A The summer before that.

Q And for how long a period of time was her head bandaged? A Ever since I remember her.

Q And you saw her days that way? A Day in and day out.

Q Did you ever see her before June 1916 carrying a boiler from one room to another? A Yes. She always filled up the boiler in the bathtub, and she carried that boiler from her bathtub to her stove, which is quite a distance, in the kitchen.

Q Before May or June 1916, did you tell you that she was pregnant? A Yes.

Q Tell us what she said? A She said that she was struck again, and she went to the drug store and she got all kinds of medicine and she took mustard baths and did things like that in order to bring it on.

Q Yes? A That is what she told me; and on one occasion she took a mustard bath, which I did not know she was pregnant at

the time, and she took the mustard bath, and she asked me would I sponge down her back and I did so.

Q Did she tell you afterwards that she had taken mustard baths at that time? A Not at that time. She did not say anything about the mustard bath at that time, but it was a mustard bath at the time; she didn't tell me what it was for, but later on she told me she was going to take them regularly to bring herself on.

Q Do you know what medicine she procured from the drug store? A No, sir; I seen the bottle, but I didn't know what it contained.

Q Was this before June 1917? A I have no recollection.

Q 1916? A I don't know just the date.

Q Well, you remember-- A It was June; it was just previous to--

Q Well, was it a month or two months before that?

A Well, it was either two or three months before.

Q Did she tell you how many miscarriages she had? A Yes, sir; she said she had one up in The Bronx, that she lay for five weeks sick, was very sick, that he husband had always stayed home day and night to attend to her.

Q Did she tell you how many of them she had? A She said she had three or four of them before that way.

Q Did she at any time tell you that the defendant performed any abortion on her? A No, sir.

Q Did she tell you that she had gone to Mrs. Richman's

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house? A Yes. She didn't mention the name of the woman, but she told me she was going to go down to a midwife.

Q Did you see any catheter or anything like that, or any tubing? A No, sir; not as I remember.

Q Do you remember when she was miscarrying? A Yes.

Q Were you in the house at the time? A Her husband sent for me to come in.

Q And you came in? A I didn't see any tubing come out.

Q You saw some of the after birth? A I seen the two babies, the two children, and I saw the after birth and everything like that.

Q You saw all these things? A No.

Q Never saw any tubing? A No, only just clotted blood and things like that.

Q Do you remember when Mrs. Richman called at your neighbor's house? A Yes, I telephoned for her to call.

Q And she came? A Yes, sir.

Q Do you remember the incident of the irrigator? A Yes, I do remember that.

Q Tell what Mrs. Richman said to Mrs. Goldstein in your presence concerning this irrigator? A Mrs. Richman came in and Mrs. Goldstein introduced ^{me,} as a midwife. She asked her how she felt. I can't remember everything. I can't remember it all. But she asked her how she felt and she said she was flowing pretty bad. Mrs. Richman took her temperature, and she asked for the douche bag. She said that I should leave her have the douche

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bag. When she got the douche bag, it was too rusty and dirty--

Q Did she say dusty or rusty? A She said rusty and dirty, both. She said it was rusty, and dirty, she said.

She plead with me two or three times. The woman was laying there so sick, and she plead with me so much to help her, and as a neighbor I done so.

Q You did use the irrigator? A Yes.

Q How many times did you use the irrigator? A I used it two or three times before Mrs. Richman ever came.

Q After the miscarriage? A After the miscarriage, because the place smelled so bad.

MR. MANCUSO: I move to strike that out.

THE COURT: Strike it out. Just answer the questions, madam.

Q Describe to the jury what kind of an irrigator this was, and what was its condition? A It was a white agate, and inside was all rusty, round the bottom of the inside of it was all rusty.

Q On the inside of the bottom? A Yes, on the bottom.

Q The white was broken all off? A The white was broken all off and inside was rusty, so I said to her myself, I said, "Mrs. Goldstein, this is very dirty; I would not use this if I was you". She said, "I can't afford another. Go ahead. Use it. Clean it out with hot water", and she said, "Use some lysol and iodine; only that I want to get well. You want to help me

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out, don't you"? I says, "Certainly I will help you out; I will do the best I can for you".

Q Did Mrs. Goldstein have a crocheted shawl? A No, the crocheted shawl belonged to her mother. Her mother had been staying there, and her mother brought in a crocheted shawl and laid it on the trunk, and the cotton-- the mother had left that shawl there and went away without it, and the cotton, I suppose,-- the children had thrown the absorbent cotton on the trunk and left the shawl around the coffin--

Q1 MR. MANCUSO: I move to strike it out. 91

THE COURT: Strike out what she supposed.

Q You saw the shawl? A I saw the shawl.

Q And the cotton in the shawl? A Yes.

Q Did you see the cotton on the shawl? A I seen the cotton in the shawl; yes, sir.

Q The cotton you refer to is absoebent? A Absorbent cotton.

Q Was there a paper around the absorbent cotton? A No, there was no paper. It was just bare; the paper had been torn.

CROSS EXAMINATION BY MR. MANCUSO:

Q You are a neighbor of Mrs. Goldstein? A I am living there five years in June; but I was a neighbor at the time.

Q For how long? A About two years.

Q Two years prior to the first day of June, 1916? A Yes.

Q And during those two years you spent considerable time in her home? A Yes, sir.

Q How much time did you spend in her home? A We were together all the time. She was in my house and I was in hers. We were real companions.

Q In and out? A Yes, sir.

Q And she confided everything to you? A Yes, and I did with her.

Q And she told you of the number of miscarriages that she had had? A Yes, sir.

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Q And of the various methods that she used to bring on these miscarriages? A Yes, sir. She didn't tell me the medicines, but she told me she was taking different medicines.

Q Did you ever see her using any of these medicines?

A Oh, yes, sir.

Q Before June 1st? A Yes, sir; I have seen her in a mustard bath.

Q That was -- A I have seen her taking tablespoonfuls of medicine.

Q You don't know what those medicines were? A She said they were to bring on these things.

Q What kind of medicine did you see her take? A I don't really know. I seen her take liquid medicine in bottles.

Q What was the color of it? A Black. I have seen her take black pills.

Q How often did she take these liquid medicines? A I could not tell you that.

Q How often did you see her, say from January 1, 1916 to June 1st? A I only see her taking these things during the time she was pregnant, I never seen her take them before. Of course, I didn't keep up to date; I didn't know that.

Q Assuming that she was pregnant for four months at the time she went to the midwife? A Yes.

Q How many times did you see her use these medicines or pills, the four months prior to June 1st? A I didn't take any special time during the day, whether it was ten o'clock

Q I don't want to know the hour. How many times during those four months did you see her take these pills? A I have seen her take it ever day in the week.

Q Sure about that? A Yes, but I don't know whether it was morning, noon or night.

Q You saw her take this medicine in January? A Yes.

Q You saw her take this medicine or pills during the month of January? A Yes.

Q And you saw her take this medicine or pills during the month of February? A Yes.

Q March, April and May, 1916? A Yes.; I saw her take that medicine three weeks before, or two or three weeks before she said she was going to a midwife.

Q Did you see her take these medicines two months before she went to the midwife? A Certainly.

Q Did you see her take these medicines three months before? A Not three, but two months before. She said that she was going to leave it go till she was six or seven weeks gone before she was going to take anything.

Q When did she tell you that? A When she started to get pregnant.

Q That was how many months before she had gone to Mrs. Richman? A She must have been about four or five months gone when she went to Mrs. Richman; may be four months.

Q And she told you -- A She told me she was going to get

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rid of it; she didn't give a - - - -. It was her husband asked me to telephone to look up Mrs. Richman's address.

Q Was that before she had gone there? A That was before she had gone there.

Q You knew Mrs. Richman before that, did you? A I didn't know her at all. I had a telephone in my house. Her husband came to me and knocked on the door and says, "Can I look at your telephone?" I said, "yes". He said, "I am going to help my wife to get a midwife." And he looks up the telephone and he picks out Mrs. Richman's telephone number.

Q Was this while Mrs. Goldstein was sick? A This was before she got that way, before she went down.

Q Her husband, Mrs. Goldstein's husband, came to your house, picked up a telephone book, and -- A And asked me for a telephone book, and I hand him the telephone book.

Q Just took up the book and picked out that name, Richman? A Yes, that is as far as I know. Maybe they knew the woman before that, I don't know.

Q What was the conversation you heard over the telephone between her husband and Richman? A I don't remember.

Q You were nearby, were you not? A No, I think I was staying in her rooms.

Q You remember every other conversation and every other detail of everything else? A Listen. I didn't telephone that night. Now, I can remember. He only got the address and gave that to his wife.

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Q Didn't you say that a minute ago? A No, I didn't say nothing a minute ago. I said he got my telephone book and he got the address and the telephone number out of the telephone book. I didn't say he telephoned.

Q You never went with Mrs. Goldstein to Mrs. Richman, did you? A No. I never seen Mrs. Richman until she came to the house.

Q And you say you saw Mrs. Goldstein carry boilers on a number of occasions? A Yes, I did that.

Q How many times a week did you see her do that? A Once a week.

Q You were there as a witness every time she carried a boiler? A Well, we washed together, and done everything together.

Q Did you help her carry this boiler too? A No, I did not.

Q You say you washed together? A We was so intimate with one another.

Q You left her carry the boilers? A It wasn't none of my business. I had to do my own housework.

Q But nevertheless you were on the spot whenever she carried this boiler? A Mostly all the time.

Q You say you saw it regularly every week? A There was nobody else to carry it for her.

Q That is only an opinion you are forming? A No opinion at all.

Q You said every week-- A I didn't say every week.

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Q And Mrs. Goldstein after she came back from the midwife she told you she had been to the midwife? A Yes, she did.

Q What did she tell you? A She said she was down there; that's all.

Q And that nothing had been done to her? A She said the midwife said that she was bleeding when she went in there and at the time my husband asked me for to collect some bills and the telephone rang--

Q Did she tell you what the midwife had done to her? A No

Q She did not tell you what the midwife had done to her? A No, sir; she did not.

Q All she told you is that the midwife said she was bleeding? A Yes.

Q Did she tell you about the midwife packing her with cotton? A No, she did not.

Q Did she tell you that on the same day she had been down to Mrs. Richman, the defendant? A Yes, I believe she did, because in the morning she says, "I am going down to a midwife": I said, "Don't go; don't be a foolish woman." I says, "If you have four children you can have more." I says, "Don't be foolish; you have gone so far.." She says, "I am going anyway."

Q Did she tell you she was going with her sister or alone? A She didn't say who she is going with.

Q When she came back did you inquire of her whether she had been down to the midwife? A Yes. I said, "Have you been to

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the midwife? A Yes. I said, "Have you been to the midwife? Did you go", and she says "yes" and she says, "she said I was bleeding.

Q What time did she come back from the midwife? A I don't know; about one or two o'clock in the afternoon. She went out about twelve.

Q Did you have any further talk with the defendant? A No, I did not.

Q Was her husband home that day? A No.

Q What time did he get home that day, June 1st? A I don't the dates.

Q Well, the day that she went down to the midwife? A He come home any time in the evening. After collecting I got home about seven.

Q You did not have any talk with Mrs. Goldstein at 7 o'clock at night? A Not during that time.

Q What do you mean, that the reason she did not tell you on that day -- A You have got me all wrong. I said my husband telephoned and he said he needed me to go out and collect for him, that he needed some money in, would I be kind enough to go and collect, and I says "Sure; so I went in the house and got dressed and went right out.

Q And you discontinued your conversation with Mrs. Goldstein? A Certainly; I was in a hurry.

Q The following day did you see Mrs. Goldstein at any time? A Two days after her husband knocked at my door.

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Q How many days after, was it? A I think she went to the midwife -- she said she went on Thursday and I believe it was on Saturday that she had the first baby.

Q And you were there and you saw the-- A I wasn't there when it came to the world, but the husband knocked on the door. It was between one and two-- no, I am telling a story. No, I was out to the store, and when I came back, her husband knocked at my door, and told me to come in and see his wife.

Q And you went in? A And I went in, and I seen the first one, and I seen a lot of blood and different things standing around.

Q And how soon after that was the second one born? A It was night, I know. We were in bed. I don't know the time.

Q What time was it the first baby was born? A I don't know. I was out.

Q When you came back? A When I came in it was about three o'clock in the afternoon.

Q And the second one took place about night time? A yes, because I was in bed. My husband came home. I was in bed, and he knocked on the door, and asked me to let him in.

Q What time was it? A I don't know exactly what time it was.

Q What time did you go to bed? A At that time I always used to go to bed around nine.

Q So that you saw the first foetus or child at three o'clock and the second one was about nine or ten o'clock at

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night; is that right? A Yes; I guess that is about right; I ain't sure.

Q If there was any after birth that came out after the first foetus between three and ten o'clock at night, and you did not see it, you would not say that it was so, would you?

A No.

Q Suppose a tube had fallen out between three and ten o'clock at night, you would not have seen that tube? A If there was a tube and I seen it I would say I had seen it.

Q When did you first douche Mrs. Goldstein? A Monday morning.

Q After she came back from the midwife? A The first time I douched her was Monday morning. Saturday she had the first, and Sunday night the second child. Sunday I left her to her family; I didn't bother. I didn't go in Sunday at all, only just to say how do you do, how do you feel", and walked out again. Monday I went in. I cleaned up the bedroom. I changed her sheets, and washed and combed her and asked her was she going to get a doctor. I says, "I can telephone for the doctor for you?"

Q Is that the time you douched her? Did you douche her on Monday? A Yes, I did.

Q Did you douche her any other time before that? A No, sir; that was the first time.

Q When you douched her, you took the irrigator from where? A From the bathroom. It was hanging up on the wall.

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Q She told you it was in there? A Yes.

Q You went to the bathroom and examined the irrigator before you used it? A Yes; I told her it wasn't fit to be used, and I said she could have mine only I wanted to use it.

Q The irrigator was rusty and dusty? A Yes, it was rusty inside, because I brought her attention to it.

Q How much of the enamel was worn off? A Quite a lot on the inside.

Q And you told us she said to you, "It is all right; clean it out with hot water? A Yes.

Q And you cleaned it out with hot water? A No, I rinsed it out good, and took some lysol rinsed it out with lysol and hot water.

Q Did she ever tell you that every time she ever used it she cleaned it out with hot water and salt? A She did not.

Q She told you to use hot water? A Yes.

Q She did tell you to clean it out with hot water? A Yes.

Q And then you took it and went to the faucet? A Yes.

Q And turned on the hot water? A Yes, sir.

Q And cleaned it? A Yes, sir.

Q And you took the extra precaution of using salt? A No, I didn't use salt. I used lysol.

Q And did she tell you whether or not she had douched herself two or three days before that? A No; she didn't say nothing. She was too sick to talk. She just barely could tell me what to do. She was a very sick woman.

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Q Did she tell you that every time she used this irrigator that she washed it with hot water? A She didn't mention anything about it after she once told me to clean it before I used it for her.

Q Yes, she told you to clean it before? A Yes, after that she didn't tell me nothing.

Q After that, did she tell you, when you called her attention to the fact that this irrigator was rusty -- did she tell you it was all right, she cleaned it before she used it? A No, she didn't. She told me to clean it.

Q Did you misunderstand my question? Did she tell you before that she cleaned it on ever occasion that she had used it? A No, she never mentioned that fact.

Q Did you use an irrigator any more after that day? A I used it two or three times during the day.

Q And on each occasion you cleaned it with hot water? A Yes.

Q And used lysol? A Yes.

Q You know that lysol is a disinfectant? A Yes; she used lysol and iodine. She told me to use a teaspoonful of lysol and a teaspoonful of iodine.

Q Did she tell you that she used lysol and iodine in these douches? A No, she told me she used it for her trouble. She told me where it was on the shelf.

Q The following day did you douche her again? A Yes.

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Q And you went through the same process? A Yes, and I told her to get the doctor, and she would not do it.

Q You washed the irrigator with hot water? A Yes.

Q How many days after that did you douche her before she was taken to the hospital? A I was the one who called up the police station to get her to the hospital. Let me see. That was nine days. I think it was nine days.

Q How many times did you douche her from the second or third day -- A I used to go in there -- my husband left about half past six in the morning -- I would go in there about seven in the morning, wash and dress her, change her bed-clothes, and then douche her, and then sponge her all around, and make her nice and clean. She was not hungry and could not eat --

Q You have answered my question. How many times, would you say? A Every day, three times a day, any way. That would be seven around twelve and around six o'clock, and half past four and five o'clock.

Q Did you visit her at the hospital? A Yes, sir; I did.

Q Do you remember whether or not the defendant came there within two or three days after June 1st? A To the hospital?

Q No, to the house? A Yes, she came there on Tuesday, I believe it was.

Q Was she there on Sunday? A Well, if she was there on Sunday I don't recollect, because I never went much to the house on a Sunday.

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Q Was she there on a Saturday? I mean the defendant, twice? A I don't know whether it was on a Saturday or not, but I know it was one Tuesday because I remember her coming in on a Tuesday.

Q What was the first time that you met the defendant? How many days after Mr. Goldstein had been down to see her?

A That I met her?

Q Yes? A I think about the 3rd, the second day.

Q Would it be around Saturday? A It must have been on Saturday. I cannot recollect the day.

Q Did you see the doctor there? A I called up the doctor.

Q Which doctor did you call? A First off Mrs. Goldstein told me to call up Mrs. Richardson or whatever her name is--

Q The defendant? A Yes, and asked her to recommend a doctor to her.

Q Yes. A I went into the house and I called up and I asked Mrs. Richman, and she said she did not know the number of any special doctor, but she gave me the telephone number of a doctor. The first thing she says, Mrs. Richman-- she does not know of any doctor, to get your own doctor. She says, "tell her to get me a doctor any way." I went back again and I says, "Well, Mrs. Goldstein you ought to know some doctor. Get her any one." So she gave me the telephone number of a

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doctor, and I went in to Mr. Goldstein and I said, "Here is a telephone to some doctor; I don't know who he is." She says, "Call him up, and tell him to come up." She he came up to the house, this doctor. I don't know who he is.

BY THE COURT:

Q Who was the doctor? A I don't know his name.

BY MR. DICKHEISER:

Q Was the name Stolloff? A I don't know his name.

A big tall man.

Q A big tall man? A Yes.

Q Do you remember the number that you called up? A No.

Q Do you remember the central? A It was a downtown doctor anyway.

Q You don't know what section of the city he came from?

A No.

Q When you called up this doctor, what conversation did you have with him? A He looked at Mrs. Goldstein--

Q What conversation did you have with the doctor over the telephone?

THE COURT: I won't receive that.

Q You called the doctor up by phone, did you? A Yes.

Q And after you called the doctor by phone, did the doctor come there? A Yes. He was right at the bedside.

Q Did he examine Mrs. Goldstein? A Yes, he examined her all over.

Q Did he examine the bed sheets? A Yes, sir.

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1 Q And examined her privates? A Put something to his ear, you know that they test the-- and he tested her all over. 105

MR. DICKHEISER: Will the record show the witness indicated the pipes to the ear and to the chest, as if a stethoscope had been employed?

THE COURT: Yes.

Q Did the doctor examine her privates? A Yes, he did.

Q Did he make any digital examination, an examination with his fingers, if you saw him do it? A I don't remember whether he did or not.

Q Did he prescribe any medicine for her? A Yes, I went to the drug store and got the medicine.

Q Do you know what kind of medicine it was? A No, it was some kind of powders.

Q Did you give them to Mrs. Goldstein? A Yes, I gave her the powders. He said she needed a specialist.

Q Why? A That she was a very sick woman.

THE COURT: I won't allow that.

MR. DICKHEISER: I object to that.

THE COURT: I will strike that out.

Q You said that Mrs. Goldstein was in the habit of always wearing a handkerchief or bandage around her head? A A bandage all the time.

Q At all times of the day or night? A At all times, only when she was going out, when she wasn't wearing it.

Q You often wear a cap or a bandage? A This was no cap. This was a bandage for a headache, and tablets and them fancy things she took for a headache. I myself have went and bought

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things for her head.

Q And after she was visited by a physician or an oculist, did she ever visit a specialist? A She told me -- she brought home a new pair of glasses. She said she paid \$2.50 for them, or \$4.00.

Q Did you see her wear them? A Yes.

Q Did she wear the bandage then while she had the glasses?

A Often she wore the glasses in the house. Sometimes she used to take them off, too, you know. She said she could not stand the glasses, they annoyed her.

RE DIRECT EXAMINATION BY MR. DICKHEISER:

Q You distinctly remember that Mrs. Goldstein told you after she returned from the defendant's home, after she said the midwife had said she was bleeding when she went there? A Yes, sir.

Q Do you remember whether or not Mrs. Goldstein had told you that she had miscarried the first one in June 1916, that her husband had douched her on the Saturday night? A I don't remember that. Let me see. Yes, I did. Yes, that is the truth.

Q She did tell you that her husband had douched her after she had miscarried? A Yes. She said she felt better for it.

Q You were asked by Mr. Mancuso whether you know that lysol is a disinfectant? A Yes, I do.

Q And you answered yes? A Yes.

Q Don't you know also that lysol is an irritant, that it irritates surfaces like an acid? A I don't know.

Q Well it is biting --

THE COURT: Objection sustained.

Q Do you understand that lysol bites? A Yes, I know that. If you put your hand in too much of it it burns you.

Q It burns you, as well as disinfecting? A Yes, if you put too much in the water it will burn your hand. It has burned me often.

J E A N E T T E G O L D S T E I N, called and sworn as a witness on behalf of the defendant, testified as follows:

The witness stated that she resided at 905 Beak Street, The Bronx.

DIRECT EXAMINATION BY MR. DICKHEISER:

Q You are a daughter of Nellie Goldstein? A I am.

Q I show you Defendant's Exhibit A, marked for identification, and ask you whether you know in whose handwriting that is (handing Defendant's Exhibit A for Identification)?

A No; that ain't mine.

Q I didn't ask you if it was yours. Do you know whose it is? A No.

Q Is it in your sister's handwriting? A I could not tell you.

Q You can't tell? Don't you know your sister's handwriting? A No.

Q How many sisters have you? A Two.

Q And you know their handwriting, don't you? A I do not.

Q Don't you know their handwriting? A No.

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Q Never saw them write? A I could not know whether it is my sisters' or not.

Q How many sisters have you? A Two.

Q They both write, don't they? A Well, both of them-- one is a little sister.

Q Are you the eldest one? A Yes.

Q How old is the sister next to you? A 17.

Q How old is the next one? A Eight.

Q What is the name of your sister 17? A Ruth.

Q Can't you tell whether that is Ruth's handwriting or not? A No.

Q I show you Defendant's Exhibit B for Identification, and ask you whether you recognize that handwriting (handing Defendant's Exhibit B for Identification)? A They look almost alike.

BY THE COURT:

Q That is not the question. Do you know who wrote that?

A No.

BY MR. DICKHEISER:

Q Do you know in whose handwriting Exhibit B is? A No.

Q Is it yours or your sister's? A It is not mine.

Q Do you know whether it is in your sister's or not? A No.

Q I show you Exhibits C and D marked for Identification, and ask you if you can recognize the handwriting of those letters?

A I wrote them.

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Q Which one did you write? A This one (referring to Defendant's Exhibit D for identification.)

Q Is that your name? A I wrote this one also (referring to Defendant's Exhibit C for identification).

Q Did you write Defendant's Exhibit C for identification and Defendant's Exhibit D for identification at your mother's request? A No.

Q With your mother's knowledge? A No.

Q Your mother knew nothing about it? A No.

Q With your father's knowledge? A Yes, he knew.

Q He knew about it? A Yes.

Q Did you tell your mother that you had written these letters? A No.

Q Had you written these letters while your mother was home?
A No.

Q Where was she at the time? A At the hospital.

MR. MANCUSO: I submit, if your Honor please, that any further examination along these lines is improper.

THE COURT: I think you have exhausted it now. All up to this time is proper. We won't go any further, though.

Q Well, I show you the bottom of that letter, "Mrs. Nellie Goldstein" is that your handwriting? A I signed it.

Q You signed your mother's name? A Yes.

Q Without permission?

MR. MANCUSO: I object.

THE COURT: She told you already that her mother did not know about it. I will sustain the objection.

Q Did you know that money had been demanded from the defendant?

MR. MANCUSO: I object to the question.

THE COURT: Sustained.

MR. DICKHEISER: I respectfully except.

THE COURT: It assumes something not in evidence.

MR. DICKHEISER: I offer Defendant's Exhibits C and D for identification in evidence.

MR. MANCUSO: I object to them as not properly proved, the foundation has not been properly laid, the mother was in the hospital at the time, and not binding upon the witness.

THE COURT: I will look at those, Counsellor.

(Letters handed to the Court.)

THE COURT: I think, Mr. Mancuso, that I will receive the letters. Of course, it will be for the jury to say how far they will credit the testimony of this witness.

MR. MANCUSO: I will abide by your Honor's decision; but I submit that I do not see how they will be binding upon the witness. If the father thought he had a good cause of action in a civil action against the midwife for whatever injuries or loss of services he might have sustained, I do not think--

MR. DICKHEISER: I will withdraw the offer on the statement of the District Attorney.

MR. MANCUSO: I will let it go.

THE COURT: Well, then, they will remain out.

MR. DICKHEISER: Do you wish --

THE COURT: Mr. Mancuso, it is perfectly true that this witness purports to state the circumstances under which the letters were written, and if they were written under the circumstances stated by this witness, they are surely entirely without bearing upon this case; but in the light of the relationship of this witness to the complaining witness, I think it should be left as a question of fact for the jury to determine, whether that portion of her testimony is true, regarding the circumstances under which they were written.

MR. MANCUSO: Yes, sir. I will abide by your Honor's decision on that point.

MR. DICKHEISER: I will offer them in evidence.

THE COURT: They will be received.

(The exhibits last referred to, having been marked respectively Defendant's Exhibit C and D for identification were received in evidence and were marked Defendant's Exhibits C and D.)

(No cross examination.)

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RUTH GOLDSTEIN, duly called and sworn as a witness on behalf of the defendant, testified as follows:

The witness stated that she resided at 905 Beek Avenue, The Bronx.

DIRECT EXAMINATION BY MR. DICKHEISER:

Q I show you Defendant's Exhibits A and B for identification, and ask you whether you recognize the handwriting (handing exhibits)? A I do.

Q In whose handwriting is it? A Mine.

Q Your own handwriting? A Yes.

Q Did you write that letter and the address with your mother's knowledge? A No.

Q Did you see your mother in the hospital? A Yes.

Q Did you tell your mother that you had written it? A No.

Q Did you ever tell your mother that you had written these letters? A No.

Q Did your father know it? A Yes.

MR. DICKHEISER: I offer Defendant's Exhibits A and B for identification in evidence.

THE COURT: I don't quite see what bearing they have in this case, counsellor. I have not looked at them.

MR. DICKHEISER: The last one I think is stronger than any of them. It directly demands the money.

THE COURT: I don't see how the complaining witness is in any sense bound by what her husband may have done.

MR. DICKHEISER: The circumstances are for the jury to

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examine. While the husband still thinks he can get money, and when he realizes he can't, then for the first time an arrest is made.

MR. MANCUSO: I don't want to argue to the jury now. The husband has a right, whether we start 50 criminal proceedings--

THE COURT: It would only bear upon the credence to be given by the jury to the testimony of the complaining witness, viewed from the standpoint of what might be called bias or interest, or from the standpoint of prejudice against the defendant.

MR. DICKHEISER: The credibility.

THE COURT: I think you have the circumstance in now that letters were written, and I do not think I will receive any more of them. I will exclude it.

MR. DICKHEISER: I respectfully except.

BESSIE RICHMAN, the defendant, duly called and sworn as a witness in her own behalf, testified as follows:

The witness stated that she resided at 154 Second Avenue, New York City.

DIRECT EXAMINATION BY MR. DICKHEISER:

Q What is your occupation? A Midwife.

Q You are licensed by the Department of Health of the City of New York? A Yes, sir.

Q How long are you a licensed midwife? A Since 1904.

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Q About 14 years? A Yes.

Q I show you this permit from the Health Department and ask you whether this is your permit (handing)? A Yes.

MR. DICKHEISER: I offer it in evidence.

(The paper last referred to is received in evidence and marked Defendant's Exhibit E.)

Q Is this the permit that you received from the Department of Health of the City of New York? A Yes, sir.

MR. MANCUSO: I will concede that this is a permit issued by the Board of Health.

(Defendant's exhibit E read to the jury by Mr.

Dickheiser.

Q Before you received this permit you received the permits annually, didn't you? A Every year.

Q Since 1916, the permit is permanent until it is revoked?

A Yes.

Q Was your permit ever taken away from you by the Board of Health? A Never, no.

Q And since your arrest you still have your permit to practice midwifery? A Yes, sir.

Q You live at 154 Second Avenue with your children? A Yes.

Q How many children do you live there with? A Three.

That is all what I got.

Q You are a widow? A Yes.

Q Do you recollect the visit of Mrs. Goldstein to your home

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the first time? Do you remember the first time Mrs. Goldstein called at your house? A I don't remember exactly, but it was the end of April, some time the 27th or 28th, 1916.

Q Who accompanied her? A Her sister.

Q What happened on the occasion of the first visit? A She came in and she said hello, and I asked her what she wants, and she told me she does not feel well.

Q You had met her before? A Never.

Q You had seen her up in The Bronx? A I don't remember I seen her.

Q You have a recollection of that? A I don't remember ever seeing her.

Q As far as you can recall that was the first time you saw her? A Yes.

Q You may have seen her before that? A I can't remember. I see a lot of people.

Q Tell the jury what you said to her and what she said to you? A She came in and she told me that she is two weeks over, or something like that, a few months, and she does not feel well and I said, well, "what is the matter; you are not with the first baby?" She says, "Yes, I have got four". Then I said, "You have had four children, what do you mean? It means the beginning of pregnancy". "Oh," she said, "I don't feel good". I said, "Well, you go home and rest, and two weeks later when you would not feel better you come to see me." That was the conversation. I told her a woman who had children is used to the beginning of

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pregnancy, how bad it is. She told me she had four, then she will be five.

Q That is all that happened? A The first time.

Q You spoke nothing about money? A Nothing at all.

Q How long after that first visit, which you say was in the latter part of April, 1916, did she again call at your home with her sister? A That was the 1st of June that she came in again, and she tell me she does not feel well, so I went in with her to a room to see what is the matter with her, and then I went and took some water and wash my hands with a nailbrush and a lysol solution. She told me she does not feel well. I went in and washed off, and went to examine her, and I seen she is discharging and bleeding. Of course, she came to see me what is the matter with her. So I went and douched her with an irrigator and with a glass nozzle, and the same solution what I douched her, and then I put vaseline on my two fingers and examined her, and I found her cervix is not in proper shape, and I tell her she will probably miscarry. She started to cry. I will never forget. I put in a piece of cotton--

Q You mean by cotton, absorbent cotton? A Yes, sir; and I told her, "You go home and take it easy; if you wont take it easy, you will miscarry. You have to lay down and rest it, and so do so", and I told her again to take it easy.

Q You told her to rest? A Yes.

Q Did you put a catheter in her? A Never. I use a catheter only to catheterize when a woman cannot pass her water

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after delivering.

Q That is a catheter that is prescribed by the rules and regulations of the Department of Health. A Yes.

Q You did not even use that? A No.

Q Did you put anything into her privates other than your finger, the nozzle of the irrigator and the cotton that you have mentioned? A That is all.

Q Nothing else? A Nothing else.

Q Sure of that? A Sure of that.

Q Did you put a speculum into her? A No, I don't use any speculum; I am a midwife and not a doctor.

Q You have seen doctors use speculums? A Of course. I have been to hospitals and seen operations.

Q You have studied anatomy and hygiene? A Yes.

THE COURT: It seems to me you are testifying, Counsellor.

MR. DICKHEISER: I wanted to save time.

MR. MANCUSO: If you want to save time, I suggest that you let the witness tell her story, and not go into a collateral issue.

Q Did you receive any money from her on this occasion of her second visit? A No.

Q Had you not spoken to her about money before you examined her? A Well, that was so. I thought that she came to order me for a confinement and she started to talk, so she said, "Well, about that confinement, how much would you charge?" I says, "\$15

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is my price". And as soon as I seen she was bleeding, so I was 50 per cent. sure that she would have a miss.

Q By saying that you were 50 per cent. sure that she would have a miss, please explain what you mean? A I was positively for sure she would miss, because if she would not take it easy--

Q Did you ask her at that time, or did you ask her when you saw her in your home later, whether she had taken anything or not? A Well, I asked her when she came in my house, and I seen her bleeding, so she said she took a lot of medicine.

Q And she went away? A Yes.

Q- You would not take any money from her in your house, because it was not a midwife's case?

MR. MANCUSO: I object.

THE COURT: Objection sustained.

Q Why didn't you take any money from her the first time?

A Why should she pay money when I did not ask.

Q You left the house with her sister? A Yes.

Q And sometime afterwards were you called for? A Then I was called in two or three days later, and I come there. When I came there I am positively sure it was on a Saturday night. I came over there, and I met her husband, and he showed me a miscarriage the size about that (demonstrating). It must have been about four or five, and it was all crippled, and one foot short and one side of the face not finished. Well, I seen that. I said, "What is the matter, you don't call a doctor?" I

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says, "That is not my business". He says, "Everything is over; when everything is over why should I call a doctor"? I went and examined her externally.

Q What do you mean by externally? A On the top of the abdomen.

Q Did you put your fingers into the vagina in making that examination? A I seen the woman is very large, and I examined her, and I says, there seems to be another thing, and then I went away; I told them to call a doctor, but if they did or not that was not my business. I was not called until Tuesday. Tuesday I came again and I asked her how she felt, and she said I don't feel well in my head. I says, "What is the matter with your head"? She says, "My head hurts me; I am very troubled with headaches." "Well," I says, "what do you want with me?" She says, "Just asking you". I said, "I would advise you for that purpose to call a physician". She says, "Oh, Mrs. Richman, you scare me; what for do I need a physician; I am all right; everything pass away". I says, "Where is it?" She says, "That my husband takes care of". "Well" she says, "I am all right." I says she should call a physician. She would not listen to me. I said, "At least you should douche yourself". She didn't tell me she did douche. She said, "I don't know how to douche", and I says, "I will give you a lesson". And I went into the bathroom and found the irrigator and it didn't suit me, and I put the irrigator in a basin of hot water and sterilized it and put in a solution and took it into her. In the meantime I took out my

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thermometer and tried her temperature, and put the thermometer into her mouth and went to wash off my hands after cleaning the irrigator. When I came back I found she had 102 temperature. I refused to use that irrigator because it was dirty and rusty, and I said I would not use it. "I want you to call a doctor". She says, "Mrs. Richman--" she gave me a slap on my side and kissed me then and said, "I don't need no doctor" and he took out a half a dollar and she gave me it from under her pillow and she excused herself she could give me no more.

Q Let me interrupt you a moment. In talking with her did you tell her anything about the condition of the irrigator? A I told her.

Q What did you tell her? A That it is rusty; that I cannot use such; but she said it is all right.

Q Who was present when she said that? A A neighbor of hers.

Q Was that a lady who was a witness in this case? A Yes.

Q Mrs. Eskilsson? A Yes.

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Q Did Mrs. Eskisson say anything? A She told me at that time, "Mrs. Richman, I have been using that irrigator a good many times. I feel awful." I said myself, "How can you use such a thing." I said, "If you want to douche, and not have blood poisoning, buy a new one, and call a physician." They didn't let me know anything more till Thursday morning. Thursday morning they telephoned me if I know any doctor, and I sent my doctor. I said, I know a lot, but I have no doctor of mine, why don't you call your own doctor." She said on the wire -- somebody answered through the phone, hold the wire and I held the receiver, and she came back again in a few minutes, and she told me she preferred she would call what I know. I said I will give her a telephone number, and I gave her a telephone number to call a doctor. I never knew anything what the doctor said or not. If the doctor said she is all right or not all right, and I never know a thing. One thing I forgot to tell you: The first time I went to use a piece of cotton, the cotton was wrapped in a crocheted shawl on a trunk, the windows were closed and the shutters were closed, and I said, "How can you live without the sunlight, without a drop of air." She said, "I cannot have the light on my eyes, and my head hurts me. I must live in the dark."

Q Did you say anything about the cotton that you saw?

A That is what I told you, that I said the cotton is dirty, and "I don't know how you should use it." It was not in a box.

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It was not in a paper. It was in a shawl. She said "Never mind", and started to lecture; and I told her she looks like a Greaser that come from the other side and does not know the ways of America. She used that cotton that I would not use.

MR. DICKHEISER: May I ask you Honor to suspend the cross examination of this defendant in order that I may call a physician?

MR. MANCUSO: I think the physician may be put on the stand.

D R. W I L L I A M R. B A I L E Y, duly called and sworn as a witness, on behalf of the defendant, testified as follows.

(The witness stated that he resided at 155 West 87th street,) New York City.)

DIRECT EXAMINATION BY MR. DICKHEISER:

Q Dr. Bailey, you are a regularly, licensed physician and surgeon, practising in the city of New York? A Yes.

Q How long have you been such regularly, licensed physician and surgeon? A Twenty years in New York City.

Q And where were you a licensed physician before you became licensed in this city? A Great Britain.

Q And of what institutions are you a graduate? A University of Edinburgh and London and New York.

Q Do you hold any position in any of our local institutions?
A Yes, I am at Bellevue Hospital medical College.

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Q And what position do you hold at Bellevue Hospital Medical College? A I am an instructor.

Q Instructor in what? A Genito Urinary surgery.

Q In plain English genita urinary surgery refers to the private organs of an and woman? A That is so; yes.

Q And you teach doctors and students all about the private organs of women, don't you? A Yes.

Q You are a regular instructor? A Yes.

Q And besides a practising physician? A Yes.

Q Doctor, assuming that a woman, having had five children and four miscarriages --

THE COURT: Counsellor, if it would be agreeable to you, suppose the question as put by Mr. Mancuso is put to this witness. The object of that is only this, that in the event that this witness answers that question differently from the way in which Doctor Schultze answered it, then you have a categorical contradiction; whereas if you frame your question somewhat differently it may conceivably be that there may be circumstances or data connected with your question not presented to Dr. Schultze; but if you prefer to frame your own question, frame it.

MR. DICKHEISER: I prefer to frame my own question, if your Honor, please, because the District Attorney has colored his question--

THE COURT: Proceed, and frame your question.

Q Assuming a woman has had five children, and four prior

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miscarriage, and that she visits a midwife, who discovers that she is bleeding, upon a digital vaginal examination made by her; that she douched her with a lysol solution; that there is, besides this bleeding, also a discharge; that the vagina is packed with cotton gauze and the patient advised to remain quiet, and that thereafter a miscarriage occurs, two or three or four days later; that upon the occurrence of this miscarriage and the expulsion of the foeti, there being in the case two issue; that the woman is douched by an enamel irrigator, parts of which enamel are off the inside of the irrigator, and that such enamel irrigator is both dusty and rusty, and that she was douched several times by the husband and the neighbor with lysol solution, and that that is followed the following day by further discharge and a condition of fever, necessitating her removal to a hospital, where septicemia sets in; are you able to say with reasonable certainty, as a professional man, whether this woman aborted from natural or unnatural causes?

MR. MANCUSCO: I object to the question. It does not contain all the elements proved. The manner in which the question has been submitted by counsel now has already been answered by Dr. Schultze, eliminating the instruments --

THE COURT: I will allow the question, and if you do not think it contains all the facts that it should

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contain, you may inquire on cross examination.

Q (Continuing) Can you say whether or not the abortion was a natural one or induced one? A Simply you say a cotton tampon was introduced?

Q Yes; simply that the cotton was placed there. A I don't think that could produce an abortion alone.

Q Doctor, could septicemia, due to an infection from a rusty irrigator, have occurred under those circumstances?

A That is possible; yes, sir.

CROSS EXAMINATION BY MR. MANCUSO:

Q Doctor, if this irrigator, before use, had been washed in hot water and sterilized with lysol, would you still maintain the same opinion? A You might still have infection.

Q Is not hot water considered a good disinfectant?

A Not alone.

Q Well, lysol? A Even that, not alone.

Q Doctor, you said that you were not sure whether that would be an induced abortion or whether it would be a natural abortion; is that right? A Yes, from the cotton alone, yes.

MR. DICKHUISER: The Doctor did not say that. He said from the cotton alone he would hardly think it was induced.

THE WITNESS: Yes, that is what I said.

THE COURT: You may ask him a question, Mr. Mancuso,

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and you may embrace in it every single item that is in the evidence.

Q Assuming, Doctor, that a woman --

THE COURT: Suppose the question is read to him that you put to Dr. Schultze.

MR. MANCUSO: There has been other proof since that that I want to embody.

THE COURT: Very well. Go ahead. Ask the question.

Q Asuming, Doctor, that a woman of the age of about thirty two years, with five children, four of whom are living and one is dead, with two previous miscarriages, went to a midwife in the middle part of May, 1916; that there she had a conversation with the midwife, and she was told by the midwife to return within two or three weeks; and assuming further that in pursuance of this conversation the woman did return to the midwife two or three weeks later, namely, on June 1st, and on this occasion, on June 1st, the woman went there with a person, her sister, and entered the midwife's apartment, and there the sister remained in the dining room and the woman went with the midwife into a private room without her hat; that in this private room she was placed on the couch by the midwife; that the midwife was seen to get a basin; that this basin contained certain instruments; that while this woman was on the couch, the midwife inserted an in-

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speculum, and while the speculum
 was in, the woman said that it pained her; that
 the midwife removed the speculum and used another
 one, the description of which we have not got; that
 when this second instrument was used the woman still said
 "It pains me", and that thereupon the midwife said, "you
 are bleeding." That this woman did not know that she was
 bleeding up to that time; that the midwife informed her
 that she was bleeding; that thereupon the woman said that
 an instrument was placed in her privates; that after-
 wards the cotton was packed into her privates; that she
 thereupon gave the midwife fifteen dollars and she went
 home; that she was told by the midwife to remain quiet
 and at ease; that this woman did go home; that two days
 later a foetus fell from her privates, and that with that
 an instrument known as a catheter described by this woman
 as a long rubber tube with a piece of wire; that at-
 tached to this instrument was a foetus, and that within an
 hour after that, a second foetus came, and that there was
 on the same day, and on the following day further discharge
 of placenta, or the after birth; that on the second day
 the midwife was called; that she examined this woman and
 the midwife said, "Yes, there is going to be some after-
 birth coming out", or more placenta; that on the third day
 the woman was taken ill with fever, and that the midwife

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sent a physician whom she knew, and this physician examined her and went away, and that the woman then called her own physician, Dr. Raphaelson; that Dr. Raphaelson looked at this woman and said to her, "You are in a serious condition and must go to a hospital"; that this woman did go to the Harlem Hospital on June 12, 1916, and, Doctor, reading to you the record made by the attending physician at the Harlem Hospital, the history of the case: "Menstrual, started at 12, regular, monthly, last period February 27th, 1916; obstetrical, five full term children, four miscarriages, last miscarriage ten days ago; no still births; second day following miscarriage have fever and chills; about eleven days prior to admission when patient began to bleed and discharge pieces of blood; and at the same time she complained of pain in the lower abdomen and small of back; bleeding continues, and four days after onset, first foetus was born, and a few hours later the second foetus was born; the following day the after birth was born, piece by piece, the bleeding stopped in about five days, stopping thereafter. Five days ago breasts began to swell and became painful, and then patient became very feverish and no chills, and that her temperature at admission was 105 2/10 degrees, her pulse 140, her respiration 42; and further reading from the record of the diag-

osis made by the physician at Bellevue Hospital, abdomen distended resistant, slight vaginal discharge; June 13th, inflammation, edema of upper lid, limitation of motion of eye ball; pupil oval in shape. pupil reaction to light, nil; diagnosis, septic ophthalmitis prognosis; septic ophthalmitis. Further, that on the 14th of June, the following entry or record was made: vitreous fluid, direct smear shows fairly long chains of gram positive cocci; on June 15th, reading from the entry made by the doctor, blood culture and vitreous culture showed streptococcus hemolyticus am I pronouncing it right? A. Near enough to understand it.

Q. Furthermore, Doctor, the record show that on the first day of her admission her temperature was 105, and thereafter during a period of seven weeks, her temperature was continuously above normal and changed throughout the day. Bearing these facts in mind, can you, in your opinion, with reasonable certainty, say that that was an induced abortion or one which came on naturally? A. It might be either.

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the person would induce the abortion? A Yes, I have known it to do it.

Q And do you still maintain that the introduction of a catheter into the uterus would not produce an abortion? A It sometimes might and sometimes would not.

Q But would the introduction of a catheter into the uterus produce an abortion?

THE COURT: The Doctor has already answered.

Q But you are sure about the boiler producing an abortion?

A Well, we are sure of nothing, sir, in medicine; absolutely sure of nothing. It is a matter of possibility or probability, as Oaler says, in every case.

The Court thereupon admonished the jury and a recess was taken until February 25th, 1918, at 10:30 A. M.