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1709

COURT OF GENERAL SESSIONS OF THE PEACE,

City and County of New York,

Part II.

3447
SP

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THE PEOPLE,

vs.

EDWARD E. CONRAD, Impleaded with
Jennie Brown.

-----X

: Before

: HON. JOHN W. GOFF, B.

: and a jury.

1709

Tried, New York, March 28th, at seq., 1904.

Indicted for Attempted Abortion.

Indictment filed February 19th, 1904.

APPEARANCES:

ASSISTANT DISTRICT ATTORNEY MARSHALL R. CLARKE, for the
People.

W. H. K. OLCOTT, Esq., and VAUGHN LYNN, Esq., for the
Defense.

Frank S. Beard,
Official Stenographer.

THE PEOPLE'S TESTIMONY.

W I N W J E L E V I N E, the complaining witness, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Now where do you live, Mrs. Levine? A 8 East 133rd Street.

Q Are you a married woman? A Yes, sir.

Q What is your husband's name? A Paul, Paul Levine.

Q And you live there with him? A Yes, sir.

Q How you know Mr. Champe S. Andrews? A Yes, sir.

Q What is his business? A The District Attorney for the County Medical Society.

Q You mean the attorney, do you not? A Yes, sir; the lawyer.

Q The lawyer for the County Medical Society? A Yes, sir.

Q And how long have you known him? A Well, since the middle of January.

Q Now, do you recognize this defendant? A Yes, sir.

Q What is his name? A Dr. Conrad.

Q When did you first see him? A About the 2nd of February,
as far as I remember now,

Q Where? A In his house.

Q Where is that? A 127 West 47th Street.

Q In the County of New York? A Yes, sir.

Q Was it after you had seen Mr. Andrews that you went there?

A Yes, sir.

Q And, as the result of some talk that you had had with
Mr. Andrews? A Yes, sir.

Q Now, at what time of day did you first call upon Dr.
Conrad? A Well, as far as I remember, it was about half past
three in the afternoon.

Q On the 2nd of February, did you say? A Yes, sir; as
near as I remember.

Q And that was in the City and County of New York?

A Yes, sir.

Q And who let you in, when you went to the house? A A
woman, that was dressed as a nurse; I guess she was a nurse.

Q And did you see the defendant? A Yes, sir. The nurse
took me into the parlor, and Dr. Conrad came in, a few minutes
later.

Q And what did you say to him and what did he say to you?

A Well, I said, "Doctor, I came to see you on some private

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affairs. I am in the family way, and would like to have an operation performed."

Q Did you have your little baby with you, by the way?

A Yes, sir.

Q How old is that child? A About a year old, thirteen months old.

Q A girl or boy? A A little boy.

Q Now what did you say? Did you say why or for what purpose you wanted the operation performed? A Well, I said, "I want the operation performed, because I don't want to go through with it. I don't want to have any more children. The one I have, I consider enough, under my reduced circumstances, because my husband don't stick to his work, and I don't see how I will provide for two."

Q Yes. A "And I had my baby in my arms, and I said, "This baby was very sick, the summer before, and I couldn't see any way I could provide for two, when I had such a hard time with the one."

Q And what did the defendant say to that? By the defendant, I mean, Dr. Conrad. A I don't remember what he said just there.

Q Well, what further conversation did you have with him?

A Well, I asked him how much he would charge for the operation.

Q Yes? A And he asked me if I wanted to come to his house, and I told him I would rather not, because I would likely be

missed away from home. And then I asked him when I should come down again, and, as near as I remember, he said, the following day; that I should come down as soon as possible to his house.

Q Did you give him your name? A No, sir.

Q Did you give him any name? A No, sir; he didn't ask me any name.

Q And did he ask you where you lived? A Yes, sir; and I told him on Third Avenue.

Q Now, did you go to Dr. Conrad's office again? A Yes, sir; I went there with Mrs. Blocker.

Q Sadie E. Blocker? A Yes, sir.

Q Is that the lady that sits in the back of the room there (indicating)? A Yes, sir.

Q And when was that? A I guess it was the-- excuse me. That was on the 3rd of February, I think; I am not quite sure.

Q Well, did you see the defendant then? A Yes, sir.

Q Well, what took place then? Was Mrs. Blocker present at the conversation? A Yes, sir; we were together.

Q Did you have the baby with you, that day? A No, sir. We went together there, the other lady and myself. And I said, "I brought this lady along, because she thinks that you made a mistake, that you didn't mean to charge \$125", and he said, "No, I didn't make a mistake, but I will tell you what I will do. I will make it \$100 for myself, and \$25 for the nurse".

Q Yes. Well, how long were you there, on that second day? A We were there only a few minutes.

Q Was that the same place, 127 West 47th Street, that you had been to, the day before? A Yes, sir.

Q Well now, try and tell us everything that was said between you and the Doctor or Mrs. Blocker and the Doctor?

A I remember asking the Doctor if there was any very great danger, and he said, no, not if I was properly attended to, after.

Q Yes. When you say the Doctor, you refer to the defendant? A Yes, sir; Dr. Conrad.

Q Was any other doctor present? A No, sir.

Q Was anything said about any other doctor? A No; not that I remember of.

Q Well now, what did you say, before you left? Anything else? A I said, "Doctor, I would like you to attend me yourself, because I am very nervous, and I like a good, skillful doctor", and he said, "Well, I will come and attend your myself".

Q Where did he say he would go? A I don't remember his making any special day, when he would come.

Q I mean, to what place did he say he would come? A Oh, the place to come to was 14 West 65th Street.

Q Well, did you tell him that you lived there? A Yes, ²⁴
sir.

Q Had you been at 14 West 65th Street, up to that time?

A No, sir.

Q You lived in 133rd Street? A Yes, sir.

Q What did you say to him about 14 West 65th Street?

A I don't remember saying anything to him about 14 West 65th Street. I remember that the Doctor said, "I thought you told me you lived on Third Avenue", and I said, "I live in 133rd Street", and he said, "I thought you lived in Third Avenue", and I said, "Well, I was nervous, and I was afraid that you might write to me there, and my people would find it out".

Q And then you gave him your correct address? A 14 West 65th Street. I gave him.

Q Well, did you tell him that you lived in 133rd Street?

A Yes, sir; but I didn't give him the number.

Q Well, what was said about 14 West 65th Street? A Well, Mrs. Blocker said that she was living there, and that I had come to live with her, until this operation was performed.

Q Who introduced Mrs. Blocker to Dr. Conrad? A I did.

Q In what way? What did you say? A Well, I said, "This is my sister-in-law". I introduced her as my sister-in-law.

Q Do you remember whether you gave any name for her?

A No, sir; I did not.

Q Or whether she gave anyname? A I don't remember. I don't think so. I don't think she gave any name.

Q Well, now, have you given us all that you can remember of what occurred, at these two interviews with Dr. Conrad, on the 2nd and 3rd of February? A Well, that is about all I remember about the conversations.

Q Did he say when he would come? A No; I don't remember him making any especial day when he would come.

Q Well, what did he say about it? A Well, he said that he would come for \$100 for himself, and \$25 for the nurse, but he didn't mention any especial day.

Q Well, did you give him this address? A Yes, sir; we gave him the address, 14 West 65th Street.

Q And then you left; did you? A Yes, sir.

Q And where did you go after that? A I went to my home then, in 133rd Street.

Q Now when did you first go to 14 West 65th Street?

A On Monday, the 8th of February, I went there.

Q That was several days after this interview? A Yes, sir.

Q And who went there with you? A I went to the flat alone, on Monday the 8th of February, and remained there in the evening, and went home, and returned to the flat, on the

following day, Tuesday morning; and I stayed there until the 12th of February. That was the day that Dr. Conrad came up there.

Q And who was there with you? A Mrs. Blocker was there.

Q This day that you have mentioned? A Yes, sir.

Q And she stayed there right along, didn't she? A Yes, sir.

Q And slept there? A Yes, sir; both of us stayed there, Mrs. Blocker and I.

Q Oh, did you pass the night there? A Yes, sir.

Q And you had your baby there with you? A Yes, sir.

Q Did your husband live there? A No, sir.

Q Well, Mr. Reardon and some of the officers were there, during some of the times; weren't they? A Yes, sir; they were in and out, during that time.

Q And now when did you next see Dr. Conrad? A On the 12th of February.

Q Where? A He came up to 14 West 65th Street, about twelve o'clock, as I remember the time.

Q In the day time? A Twelve o'clock, noon.

Q Now, had any one come there before he came there?

A Well, his nurse came there, about an hour before him.

Q Had you ever seen her before? A No, sir.

Q Have you seen her in the court room here? A Well, I can't tell, sir, so far away.

Q Well, you haven't seen her up to this point? A No, sir.

Q Well, how long before the Doctor came, did she come?

A About an hour and a half, as near as I remember.

Q And that would be somewhere around eleven o'clock?

A About eleven o'clock, the nurse came.

Q And what took place after the nurse came? A Well, when she came in, Mrs. Blocker--

THE COURT: Of course, up to this point, Mr. District Attorney, there is nothing to show that the woman was his nurse. The witness has called her his nurse, but there is no evidence whatever to justify that characterization.

MR. CLARKE: Oh, no, sir. I don't care for that.

BY MR. CLARKE:

Q A woman came there? A Yes, sir.

Q And who was there, when she came? A Mrs. Blocker and I were there, and the detectives, Mr. Connolly and Mr. Reardon.

Q Mr. Connolly and Mr. Reardon? A Yes, sir.

Q Had you seen Detective Sergeant McNaught up to that time? A Yes, sir; he was in and out.

Q Well, was he there when this woman arrived? A No, sir.

Q Now, what became of the two detectives, when the woman arrived? A The two detectives went in a bedroom, near the dining room.

Q Yes? A And Mrs. Blocker took the nurse into the parlor, to take her wraps off; and then she came back into the dining room, to fix the table. She fixed it with blankets and sheets and pillows there. She prepared the table there for, I suppose, to be--

THE COURT: Not what you suppose.

BY MR. CLARKE:

Q Well, what did she put on the table? A Blankets and sheets and pillows. She fixed the table for the operation to be performed on.

THE COURT: No. Strike that out, that she fixed the table for the operation to be performed on.

MR. LYNN: And, if your Honor please, up to this point the defendant was not present.

MR. CLARKE: But I do not ask for what was said, only what was done there.

THE COURT: The defendant was not present, and, therefore, I direct the stenographer to strike out, and the jury to disregard, what the witness stated

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about this woman preparing the table for a certain purpose.

MR. CLARKE: Very well, sir. But the facts are all that I asked for, what was done.

THE COURT: She may state what was done, but not the purpose.

BY MR. CLARKE:

Q What were you doing, meanwhile? A I was taking care of my baby.

Q But, in reference to your clothes? A Well, the nurse took me into the parlor, where I undressed.

Q Well, what else did the nurse do? Do you remember?

A Well, I had to undress myself, and get into my nightgown, and go out into the dining room, to get ready for the operation.

Q Now, don't say that.

THE COURT: Strike that out, to get ready for the operation.

BY MR. CLARKE:

Q Well, what else did the nurse do, or the woman you call the nurse? A She got some water boiled, and got the table ready.

Q Now, you say that the defendant did come there, that day, this defendant (Indicating the defendant)? A Yes, sir; Dr. Conrad.

Q How where were you and Wrs. Blocker and the nurse, when the defendant came there? A In the dining room.

Q All of you? A Yes, sir; as I remember.

Q Where was your baby? Who had the baby? A When the Doctor came, I had the baby, and I was in the kitchen, at the time.

Q And were Connolly and Reardon there then? A They were in the bedroom near the dining room.

Q Well, what did the Doctor do, when he came in? A Well, after he came in, he came and spoke to me, and asked me how I was, and how the baby was.

Q In what room was that? A That was in the dining room. And the nurse took me to the parlor, to get ready for the operation.

Q What was the condition of the dining room table, when the defendant first came in? A Well, the dining room table was spread out with blankets and sheets and pillows.

Q Yes. A And a basin of boiled water.

Q Did the defendant have anything with him, when he came? A He brought a satchel with him; he had a satchel with him.

Q Well, then, what did you do? You say he spoke to you, in the dining room? A Yes, sir.

Q Now, did you remain in that room? A No. The nurse took me into the parlor, then, to undress. I had to get un-

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dressed.

Q And then you were not undressed, when the Doctor came?

A No, sir. And then she brought me out into the dining room. I had only my nightgown on. And the Doctor put me on the table.

Q Now, was there anybody in the room then, besides you and the Doctor? A The nurse.

Q This woman that you speak of as the nurse? A Yes, sir.

Q Would you know her, if you saw her, do you think?

A I am pretty sure I would.

MR. CLARKE: Is Miss Brown here?

MR. LYNN: Her attorney is not here. I do not know that this is proper, your Honor.

MR. CLARKE: Yes; he is here. He sits right over there (indicating).

MR. LYNN: But I don't know what right he has to ask this, in this trial. I object to any such scene as this.

THE COURT: I sustain the objection.

BY MR. CLARKE:

Q Who was in the dining room, when you were there then?

A The Doctor and the nurse.

MR. LYNN: Now I object to the characterization of the woman as the nurse, if your Honor please.

THE COURT: Yes. I sustain the objection. I cautioned the witness, once before, not to describe this woman as his nurse.

BY MR. CLARKE:

Q Call her the woman, hereafter. A Oh, excuse me. The woman.

THE COURT: Because there is no evidence, up to this point, that justifies any such characterization or description, Mr. District Attorney.

BY MR. CLARKE:

Q Now what became of Mrs. Blocker? A Mrs. Blocker went into the parlor, to take care of my baby.

Q So that there were just three of you left in the dining room? A Yes, sir.

Q Now, then, what took place there? A The Doctor--

Q Was Mr. Andrews there, at any time that day? A He was there in the morning, as I remember, just for a few minutes; but he wasn't present then.

Q And who was in the bedroom, at this time, as far as you know? A The detectives were in the bedroom.

Q How many of them? A Just Mr. Reardon and Mr. Connolly.

Q Well, tell us briefly what took place. What did the Doctor do? A Well, he put me on the table, that was prepared with these blankets and sheets, and he--

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MR. LYNN: I don't catch every word, your Honor.
I would like to have her speak a little louder.

THE COURT: Raise your voice.

BY MR. CLARKE:

Q Well, you must remember the jury were not there, Mrs. Levine. Try and tell us everything that you remember that took place? A Why, the Doctor put me on the dining room table, with the blankets and sheets and pillows all prepared for me.

MR. LYNN: I ask that that be stricken out, as a conclusion of the witness.

THE COURT: Yes. Strike out the words, all prepared for me.

A (Continued) And he used a syringe on me, for some minutes.

BY MR. CLARKE:

Q Where did the syringe come from? A Well, I presume the Doctor brought it with him.

THE COURT: No. Do not presume anything. Strike that out.

BY MR. CLARKE:

Q Now did you see this bag that you have described?

A Yes, sir; I seen that on the chair.

Q Well, what did you see the defendant doing? A Well, the Doctor took a syringe, and used it on me, a few minutes.

Q Yes? A And I asked the nurse--

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THE COURT: No. I do not understand what the witness means. She says he used a syringe on her. Did he use a syringe on her head or foot, or what part of her body?

MR. CLARKE: But I can't lead her, your Honor.

BY THE COURT:

Q Now, witness, we understand from you, so far, that you went there with the purpose and with the knowledge that this thing was about to be performed on you. Now, as long as you went there with that intention and purpose, you cannot claim that any delicacy on your part will prevent your telling the jury exactly what took place. Now just tell the jury exactly what took place? A Well, he was syringing my womb, I guess.

THE COURT: That will not do, "I guess". Strike that out.

BY MR. CLARKE:

Q What kind of water did he use, warm or cold? A Cold water.

Q Well, then, you know where he used it; don't you? A Well, I am not educated well enough to say the different parts of my body, but, so far as I know, he was syringing my womb.

Q Yes? A And I said to the nurse, "Is the operation near over?" And she said, "Just wait a moment".

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THE COURT: No. Stop.

MR. CLARKE: But the defendant was present.

THE COURT: But she is characterizing this as "the operation". It is for the jury to judge whether there was an operation attempted to be performed or not, under the instructions of the Court, as to the law of the case, and not the witness. The witness is to tell what took place.

MR. CLARKE: But I understand that this is a statement made in the presence of the defendant.

THE COURT: But, Mr. District Attorney, the witness's statement as to the use of this thing that she calls a syringe is, to me, unintelligible. I do not know that the jury understand it, but I certainly do not.

BY MR. CLARKE:

Q Now did you see the syringe? A The syringe that he was using?

Q Yes. A Yes, sir.

Q Well, see if you can pick it out (indicating a bag containing instruments)? A I think it was this one (indicating). I seen this one, but I don't know that this was the one he used on me.

Q Well, did you see an instrument like that there (indicat-

ing)? A Yes, sir.

Q Where was it? On the floor or where; on the floor or ceiling or where? A I don't remember. I seen something like that on the table.

Q Now, just tell what sensation you felt, while you say he used this instrument or one like it. Did you see any such instrument in the hand of the defendant? A Yes, sir.

Q And what was he doing with it? A Using it on my person, syringing my womb, as far as I know.

Q And how long did that last? A Just a few minutes.

THE COURT: As far as you know?

BY MR. CLARKE:

Q Well, could you feel the water? A Yes, sir.

Q And, after he had done that, what did he do? A Well, he was just about-- he brought oger an instrument--

MR. LYNN: I object to that, your Honor, and ask your Honor to strike out that he was "just about" to do something, for that is the question that the jury must determine here.

THE COURT: Strike it out.

BY MR. CLARKE:

Q And was the bag open or closed? A It was open. And I saw some instruments on the chair near the table that I was laying on.

Q Now, did you see those instruments (indicating as before)? A Yes, sir.

Q Would you know them if you saw them, or didn't you notice them particularly? A I would know some of them, for I seen them there.

Q Well, do you recognize any of these? A Well, some of them I think. I am not sure that those are the ones, but some of them I think. And the Doctor was bringing one over to me, and I thought he was just about to apply it to my person.

Q Where were the instruments when you saw them? A On the chair near the table. But I didn't see them all, all them instruments (indicating).

Q Well, just tell us what you did see. Was there a pan there? A A pan, for the boiled water, was on the table.

Q And were there any instruments in the pan? A I could not say.

Q You were lying on your back; were you? A Yes, sir.

Q And in what position were you? A Well, my limbs were strapped up to my chest, by means of a strap.

BY THE COURT:

Q Who strapped them? A Dr. Conrad.

Q Why didn't you state all that, at the commencement, when asked what was done?

BY MR. CLARKE:

Q I show you a strap (indicating). Was that used on you?

A Yes, sir.

Q And where was that used on your body? A Around my limbs. They were strapped up. The strap was around my ankles and my body, and my legs were doubled up to my chest.

Q With this strap? A Yes, sir.

Q Now who put this trap on you? A Dr. Conrad.

Q Well, now, after the syringe-- you say you felt him syringing? A Yes, sir.

Q A part of your body? A Yes, sir.

Q Was there any rubber blanket on the table? A There was a rubber bag on the table.

Q No. I mean a rubber blanket of any kind, to keep from wetting the bed clothing? A Well, I am not sure. It was a large bag. It appeared to me to be a large bag. It was put on the table.

Q Well, now, how long did the syringing process last?

A Just a few moments.

Q And then what did the Doctor do? A Well, when he took the syringe away, he was lifting the instrument, and was coming towards me with the instrument. I would recognize it, if I seen it.

Q Had he placed any instrument of any kind inside of

your vagina? A No, sir.

Q Did you ever see that before (Showing an instrument to the witness)? A Yes, sir; that was the instrument he was bringing over to me.

Q And where had he taken it from? A He took it off the chair, as far as I could see. I am not quite sure where he took it from, but I guess it was on the chair, with the rest.

Q You saw that instrument? A Yes, sir; in his hand.

Q And what was he doing with it? A He was just coming towards me, with it, when I called out to this woman, Mrs. Blocker.

BY THE COURT:

Q What did you say? A I said, "Don't let that baby cry", and the detectives heard me calling out, and they came in.

BY MR. CLARKE:

Q No. Never mind that. You called that out? A Yes, sir.

Q And where was Mrs. Blocker, with the child? A She was walking up and down the private hall, from the parlor to the dining room, with the baby.

Q Now did you see this bag there (Indicating a bag)?

A Yes, sir.

Q Or one similar to it? A Yes, sir. It is the one that was on the table.

Q And where was it, with reference to your body? A I was

laying on that table, and that bag was hanging below the table.

Q In that way (illustrating)? A Yes, sir.

Q Well, now, after you spoke to Mrs. Blocker, in the next room-- who was present then, when you spoke? A I called out, "Mrs. Blocker, don't let that baby cry".

Q And who was then in the dining room? A This woman that was attired as a nurse, and Dr. Conrad and myself.

Q How was she dressed, this woman? A She had on the uniform of a trained nurse.

Q Can you describe it? A It was a blue gingham dress, I believe.

Q Did she have any cap on? A I don't remember that.

Q Any shoulder straps? A Yes, sir.

Q And an apron? A Yes, sir.

Q Now was she with the Doctor then in the room? A Yes, sir.

Q And what happened, then? A The detectives came right in.

Q Who came right in? A Detectives Reardon and Connolly.

Q And what did you do? A Well, I was strapped on the table, and the Doctor released me, and I got up, and went to my bedroom.

Q The defendant released you? A Yes, sir.

BY THE COURT:

Q Released you from what? A Took the straps off my limbs.

BY MR. CLARKE:

Q Were you strapped on the table? A No, sir; my limbs were strapped up to my chest.

Q Now, did you see any of those articles there (Indicating some bottles?) A I don't remember seeing them, but I saw some bottles; but I don't remember those exactly.

Q Did you see that bag, or a bag similar to it (Indicating a leather bag)? A I am not quite sure that that was the bag.

Q Well, was it similar to that? A Yes, sir; about that size.

Q And that color? A Well, I think it was a brown bag. I am not quite sure.

Q Well, then, after you were unstrapped, what did you do? A I went to my bedroom.

Q Now, how old are you, Madam? A I am twenty-eight.

Q Twenty-eight? A Yes, sir.

Q And do you remember being examined, after that, by a physician? A Yes, sir.

Q Dr. Palmer? A Yes, sir; and Dr. Young.

Q And Dr. Young? A Yes, sir.

Q Where was that? A I don't remember the number.

Q What? A I don't remember the number of his house.

Q Now, don't you answer this question until we have a ruling on it. Were you, at the time you have described, on the 12th of February, 1904, pregnant?

MR. LYNN: I object, your Honor. And I want to object to that previous question, if I got the sense of it.

THE COURT: One question at a time. The previous question has been asked and answered, without objection.

MR. LYNN: But my difficulty was in hearing, your Honor. Mr. Clarke rung in the second question, before I could object to the first.

THE COURT: Repeat both questions, Mr. Stenographer.

(They are repeated by the stenographer.)

MR. CLARKE: However, I will withdraw that question, at present. You may examine.

CROSS EXAMINATION BY MR. LYNN:

Q Mrs. Levine, you are twenty-eight, you say? A Yes, sir.

Q Now, just keep your voice a little bit higher, and you and I will get along a little bit better. You can talk louder; can't you? A Well, I will try to speak louder.

Q Well, you talked much louder to the Doctor, when you were talking to him; didn't you? A To which doctor?

Q To Dr. Conrad, when you called upon him? A I don't remember.

Q Didn't you talk quite loud, that day, when you said, "Don't let my baby cry", so that the woman in the other room could hear you? A Yes, sir.

Q When you gave that signal that you talk about?
A Yes, sir.

Q Well, you talked loud, that day? A Yes, sir.

Q Was that signal prearranged between you? A I don't understand that.

Q How? A I don't understand "prearranged".

Q Did you agree that, when the time came, that you would say those words, "Don't let the baby cry"? A Yes, sir.

Q Who did you arrange that with? A I don't quite remember.

Q With the three detectives and your sister-in-law?
A Yes, sir; that is right.

Q Is that right? A Yes, sir. They understood this.

Q She wasn't your sister-in-law; was she? A No, sir.

Q I don't hear you? A No, sir.

Q Well, now, I hear you. Well, you told Dr. Conrad that she was; didn't you? A Yes, sir; I told him that.

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Q Who told you to tell Dr. Conrad that she was your sister-in-law? A Well, I don't remember how it was arranged.

Q Did she tell you to do that, or did some one else? A Well, I guess two or three of us together. I don't remember any one in particular.

THE COURT: I am constrained to suspend, a little earlier, this evening.

Gentlemen of the jury,

I caution you not to talk about this case among yourselves, or allow any person to speak with you concerning it; or form or express any opinion upon the guilt or innocence of the defendant, until the case be finally submitted to you for your judgment.

Adjourn court until to-morrow morning, at half past ten o'clock.

(The trial was then adjourned until Tuesday, March 29th, 1904, at 10:30 A. M.)

TRIAL RESUMED.

New York, March 29th, 1904.

J O S E P H I R E L A W D, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q You are an architect, I believe, Mr. Ireland? A I am, sir.

Q Did you prepare a plan of the second floor of the east apartment, No. 14 West 65th Street, in the City of New York?

A Yes, sir, I did.

Q Is that it (indicating)? A Yes, sir; that is it.

Q Is that a correct ground plan of that apartment?

A It is.

Q On what day did you make it? A February 13th.

Q 1904? A 1904; yes, sir.

Q And what is the scale? A The scale is three and a half feet to the inch.

MR. CLARKE: I offer it in evidence.

MR. LYNN: No objection.

(It is marked People's Exhibit 1.)

CROSS EXAMINATION BY MR. LYNN:

Q Mr. Ireland, are all these distances there, the widths and lengths, in the same proportion? A Yes, sir.

Q And what did I understand you to say the scale was?

A Three and a half feet to one inch.

Q Three and a half feet to one inch? A Yes, sir. Every inch of the plan represents three and a half feet.

Q Would you point out or indicate on this map the distances from the room, marked "Bedroom", adjoining the parlor alcove-- what is the distance from the centre of the said room to the dining room, making the angles and turns necessary to get into the dining room, to about the centre of the dining room; do you understand what I mean? A Well, I will have to be allowed to get my rule, my measure, from my overcoat pocket.

MR. CLARKE: We will get it for you.

BY MR. CLARKE: Q Is that what you mean (indicating)? A No. It is only to measure with this. It is a foot rule that I referred to. It is in the inside pocket of my overcoat.

BY MR. LYNN:

Q What is the answer? A I will have to get a longer rule from my overcoat pocket.

Q Take from the centre of this bedroom, through the door, and through, so, to the centre of the dining room? A Twenty-nine and a half feet.

RE-DIRECT EXAMINATION BY MR. CLANKE:

Q Will you indicate on the map the two points that you measured? Make an "X" mark. A From the centre of that room (indicating), through this door of that room, to the centre of that hall, and thence to that door, to the door of the dining room (indicating), to the centre of the dining room?

Q Yes. That is how many feet? A Twenty-nine and a half.

RE-CROSS EXAMINATION BY MR. LYNN:

Q Now, is there any point in that bedroom that a person can look out of it, and see any point of the dining room?

A Looking through the door of the bedroom toward the dining room, a very small portion of that dining room can be seen.

Q Now what portion is that, Mr. Ireland? A Well, just north of the fireplace, as shown on the plan.

Q And near the jamb of the door? A Yes, sir.

Q But you can't look into the room proper? A No, sir.

Q Would you indicate for me, Mr. Ireland, what line of vision you would take to even see the jamb of that door of

the dining room, from the bedroom, making a straight line, of course? A Standing at this point (indicating).

Q But you have crossed this line here (indicating)?

A Yes; slightly.

Q You have a foot in that other line there (indicating)?

A Yes, I see; very slightly.

Q Now, there is a refrigerator there that you would have to look through, Mr. Ireland; wouldn't you? A Yes, sir; there is a refrigerator. Well, taking into account the refrigerator, I don't think that any portion of that room could be seen from the bedroom, unless looking over the top of the refrigerator, which might be the case.

Q You know how high that refrigerator is; don't you?

A I do not, sir.

THE FOURTH JUROR: May I question the witness, your Honor?

THE COURT: Yes.

BY THE FOURTH JUROR:

Q How tall was that refrigerator? A I only speak from recollection of having seen it. I didn't measure it.

Q Well, about how tall? A About five feet and a half.

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W O R M A N L. C O L E, a witness called on behalf of the
People, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q You are a photographer, I believe? A Yes, sir.

Q Where is your place of business? A 681 Broadway.

Q You take photographs of interiors? A Yes, sir.

Q And you do a great deal of that work for the District
Attorney; do you not? A I do.

Q Now did you visit the flat, 14 West 65th Street, second
floor, east, on the 12th of February, 1904? A Yes, sir.

Q Did you take any photographs of the interior of that
flat? A Yes, sir.

Q Which room? A The dining room.

Q I show you a photograph, and ask you if you took that
photograph? A Yes, sir.

Q At what time? A About four o'clock in the afternoon.

Q In the afternoon? A Yes, sir.

Q Of the 12th of February? A Yes, sir; of the 12th of
February.

Q And that represents the condition of that room at that
time? A Yes, sir.

MR. CLARKE: I offer it in evidence.

MR. LYNN: We object, your Honor.

THE COURT: I sustain the objection, at this

stage of the case.

(It is marked for identification, People's Exhibit 2 for Identification.)

MR. CLARKE: You don't object to the qualifications of the witness?

MR. LYNN: No; only to the relevancy of the evidence.

MR. CLARKE: Only to the relevancy of the evidence?

MR. LYNN: That is all.

MINNIE LEVINE, the complaining witness, her cross examination being continued, testified as follows:

MR. LYNN: Your Honor, I would respectfully ask the Court, in view of the situation, that a number of witnesses are to testify to similar transactions and to similar conversations, as alleged, that the rule so kindly invoked at other times, for the purpose of bringing out the truth, to exclude the witnesses on both sides, be enforced.

THE COURT: Exclude the witnesses. Request complied with.

CROSS EXAMINATION CONTINUED BY MR. LYNN:

Q Mrs. Levine, how long have you been a married woman?

A Three years.

Q And is your husband living? A Yes, sir.

Q And where is he living? A 8 East 133rd Street.

Q Your voice is a little better, this morning, but it is not quite as good as I would like to have it. Talk to that furthest gentleman over there (indicating), and make him feel that he hears you, and we will get along very nice, and you will save me a great deal of physical exertion. What is his business?

A Decorator.

Q Decorator of what? A Well, he hangs drapery and window curtains and so on.

Q Where does he work? A Well, he isn't in a steady position, just now.

Q When did he last work? A Well, about three months ago, as far as I remember.

Q Three months ago? A Well, he works at other things, when that business isn't--

Q Who did he work for? A I don't remember; I don't remember where he worked.

Q How long did he work in his last place? A Only a few weeks.

Q Only a few weeks? A Yes, sir.

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Q When did he last have any steady employment, since he was married to you? A What is that, please?

Q (Question repeated.) A Oh, he never does hold any job any length of time. He has been at different work.

Q Was it through your husband or through your own exertions that you figure in this case? A Through my husband.

Q Your husband? A Yes, sir.

Q And, after talking with your husband about this case, who next did you see? A I seen Mr. Andrews.

Q Mr. Champe S. Andrews? A Yes, sir.

Q And where did you see him? A In his office, in the County Medical Society.

Q And when did you first see him there? A 37 Liberty Street, in his office.

Q When did you first see him there? A Oh, when I first saw him? Excuse me.

Q Yes. A About the 1st of February, as far as I remember.

Q About the 1st of February? A Yes, sir. It may have been the latter end of January; I don't remember.

Q Who informed you of Andrews? A My husband.

Q Did he inform you of any one else, besides Mr. Andrews?
A No, sir.

Q After seeing Mr. Andrews at his place in the County

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Medical Society, about the 1st of February, or the latter part of January, as you say, when next did you see him? A I seen him next on the 2nd of February, because I remember--

Q And where did you see him then? A In his office, in the same place.

Q At the County Medical Society? A Yes, sir.

Q When next did you see Mr. Andrews? A As far as I remember, I seen him on the following day, the 3rd of February.

Q That was three times, then? A Yes, sir.

Q Had you received any money, at any of the visits that you had made to Mr. Andrews? A No, sir.

Q Had your husband given you any money? A No, sir.

Q Do you know whether your husband had received any money from any one? A No; I am not quite sure.

Q You are not quite sure that your husband hadn't received some money, before you saw Mr. Andrews? A Well, I mean, if he had any money, I didn't know anything about it. He didn't give me any.

Q You didn't know that he had received any money? A No, sir.

Q When next did you visit Mr. Andrews, after the third visit to his office? A I don't remember. I don't remember being down there again.

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Q Before you visited Mr. Andrews, the first time, had you ever heard of the defendant, Dr. Conrad? A Yes, sir; I heard his name mentioned.

Q From whom? A I don't remember the party. It is quite a long time before that.

Q Before you visited Mr. Andrews, I imagine? A Yes. I heard the name, but--

Q That is all I asked you. You had heard the name? A Yes, sir.

Q How many times, in all, did you visit Mr. Andrews in his office? A As far as I remember, just three times.

Q And all of those were at the County Medical Society? A Yes, sir.

Q Now where was that office? A Id 37 Liberty Street; County Medical Society.

Q And the last visit was made about the 3rd of February? A Yes, sir.

Q Who next did you see, in connection with this case? A Dr. Conrad.

Q And when did you see Dr. Conrad? A I seen him in his home, 127--

Q When? A The 3rd of February, as near as I remember.

Q What time of the day had you seen Mr. Andrews, on the 3rd of February? A Oh, excuse me. I think it was on the 2nd

of February, as near as I can remember now.

Q You said that you had seen him on the 1st, 2nd and 3rd. Now, I don't wish to get you mixed up. Get your dates right, that is all. Three times, you told me? A Three times, I saw Mr. Andrews; and, as far as I remember, I saw Dr. Conrad, for the first time, on the 2nd of February. That is what I mean.

Q Didn't you see Dr. Conrad on the same day of one of the days that you saw Mr. Andrews? A Yes, sir; on the 2nd of February.

Q Now, at what time of the day had you seen Mr. Andrews, at his office? A As near as I remember, it was about half-past ten in the morning. I don't quite remember.

Q And when did you visit Dr. Conrad? A About half-past three in the afternoon.

Q You received instructions from Mr. Andrews; did you not? A Yes, sir.

Q How long a time were you in his office? A How long was I in his office?

Q Yes. A Well, I don't remember.

Q Half an hour? A I don't think it was that long.

Q Twenty minutes? A Oh, yes, I guess about that.

Q Had you been employed at anything, prior to engaging in this transaction? A No, sir.

Q You were living home, were you? A Yes, sir.

Q Were you in the habit of going out, days, at all, visiting? A No, sir.

Q Had you visited no one, friends, or socialists, prior to this time? A No, sir.

Q Why, you had been somewhat sick, hadn't you, Mrs. Levine, ailing? A Well, yes, I didn't feel very strong, but I wasn't very sick.

Q Who was your family doctor? A Well, I wasn't so sick, prior to that--

Q I am not asking you about how sick you were. I am asking you who your family doctor was? A Well, I didn't have any doctor, any family doctor.

Q Who was the last doctor who attended you? A I don't remember the last doctor I seen, because I haven't been in need of a doctor in a long time.

Q Well, had you been to a woman doctor or a man doctor, about any troubles? A No, sir.

Q Just think a minute. Hadn't you called on a woman doctor, before this, a midwife? A Oh, yes; I called on a midwife.

Q When did you call upon the midwife? A I don't remember; I don't remember the date.

Q Well, was it December, January, February? It was before

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you saw Dr. Conrad? A I don't remember. I think it was in the first of January.

Q Well, give us an idea of about when you saw this midwife? A As near as I remember, it was the first of January.

Q It was after Christmas; was it not? A Oh, no; it was before Christmas. You just remind me.

Q Well, if it was before Christmas, it would be in December; wouldn't it? A Yes, sir; in December.

Q What was the occasion of your visiting the midwife?
A Well, I wanted to see her, on account of an operation.

Q You wanted to see her, to have an operation? A Yes, sir.

Q Did she try to help you? A Yes, sir; as far as I know.

Q And you paid her some money; didn't you? A Yes, sir.

Q Was that operation that you had, or that the midwife performed on you, successful? A She didn't perform any operation.

Q Did she treat you? A She didn't give me any medicine, and didn't perform any operation, at all.

Q Did she examine your private parts? A No, sir.

Q Did she make any examination? A No, sir; she refused--

Q What did you pay her for? A Well, I paid her for the

operation, but she refused to treat me. She told me her instruments were--

THE COURT: No, no.

THE WITNESS: Excuse me.

THE COURT: You do not want what she told her; do you?

MR. LYNN: I have not asked that.

THE COURT: Then only answer the question that you are asked, witness.

BY MR. LYNN:

Q Had Mr. Andrews sent you to that midwife? A No, sir.

Q Then, Mrs. Levine, you went to the midwife of your own motion? A Yes, sir.

Q And you purposed, in going to that midwife, to have an operation performed? A Yes, sir.

Q And that was to relieve you of what you thought you were, with child, at that time? A Yes, sir.

Q Wh? A Yes, sir.

Q You were not shamming, about that time, were you? You meant it? A Yes, sir.

Q You haven't told this to the District Attorney, have you, about the midwife? A Yes, sir; I did.

Q Now, let us see if we can fix a little better your dates. Is there any way to assist your mind or memory about

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when you visited the midwife? A I remember visiting her the month before Christmas.

Q Did you lodge complaint against the midwife? A No, sir; I did not.

Q You said nothing whatever, so far as the public courts are concerned, about your going to the midwife? A No, sir.

Q Your visit to the Doctor was a sham visit, was it not?
A Yes, sir.

MR. CLARKE: I object. One moment. That calls for a conclusion. It was not a sham visit.

MR. LYNN: She says it was.

THE COURT: Well, the question is somewhat in-
artificial. According to her story, the visit may
not have been a sham, though the purpose was. Those
are two distinct things.

MR. LYNN: Yes, sir.

THE COURT: She says that the visit was real,
but that her purpose was sham. I sustain the objec-
tion. That is not proper, the characterization. I
pointed out the distinction that may exist. The wit-
ness says that she went actually to visit Dr. Conrad.
If she did, it was not a sham. It was an actual
visit.

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MR. LYNN: I don't doubt that, sir. I agree with the Court fully on that.

THE COURT: And that disposes of the discussion.

MR. LYNN: I don't wish to irritate the Court, your Honor. I am so placid myself, and so unwilling to be the cause of any irritation to the Court. My health is good and strong, and I wish the Court had likewise, and, if I irritated the Court, I must beg pardon and apologize.

BY MR. LYNN:

Q How who next did you see, after seeing Dr. Conrad, on the first visit, on the 2nd of February? A I went right to my home.

Q You went to your home? A Yes, sir.

Q Who next did you see, I ask you again, following seeing Dr. Conrad, in connection with this case? A Mr. Andrews.

Q Mr. Andrews? A Yes, sir.

Q Where did you see him? A Again, in his office, the County Medical Society.

Q Where? A In his office, in the County Medical Society.

Q And how long did you talk with him there? A Well, not more than twenty minutes or so, as far as I remember.

Q After consulting with Mr. Andrews, what next did you do? Or who did you see, in connection with this case? A I seen

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Mrs. Blocher, in the afternoon, that day.

Q Mrs. Blocher? A Yes, sir.

Q Had you ever met her before? A No, sir.

Q What is that? A No, sir.

Q And where did you meet her? A I met her in Mr. Andrews' office.

Q Mr. Andrews then introduced you to her? A Yes, sir.

Q You and the Blocher woman and Andrews then conferred together; did you? A Yes, sir.

Q Who next did you see, after leaving Andrews' office?

A I seen Dr. Conrad, after leaving Mr. Andrews' office.

Q And you went with whom? A With Mrs. Blocher.

Q Started from Mr. Andrews' office to Dr. Conrad's office? A Yes, sir.

Q Had you received any money up to that time? A No, sir.

Q Had you received the promise of any money, up to that time? A Well, my husband had received a promise of money.

Q And that promise had been communicated to you by your husband? A Yes, sir.

Q What was the sum of money promised; how much? A As near as I remember, \$35 each.

Q \$35? A Yes, sir.

Q Now who was the "each"? You and your husband?

A Yes, sir.

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Q What part was he playing, Mrs. Levine, for his \$35? Furnishing you? A Well, that is as near as I know about it.

Q And that is all his contribution was, to furnish you; is that correct? A That is correct, as near as I know.

Q Do you know of any other services that he might have rendered Mr. Andrews, in connection with his \$35, other than furnishing you? A Well, he helped Mr. Andrews to locate the flat.

Q Helped Mr. Andrews to find a flat? A As near as I know, yes.

Q You mean the flat in West 65th Street? A Yes, sir.

Q That is, you learned that from outside sources? You don't know that of your own knowledge, except what has been told you? A Well, my husband told me that he helped him to hire the flat.

Q Well, never mind what he told you. We haven't asked you what he told you. Did you receive the \$35? A Yes, sir.

Q Did you receive any other sums of money? A No, sir.

Q Have you received the promise of any additional sum of money, hereafter? A Yes, sir; Mr. Andrews promised to pay me for my time, that I am losing now.

Q Did he fix the lump sum, or how much you were to get, when this case was through? A No, sir; not that I know of.

Q Was there any idea expressed to you, as to the lump

sum that you were to get? A No, sir.

Q Besides the \$35 that you were to be paid when this case was through? A No, sir. I understood from my husband that I would be well paid for my time; that is all.

Q You understood from your husband that you would be well paid for your time? A Yes, sir.

Q And that is all Mr. Andrews told him? A That is all he told my husband, as far as I know.

Q Were you born in this country, Madame? A What is that, please?

Q Were you born here, in this country? A No, sir.

Q How many children have you? A One.

Q One? A Yes, sir.

Q This was your first child? A Yes, sir.

Q You had never been married before? A No, sir.

Q And you had never had any children before; had you?
A No, sir.

Q Eh? A No, sir.

Q How had you been employed, with whom, prior to your marriage? A With Mr and Mrs. Anstey.

Q With Mr and Mrs Anstey? A Yes, sir.

Q And where do they live? A They lived in 141st Street, on the East Side, but I don't remember the number.

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Q Are they living there now? A I don't know.

Q Could you give me their number? A I don't remember the number.

Q Who did you live with, prior to living with them?

A Well, I lived with a family by the name of Levy.

Q Evans? A Levy.

Q And where does Mr. Levy live? A I don't know, sir.

At that time he lived at Morningside, as near as I remember, because it is quite a while since.

Q And whereabouts in Morningside? A 120th Street.

Q In 120th Street? A Yes, sir.

Q Are they living there now? A I don't think so; because they were thinking of moving away, when I left.

Q And can you tell me the name, and can you give me the address, of some person that you have worked for?

A Yes, sir.

Q Who? A A Mrs. Darragh.

Q And where does she live? A 231 West 133rd Street.

Q And she keeps what? A What is that, please?

Q She lives private? A She lives with her husband.

Q She lives with her husband? A Yes, sir.

Q And you worked for her? A Yes, sir.

Q And how long have you worked for her? A I don't remember exactly how long. I think a year.

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Q And how long since was that? A That is about two years ago, I worked there.

Q About three years? A About two; when I worked with her.

Q And this was, of course, before you were married?
A Yes; and I worked for her, afterwards, too.

Q You haven't seen Mrs. Darragh since you left her; have you? A Yes, sir; I worked for her after I was married.

Q You met your husband where? In this city? A Yes, sir.

Q Is he here in court? A I think so.

Q Who furnished you with the information, or the style of talk, or the suggestions as to the way in which you were to approach Dr. Conrad? Who gave you the information? A Mr. Andrews.

Q How many times did he instruct you how to proceed in talking to the Doctor? A Well, twice, as far as I remember.

Q Twice? A Yes, sir.

Q Did you make any protest against the lies that he asked you to tell? A What is that, please?

Q (Question repeated.) Did you make any protest to Mr. Andrews against the lies that he wished you to tell?

A Well, I don't see any.

Q What is that? Did you tell Mr. Andrews that you

would not tell lies for him, when you went to Dr. Conrad?

A Well, he didn't ask me exactly to tell any lies.

Q Not exactly. But he told you to give a wrong name; didn't he? A No, sir; not that I remember of.

Q Well, did you give your right name? A The Doctor didn't ask me my name.

Q Did you give your right name? You are very evasive.
A To Mr. Andrews?

Q You are neither delicate, nor sensitive, as Mr. Clarke said you were.

MR. CLARKE: I object, sir.

BY MR. LYNN:

Q Did you give your right name to Dr. Conrad? A No, sir; because he didn't ask me.

Q I haven't asked you that.

MR. LYNN: And I move to have it stricken out.

THE COURT: Strike it out.

BY MR. LYNN:

Q Did you, at any time, in the conversation with Dr. Conrad, give him your right name? A No, sir; I didn't give him any name.

Q Did you tell any lies to Dr. Conrad, or make any statements that were untrue? A I made a statement that was untrue.

Q And were those statements that you made, that were untrue, was it in accordance with instructions that Mr. Andrews gave you? A Yes, sir.

Q And was it from Mr. Andrews that you told him that Mrs. Blocher was your sister-in-law? A Well, yes, as near as I remember.

Q He gave you that to tell, did he? Or did you invent that yourself? A Well, I don't remember distinctly.

Q You don't remember whether it was Mrs. Blocher that told you to say that she was your sister-in-law, or whether it was Mr. Andrews that told you to say that she was your sister-in-law? A No, sir; I don't remember which.

Q It was one of the two; was it not? A Yes, sir; I presume it was.

Q You have some physical ailments now, Mrs. Levine; haven't you? A No, sir; not that I know of.

Q In your private parts? A No, sir; not now.

Q Did you have any physical ailments, in the way of a swelling? A Yes, sir.

Q At the time you visited Dr. Conrad? A Yes, sir.

Q How long had that swelling been present in your private parts, prior to the day you visited Dr. Conrad?

A About two weeks.

Q And did that swelling come to your private parts, Mrs. Levine, after you had visited the midwife? A I don't remember. Yes, I think it did.

Q Did you have anything else, besides the swelling?
A No, sir.

Q Do you know what that swelling was, how it is described by name? A No, sir.

Q Was it not what we call an abscess on the external pelvis, just outside, and abscess or swelling, a growing?
A No; I didn't find any abscess.

Q Well, an abscess is a swelling, before it is broke. It becomes an abscess after it is broke. How large was this swelling that you had, on the external part of your private parts? A Well, as near as I can tell, it was about a little larger than this (Indicating the spectacle case of the stenographer). I know it pained me.

MR. LYNN: The witness indicates the eye glass case of the stenographer.

BY MR. CLARKE:

Q Do you mean the whole of the glass case? A No, sir; only the half of it.

MR. LYNN: Well, it is two inches or two and a half.

MR. CLARKE: But she says it was only half of it.

BY MR. LYNN:

Q How did you refer-- when did you first discover the swelling? Before you visited Mr. Andrews? A Yes, sir.

Q Or Dr. Conrad? A Yes, sir.

Q Had you told Mr. Andrews about this swelling?

A No, sir.

Q Had you told Mrs. Blocher about this swelling? A Yes, sir. Yes, I told her. I told Mrs. Blocher.

Q Did you tell her of it, before you went there?

A No, sir; I told her when we were in the flat, in 65th Street.

Q That was after you had seen Dr. Conrad? A Yes, sir.

Q Was any examination of you made by the-- by any one, in connection with the County Medical Society, of this swelling that you had? A No, sir.

Q When did you tell Mr. Andrews about this swelling?

A I didn't speak of it to Mr. Andrews.

Q Then, so far as you know, he was wholly ignorant of your having it? A Yes, sir.

Q Well, was there not some slight discharge and pain in the pelvis? A Well yes; I had a pain.

Q Well, now, that pain was sometimes very acute; was it

not? A Yes, sir.

Q Well, this discharge, was it regular, or did it come only in the mornings or evenings, or how was it? Was it ever present? A No; it wasn't regular.

BY MR. CLARKE:

Q What was not regular? A The discharge.

BY MR. LYNN:

Q This discharge, Madame, was accompanied with this pain; was it not? A Yes, sir.

Q And it required you to carry a napkin, at times; did it not? A Yes, sir.

Q And you mentioned this discharge to Dr. Conrad; didn't you? A No, sir, I didn't.

Q Nor the pain? A No, sir.

Q Nor the swelling? A No, sir.

Q And he made no examination of you? A No, sir.

Q And, under these conditions that you have described, pain in the pelvis, discharge and swelling, were present when you went to see the Doctor? A Excuse me. I don't understand the question.

Q (Question repeated.) A Yes, sir.

Q Didn't the Doctor ask you, on your visit there, whether you were suffering from pain? A I don't remember.

Q Would you say that he didn't ask you that? A No, I

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don't remember.

Q When you entered Dr. Conrad's office, his assistant was there, was he not? A Yes, sir; I seen his assistant.

Q And the room into which you were shown is the room near the outer door; is it not? A Yes, sir.

Q And, quite close, is an adjoining room? A Yes, sir.

Q What we call an anteroom? A Yes, sir.

Q The Doctor didn't talk long to you; did he?

A No, sir.

Q But a moment or two? A No, sir; he didn't talk long to me.

Q He turned you over to the assistant; didn't he?

A Yes, sir.

Q And you talked with the assistant for a while?

A Yes, sir.

Q That was the first or second visit, Madame? A The first visit; yes, the first visit.

Q Did your husband accompany you, on that day? A Yes, sir.

Q Where did you put him? Outside? A Yes, sir.

Q Outside? A Yes, sir.

Q On the stoop? A Yes, sir.

Q Had you informed your husband of this swelling and this discharge and this pain in the pelvis? A Yes, sir.

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Q Had he done anything to relieve you of those troubles, by having you treated anywhere? A No, sir.

Q The second visit you made to Dr. Conrad was that with Mrs. Blocher; was it not? A Yes, sir.

Q When you left Dr. Conrad, on the 1st day of February, as you think it was--

MR. CLARKE: The second day.

BY MR. LYNN:

Q Was it the 1st or 2nd? A The 2nd of February.

Q Where did you go? A I went to my home.

Q Your home? A Yes, sir.

Q Did you remain there during that whole day?

A Yes, sir.

Q And the next morning, the 3rd of February, you went where? A I went to 14 West 65th Street.

Q That is, Mr. Andrews' office? A To the flat, 14 West 65th Street.

Q 14 West 65th Street? A Oh, excuse me. I made a mistake. Yes, I went down to Mr. Andrews' office, on that day, as near as I remember.

Q You went to Mr. Andrews'? A Yes, sir.

Q And you talked with, and met the Blocher woman?

A Yes, sir.

Q And then you proceeded to Dr. Conrad's house?

A Yes, sir.

Q And, after you had left Dr. Conrad's house, at the second visit, where did you proceed? A I went to my home.

Q Leaving the Blocher woman where? A At the elevated steps:

Q And you remained at home all day? A Yes, sir.

Q You didn't report to Mr. Andrews, then, the result of your second day's interview with Dr. Conrad? A No, sir.

Q Eh? A No, sir.

Q There were but two visits to Dr. Conrad? A Yes, sir; as near as I remember.

Q And then you spoke about going to the flat. When did you first go to the flat? A On the 8th of February.

Q Do you remember what day of the week that was? A On a Monday.

Q On a Monday? A Yes, sir.

Q Did you help to arrange that flat? A No, sir.

Q It was already arranged? A Yes, sir.

Q Fixtures up? A Yes, sir.

Q Beds made? A Yes, sir.

Q Dishes in the closet? A Yes, sir.

Q Table spread? A Yes, sir.

Q And everything to make a home in Harlem? A Yes, sir.

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Q Now, I want to get into your mind, if I can, Mrs. Levine, the 2nd of February, when you first went to see Dr. Conrad, the 3rd of February, when you called again, with Mrs. Blocher-- A Yes, sir.

Q That you are clear about? A Yes, sir; as far as I remember it was the 2nd and 3rd of February.

Q Well, are you only guessing at all the things that you are telling us here, or is it a matter of certainty with you about those things? A Well, I am certain what I went, with Mrs. Blocher, to visit the Doctor, but--

Q Now, I am talking of the times there. You stated that it was the 3rd, when you went there, with Mrs. Blocher, and that it was on the 2nd that you went there alone, to see Dr. Conrad? A Yes, sir.

Q Now, that is true? A It is true, as near as I remember.

Q It was not several days, was it, between the visits? It was either the 2nd or 3rd, or the 3rd and 4th, you mean to say; is it not? A Yes, sir; that is what I mean.

Q One visit succeeded the other? A Yes, sir.

Q On the day following? A Yes, sir.

Q That is what I want to get at? A Yes, sir.

Q So that, if it was not the 2nd or 3rd, it was the 3rd and 4th? A Yes, sir.

Q Did you testify before the Grand Jury? A Yes, sir.

Q Do you remember a question being asked you: "Q. Then you left there--" meaning Dr. Conrad's-- "A. Then I left, and, a few days after, I went back, with this Mrs. Blocher?"

A No, I don't remember answering that.

Q Will you swear that you did not? A Yes, sir. I mean, that I don't remember.

MR. CLARKE: Now, let her answer.

MR. LYNN: Now, Mr. Clarke, don't you try to straighten out a thing that can't be straightened out.

BY MR. LYNN:

Q You had in your hand, yesterday, an instrument that Mr. Clarke did not have marked or identified--

MR. CLARKE: Well, I omitted to. If you will allow me I will have it marked now.

BY MR. LYNN:

Q This is the instrument that you identified, yesterday, as seeing in Dr. Conrad's hand? A Yes, sir.

Q You are quite sure of that; are you? A Yes, sir.

MR. CLARKE: We offer it in evidence.

MR. LYNN: It was not marked, so that I could not refer to it as an exhibit.

THE COURT: No. The defense has the witness, now.

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MR. CLARKE: Well, it could be marked now.

THE COURT: No. I do not wish to interrupt the defendant's counsel.

BY MR. LYNN:

Q Now, do you know the name of that (indicating)? A No, sir.

THE COURT: You mean the instrument, when you say "that"?

MR. LYNN: Yes, sir; I mean the instrument.

MR. LYNN: Mr. Clarke and I may agree that it is a speculum, so that we may not confuse the record, your Honor.

THE COURT: Yes; if you agree to it.

BY MR. LYNN:

Q This instrument which was shown to you, and which you have identified, and called a speculum, was what you saw in Dr. Conrad's hand, at the time that you refer to; was it? A Yes, sir.

Q How long did you remain in the house in 65th Street? You say you went in there on Monday? A I remained in there until Friday, the 12th of February.

Q Monday was the 8th? A Yes, sir.

Q And you remained there until Friday? A Yes, sir.

Q It was the previous week that you had been to see Dr. Conrad, then? A Yes, sir.

Q Who was with you in this house? A Mrs. Blocher.

Q Miss or Mrs? A Mrs.

Q Mrs.? A Yes, sir.

Q And who else? A Well, the detectives, Mr. Reardon and Mr. Connolly were in and out.

Q Mr. Reardon, County Detective Reardon? A Yes, sir.

Q Were they in and out? A Yes, sir.

Q They were in and out, all of each day? A Yes, sir.

Q Between Monday and Friday? A Yes, sir.

Q How long would you remain in this house, from the time you come there on Monday? What time did you leave there on Monday? A As near as I remember, around five o'clock.

Q Was any message sent out, during the time that you were there, under your direction, or under the direction of any one else in that house, to Dr. Conrad? A I don't remember seeing any.

Q Is that the best answer you can give, Mrs. Levine?

A Yes, sir; I don't remember hearing of any instructions being given by any one.

Q Now, then, after you had waited all day Monday for the Doctor, and Dr. Conrad didn't appear, did you go to his office,

on Tuesday? A No, sir.

Q You went to the house in 65th Street? A Yes, sir.

Q And did you remain in that house all day? A Yes, sir.

Q And you know whether or not there was any message sent by you, or in your presence, or for you, or in your name, to Dr. Conrad, by any one in that flat, on Tuesday? A Well, I think Mr. Andrews sent Mrs. Blocher down to Dr. Conrad's place, either Monday or Tuesday.

Q Mr. Andrews was there, then; was he? A He came in sometimes; yes.

Q How long would he remain, when he came? A Just a few minutes.

Q Who was in the house at the time Mr. Andrews was there? A Well, he was in two or three times. I don't remember any one being there, except Mrs. Blocher and I.

Q Was County Detective McNaught there? A Yes, sir; some of the times.

MR. CLARKE: Detective Sergeant McNaught.

BY MR. LYNN:

Q Detective Sergeant McNaught? A Yes, sir.

Q And Connelly? A Yes, sir.

Q And there were three detectives and one lawyer?

A Yes, sir.

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Q And one Blocher woman, a private female detective?

A Yes, sir.

Q And yourself? A Yes, sir.

Q As the result of the instructions from Andrews to Blocher, as you believe, to get Dr. Conrad there, did Dr. Conrad make answer, or come? A Did he decide to come?

Q Did he come to the house? A Yes, sir.

Q On Tuesday? A On Tuesday? No, sir, no, sir.

Q So that Monday and Tuesday were both wasted?

A Yes, sir.

Q On Wednesday you went there; didn't you? A No, sir.

MR. CLARKE: Went where?

BY MR. LYNN:

Q To the 65th Street flat? A I went there on Tuesday morning, and I remained there, day and night.

Q Oh, you slept there? A Yes, sir; I slept there.

Q Your husband remaining with you? A No, sir; only Mrs. Blocher.

Q Your husband was up in Harlem? A Yes, sir.

Q Wednesday, then, did Dr. Conrad-- A No, sir; he didn't come on Wednesday.

Q Come to the house? A No, sir.

Q Do you know whether or not any message was sent out, on that day, by Andrews, Reardon, Connelly, McNaught or the

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Blocher woman, to Dr. Conrad? A No, sir; I don't remember.

Q You swear that there was no message sent out? A Well, there was a message sent out, Monday or Tuesday, but I don't remember any other time.

Q Thursday, then, was spent the same way, the fourth day?

A Yes, sir; as near as I remember.

Q Did you go outdoors during any of the four days?

A No, sir.

Q You remained in? A Yes, sir.

Q Under whose guidance and instructions were you acting, while in this flat? A Under Mr. Andrews.

Q Under Mr. Andrews? A Yes, sir.

Q Were his visits daily? Did he come in the morning?

A Well, once, he came in the morning, and once, in the evening, as near as I remember.

Q But he paid a visit, each day? A Well, I am not quite sure that he was there each day, but I think he was.

Q To whom did Mr. Andrews address himself, in the matter of instructions? To you, directly, or to the Blocher woman, or to Reardon? A As to instructions?

Q Yes. A Well, Mrs. Blocher, as near as I remember.

Q You never afterwards visited Dr. Conrad's office; did you? A Excuse me?

Q (Question repeated.) A No, sir.

Q Thursday, now, did Mr. Andrews arrive there, with the others? A Thursday? I don't quite remember.

Q How is your memory, Madame? A Well, it is prettymuch upset.

Q It is not extra good; is it? A No, sir.

Q Was it ever very good? A No, sir; it never was.

Q Did I catch your answers right, yesterday, Mrs. Levine, where you, in talking to Dr. Conrad, said, "My baby has been sick, since last summer"? A He was very sick, last summer.

Q Did you make use of those words to Dr. Conrad?

A Pretty near them words. I said that he was very sick.

Q "I don't think I could stand it". Did you use words like that? A No, sir; not that I remember now.

Q "I don't think I could go through it again"? A "I don't want to go through with it again".

MR. LYNN: Now, I ask that that be stricken out.

THE COURT: Strike it out.

BY MR. LYNN:

Q Didn't you use those words, "I don't think I can stand it"? A I don't remember using them words.

Q Only yesterday?

MR. CLARKE: What page?

MR. LYNN: I haven't any minutes. I am not

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blessed with money enough to order them.

BY MR. LYNN:

Q "I was afraid to go through it again"? A Yes; I remember saying those words.

Q "I was afraid to go through it again"? A Yes, sir.

Q And the Doctor asked you to remain in his place there, during any treatment that he might give you? A Yes, sir; he said that I had better remain there.

Q And you said, "I would rather not"? A Yes, sir.

Q "I would rather have you come up to my house"?

A Yes, sir.

Q Are those the words that you said? A Yes, sir.

Q And your house was where? A 8 East 133rd Street.

Q Eh? A 8 East 133rd Street.

Q And you wanted the Doctor to go up there? A Yes, sir. That is the words I used. He didn't ask me my name, and I didn't tell him my name, nor my address.

Q Didn't you tell the Doctor, the first time you went there, you lived on Third Avenue? A Yes, sir.

Q Now what do you mean by saying that you told him 133rd Street? A The second visit, I said I lived in 133rd Street.

Q And you wanted him to go there, to your house? "I would rather you would come to my house"? A (No answer.)

Q And you meant, by that, 133rd Street? A Yes, sir.

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Q Wasn't the flat in 65th Street then engaged? A No, sir; not at that time, as near as I remember.

Q Well, why did you tell him Third Avenue, yesterday, you wanted him to go to 133rd Street? A Well, it was all under instructions.

Q You were somewhat mixed up, weren't you, Mrs. Levine, to carry all the things that they told you, Mrs. Blocher and Mr. Andrews? A Yes, sir.

Q And aren't you a little mixed up now? A Yes, sir.

Q You have never appeared in any capacity like this before, have you, Mrs. Levine? A No, sir.

Q As a witness in any case, have you? A No,,sir.

Q The rubber bag, Mrs. Levine, that was here yesterday, a syringe, as we call it; you know what that is; don't you? A Yes, sir.

Q It is an ordinary woman's syringe; is it not?

A Yes, sir.

Q Did you answer, Madame? A Yes, sir.

Q You have used them? A Yes, sir.

Q Was the word "abortion", Mrs. Levine, during any of the conversations had between you and Dr. Conrad, ever used?

A I think so; I don't remember that word being used.

Q Did Dr. Conrad, during the time that you were on the

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table in the flat referred to, ever reach the point of inserting any instrument into you, Mrs. Levine, other than the syringing?

A No, sir.

Q When you were there, did the Doctor not mention to you, Mrs. Levine, something about this abscess that you had?

A He may have. I don't remember.

Q Is that the best answer that you can give me on that?

A Yes, sir; I don't remember, if he mentioned it; I don't remember.

Q That, when the Doctor was syringing and washing you, he didn't address some conversation to you about this abscess?

A No, sir; I don't remember him saying anything about it.

Q You were not under ether; were you? A No, sir.

Q And you were not chloroformed? A No, sir; but I was worrying about my baby, so I don't remember.

Q The signal that you gave. Did the baby cry, that day?

A Did he cry?

Q Yes. A Yes, sir.

Q Well, was the signal that you had arranged with Mrs. Blocher, that you should call out, "Lulu, don't let the baby cry"; that those were the words to be used for the signal?

A Yes, sir.

Q And how did the baby happen to cry out, at the time that you gave the signal? A Well, they didn't mention the

word "cry", but I was to call out something about the baby. 75
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Q Well, do you know whether Mrs. Blocher was pinching the baby, in the bedroom, or not, at that time? A No, sir; but he cried out, because he missed me.

Q Well, Mrs. Blocher was not with you in the room, then? A No, sir; she was not.

Q She was in the bedroom? A I don't know, sir; because I was then on the table, in the dining room.

Q Did the Doctor speak of making an examination, and preparing you for treatment, Mrs. Levine? A No, sir; I don't remember him speaking of an examination.

RE-DIRECT EXAMINATION BY MR. CLARKE:

Q Will you look at this plan, People's Exhibit 1, and see if the rooms are correctly named on it? One room is marked "parlor" and another "dining room". Are those names correct, on that plan? A Yes, sir; and there is the private hall (indicating).

Q Now what flat was it you had? A What floor?

Q Yes. A The second floor.

Q East or west? A The north side. I would call it the uptown side of the street, the north side.

Q Well, there are two flats on a floor? A Yes, sir.

BY THE 9TH JUROR:

Q What is the number of that apartment, please? A 14 West 65th Street.

BY MR. CLARKE:

Q Your flat-- that building would be on the downtown side of the street; wouldn't it? A 14?

Q Yes. The even numbers are on the downtown side? Well, can't you remember whether this flat was on the uptown or downtown side of 65th Street? A Yes, sir. It was on the downtown side, I remember.

Q It was on the downtown side, you remember? A Yes, sir.

Q Now, as you went in, was the flat to the left or right? Was on the east or west of the building; do you remember?
A On the east side.

MR. CLARKE: Now, I offer in evidence the speculum, identified by the witness, and ask to have it marked.

(It is marked People's Exhibit 3.)

BY MR. CLARKE:

Q Now, this swelling you say you had, where was it on your body? A In my privates.

Q Well, on the outside or inside? A On the outside.

Q How long had you had it? A Two weeks; or it may be over two weeks; but I positively remember pain for two weeks.

Q Two weeks back in December? A Two weeks just prior

to my seeing Dr. Conrad.

Q Well, did you say anything to him about that? A No, sir.

Q Well, was it discussed, at either of your meetings?

A No, sir.

Q Was anything said about how long you had been pregnant?

A I don't remember.

Q In your talk with Dr. Conrad? A I don't remember.

Q Well, try and think?

MR. LYNN: The witness covered all that ground, yesterday, and now she says she doesn't remember, your Honor.

BY MR. CLARKE:

Q Is that the best answer you can give me? A Yes, sir; I don't quite remember.

Q Do you understand what I mean by being pregnant?

A Yes, sir; I understand you.

Q Now, you said that you had been to see a midwife, some months before this? A Yes, sir.

Q Did you tell Mr. Andrews anything about that? A I think my husband told him.

Q You didn't tell him? A No, sir.

MR. LYNN: I object to that, your Honor, and move to strike out the previous answer.

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THE COURT: Strike out that answer.

BY MR. CLARKE:

Q In what capacity did you work in these different places that you have told about? A Where I worked?

Q Yes? A Just housework.

Q Housework? A Yes, sir.

Q Now did you know before-- while you were doing all these things, did you know that you were to be a witness?

MR. LYNN: I object to that, your Honor.

THE COURT: I sustain the objection.

MR. CLARKE: Well, he asked her about her memory and all that, and I think it is fair to show her state of mind.

BY MR. CLARKE:

Q Did you make any notes about the facts? A No, sir.

RE-CROSS EXAMINATION BY MR. LYNN:

Q Mrs. Levine, you understand that you are sitting in that chair under oath, do you not?

THE COURT: Oh, that must be assumed.

MR. LYNN: Well, I withdraw that. Sometimes witnesses lapse away from that, your Honor.

BY MR. LYNN:

Q Now, I want you to go back to one question. Can you

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not recall that, while Dr. Conrad was-- when he had strapped you in the manner that has been described, and had you on this table in the dining room, and was using this fountain syringe, in washing your private parts, whether or not he didn't say to you that this abscess and this discharge were something that required close attention, or words to that effect?

THE COURT: This is reopening your cross examination.

MR. CLARKE: I object.

MR. LYNN: Well, but she said that she didn't remember. It is more to get a record on the facts, rather than to add to or diminish. That is all the purpose of it, Judge, so as to get the record of the facts.

THE COURT: Well, I will allow this question. You may answer the question.

A Excuse me?

THE COURT: Answer the question.

A No, sir; I don't remember.

Q (The question is repeated by the Stenographer.) A No, sir; I don't remember anything being said about that. I don't remember.

THE FOURTH JUROR: Your Honor, I would like to

question this witness.

BY THE FOURTH JUROR:

Q When you was lying on your back, on the table, how could you see the instrument in the Doctor's hand? A Because the chair, with the instruments was right near the table, where I was laying on.

Q And you could see him pick it up, under the table (illustrating)? A Yes, sir; I seen him pick it off the chair.

Q Now, you have stated to the District Attorney that you was pregnant with a child. How did you know this? A Well, because I knew it from having my other baby. I couldn't state any other way.

Q At the same time, you stated, in the cross examination, that this pain was on the outside of your body? A No; the pain was inside, but the swelling was outside.

S A D I E B L O C H E R, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Where do you live, Mrs. Blocher? A 518 Lexington Avenue, Brooklyn.

Q And you are a married woman? A Yes, sir.

Q What is your husband's business? A Detective.

Q What concern? A Thiel's Detective Service.

Q In this city? A Corner of Maiden Lane and Broadway.

Q Now, are you a detective? I mean, are you in the regular business of being a detective? A No, sir, I am not.

Q But your husband is? A Yes, sir.

Q And had you ever acted as a detective, outside of this case? A Yes, sir.

Q Now, do you remember the 3rd of February, 1904?

A Yes, sir.

Q Do you remember going to the office of Mr. Andrews?

A I do.

Q At whose request? A At the request of Thiel's Detective Service.

Q And who did you meet there? A I met Mr and Mrs Levine.

Q The last witness on the stand, and her husband?

A Yes, sir.

Q And anybody else? A Mr. Andrews.

Q Now, after that, where did you go? A Went to the house of Dr. Conrad.

Q Where is that? A 127 West 47th Street.

Q Do you remember about what time of day it was?

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A About three o'clock.

Q And who did you go with? A Mrs. Levine.

Q Mrs. Levine? A Yes, sir.

Q Well, just describe what occurred. Did Mr. Levine go with you? A No, sir; he waited on the corner. We rang the bell, and were admitted by a nurse, or a lady, in a nurse's uniform, and I asked for Dr. Conrad, and she said, "The Doctor will see you, in a few moments", and took us in the back parlor.

THE COURT: No. The defendant was not present.

As to what this person, dressed as a nurse said, that is incompetent. Strike that out.

BY MR. CLARKE:

Q Where did you go? A Into the back parlor.

THE COURT: And strike out what this witness said to her.

BY MR. CLARKE:

Q Now, you got into the back parlor? A Yes, sir.

Q Did you see this defendant? A He came to the door, shortly after, and bowed to Mrs. Levine, and said that he would see her, in a few moments.

And, in a few moments, he came to the door and said, "follow me".

She followed him into the next room, and I followed her, and he said, "Oh, you two ladies are together?" And I said,

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"Yes." And Mrs. Levine said, "This is my sister-in-law. I couldn't raise all the money, and I went to her, to borrow part of the money".

And I said, "Yes, Doctor. I came to see you, to get the whole facts of the case, so that I would thoroughly understand. Mrs. Levine says that she has been to see you before", and he said, "Yes", and I said, "Doctor, I want to know what you will perform this operation for", and he said, "\$125".

I said, "Well, I came to see if we could get you to come to her house to perform it", and he said, "I never go out", and I said, "Well, Doctor, it must be performed at her house, for family reasons".

And he said, "Well, I don't see why arrangements can't be made to have her here", and I said, "Well, as I tell you, for family reasons". Her parents live near her, and, if they got on to anything of this kind, they certainly would not allow it to be done."

He said, "Do her parents live with her?" And I said, "No, sir, but very near; and, if they should miss her from her home, they would want to know where she was, and, if they found out that she was at your house, they certainly would know what had been done".

And I said, "There was something said about some one doing

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this operation for \$75", and he said, "That was my assistant made that offer". Then Mrs. Levine said, "Oh, Doctor, I would rather have you, knowing you to be skillful, more skillful".

Q What did he say to that? A She says, "I have had an operation like this, once before, and it nearly cost me my life, and that makes me a little bit nervous, and I feel like that I want you, and no one else."

Then she says, "I have one child now, and don't feel that I am able to support another."

He says, "Well, I will tell you what I will do. I will go to the house for \$125, \$100 for myself and \$25 for the nurse, and that includes everything, services of the nurse, for a week."

And I said, "Why, Doctor, I thought I would do away with the expense of the nurse, and attend to the case myself," and he said, "No; I will not accept the case, without the nurse; and, as soon as you decide make up your minds, and, as soon as you make up your minds, drop me a line, and let me know, and I will come".

Q Was anything said about the address, the place he should come to? A He said, "Where do you live?" And she said, "133rd Street", and he said, "I thought you told me Third

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Avenue?" And she said, "I did. But I was a little nervous, and I thought you might look me up, and my parents might get onto it", and he said, "No. I never have to look up my patients".

Q Did you give any name? A He didn't ask my name.

Q Did you give this address, in 65th Street, at that time?

A No, sir.

Q Had you been to the 65th Street address, at that time?

A No, sir.

Q Well, was any day mentioned? A No, sir.

Q On that visit? A No, sir. He said, "Drop me a line", and he would send the nurse up, a couple of hours ahead, so as to make the preparations.

Q Was anything said about money? A He said, \$125. And I said, "It must be cash in hand?" And he said, "Yes, cash in hand".

Q Now, did you go to Dr. Conrad again? A I went to Dr. Conrad's, on the 8th of February, alone.

Q Now, in the meantime, had you been to 14 West 65th Street? A Yes, sir.

Q What day? A The apartment had been rented that morning. On the 8th of February.

Q Had you been there? A Yes, sir.

Q And what did you say to the Doctor, when you went there

on the 8th? It was on a Monday; was it not? A Yes, sir.

Q Had Mrs. Levine taken up her abode in the flat?

A No, sir, she hadn't, but she was there, for a while, that afternoon.

Q What time did you go down to Dr. Conrad's, on the 8th of February? A About three o'clock.

Q You went alone? A Yes, sir.

Q What was said on that occasion? A I said, "Doctor, I was here, the other day, with my sister-in-law, in regard to the operation that we were here to see you about", and he said, "Yes, I remember".

And I said, "I come down to tell you that I have brought Mrs. Levine down to my house", and he said, "Where do you live?" And I said, "14 West 65th Street", and he said, "Has she her baby with her?" And I said, "Yes", and he said, "I was going to say, if she didn't have her baby with her, why she couldn't come here", and I said, "I explained to you before, Doctor, why she couldn't come here, that it was family reasons. Now I want to know when you are coming to perform this operation".

And he said, "About Wednesday or Thursday", and I said, "Not before? Because this case is keeping my house all upset, and keeping me back, because I intend to go out of town, as soon as this is over, and I would like to have it done as quick as

possible", and he said, "I couldn't say before Wednesday or Thursday, because the nurse that I want to take on this case is out on another, and I can't say that she will be through before then", and I said, "Well--" Oh, he said that he would send the nurse, a couple of hours ahead of him.

Q And then did you go there again? A We waited until Wednesday, and Thursday at three o'clock, and the Doctor didn't put in an appearance, and I went down again, on Thursday afternoon, about three o'clock.

Q To his office? A Yes, sir. And found the Doctor sitting in the parlor.

Q The defendant? A Yes, sir. I said, "Doctor, I waited all day yesterday, and all day today, and you haven't put in an appearance yet. I wanted to see what is the matter, why you didn't come and perform the operation. I wanted to see if it was the money holding you back. If so, I will tell you that the money is already", and he said, "Oh, no; that is not hindering me at all. I intend to go, a little later on".

And I said, "I wish you would come as soon as possible, because I want to go out for the evening", and he said, "Well, you just go ahead. There is no necessity for you staying there. Just give her the money", and I said, "Well, I would not leave her with her husband, with that amount of money, as he

can't be trusted."

He says, "Her husband knows that she is going to have this done; doesn't he?" I said, "Certainly he knows, but not just when."

And he said, "Well, you go right ahead, if you want to go out, and just put the money in an envelope, and give it to her, and that will be all right".

Q Did you give him any name? A I had given the name before, Mrs. Cummings. And I said, "You remember the name? Mrs. Cummings, 14 West 65th Street?" And he said, "Oh, yes, I have got your name, all right".

Q Was any name given for Mrs. Levine? A I didn't hear her give any name.

Q Now, did you have any further communication with the Doctor? A Yes, sir. I went to the 'phone, after he didn't come, that evening, I went to the 'phone, about eight o'clock.

Q That was what day? A On the 11th?

Q That would be Thursday, the 11th? A Yes, sir.

Q Had you seen Mr. Andrews meanwhile? A Yes, sir.

Q Well, did you do this under his instructions?

A Yes, sir.

Q Where did you go to telephone? A Corner of 65th Street and Columbus Avenue.

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Q Well, did you recognize Dr. Conrad's voice over the 'phone? A I did.

Q What was said? A I said, "Doctor--"

THE COURT: No.

BY MR. CLARKE:

Q What did he say?

MR. LYNN: Objected to.

MR. CLARKE: I thought it had been held by the Court of appeals that a conversation over the telephone could be given, if the witness identified the voice.

THE COURT: I do not think you have laid the foundation sufficiently, Mr. Clarke.

BY MR. CLARKE:

Q Well, do you remember what number you called up?

A No, sir, I don't. It is a very large number, I know, several--

Q Several figures? A Yes; several figures in it.

Q Well, what did the person say, who was talking over the 'phone, as to who he was?

MR. LYNN: Objected to.

THE COURT: I sustain the objection.

MR. CLARKE: I have the ruling of the Court of Appeals, sir.

MR. LYNN: The legal rule is that, where they

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have talked frequently and know the voice well.

MR. CLARKE: No. In an attachment case, the Court of Appeals held that the evidence of a person that swore he recognized the voice over the 'phone was sufficient.

THE COURT: Where is that case?

MR. CLARKE: I will send for it, sir.

BY MR. CLARKE:

Q Now you did have some talk with somebody, over the 'phone?

A Yes, sir.

Q That was on Thursday? A Yes, sir.

Q Now, did you see Dr. Conrad, at his office, again?

A No, sir.

Q Did you see him at all, on Thursday? A No, sir. Oh, Thursday afternoon, I was down there, at about four o'clock, and he said he would be there at five o'clock, and, when he didn't come at five, I telephoned to him, at eight.

Q And when did you next see him? A Friday morning.

Q When? A About twelve o'clock.

Q Were you in the flat at 14 West 65th Street, that morning? A Yes, sir.

Q Who was there? A Mrs. Levine and the two detectives.

Q Who were they? A Reardon and Connolly.

Q And was Mr. Andrews there that morning? A Yes, sir;

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but not there when the Doctor came.

Q Was Detective Sergeant McNaught there? A No, sir; he was outside.

Q Now, do you remember a woman's coming there? A Yes, sir.

Q What time did she come there? A Eleven o'clock.

Q Well, what did the woman do? Not giving what she said, yet. What did she do? A Well, she went into the front, and took off her wraps, and the officers went under the bed.

Q The officers got under the bed? A Yes, sir; in the bedroom, while I had her in the front parlor.

Q You didn't see that yourself; did you?

MR. LYNN: Objected to. It seems to me that what was done in the absence of the defendant is doubtful to my mind, very doubtful. I will simply take a ruling of the Court on it.

THE COURT: Well, there is really no question before me.

MR. CLARKE: No. I was really protecting your interests.

BY MR. CLARKE:

Q You didn't see them get under the bed; did you?

A No, sir.

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MR. CLARKE: I ask to have that stricken out.

THE COURT: Strike it out.

BY MR. CLARKE:

Q Well, where were you and the detectives, when the bell rang? A In the dining room.

Q And who let her in? A I did.

Q And did you let her in immediately? A Yes, sir.

Q And what did the detectives do? A I took them into the front, and they went into the little room.

Q You didn't have to pass the dining room door to get into the front, then? A No, sir.

Q Then you had the woman in the front room? A Yes, sir.

Q And did she take off her things? A Her wraps. And we went back into the dining room, then, and she put on her uniform.

MR. LYNN: And this is the part that I object to most seriously, your Honor.

THE COURT: Strike it out.

BY MR. CLARKE:

Q What was the color of the dress she put on? A Kind of light blue.

Q Gingham? A Yes, sir.

Q And what else did she put on? A A big white apron.

Q And then what did she do? A And she says, "If you

will--"

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q No. What did she do? A Well, she began to get things ready, to arrange for the Doctor.

MR. LYNN: That is objected to.

THE COURT: Strike it out.

BY MR. CLARKE:

Q No. What did you see her do? A I saw her put the water on the stove, to heat the water.

Q Was there a basin there? A She asked for a basin, and there not being any basin in that house, I went out, and purchased one, to sterilize the instruments.

Q Yes. And what else did she do? A She asked for some sheets.

THE COURT: Wait a moment. Strike out the words, to sterilize the instruments; and the jury will disregard all those matters which the Court directs to be stricken out. They are not to be considered.

BY MR. CLARKE:

Q What did you see her do with the basin? A She put hot water into it.

Q And what did you see her do with the dining room table?

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A She took the table linen off, and folded the blanket and sheet, and laid the pillow on them.

Q Did she do anything else? A That is all I saw her do.

Q Now, how long was she there, before Dr. Conrad came?

A About an hour.

Q And were you talking there with her? A Yes, sir.

Q And where were the detectives? A Under the bed.

Q Well, they were not in the room with her? A No, sir.

Q She didn't see them? A No, sir.

Q They were in the bedroom? A Yes, sir.

Q And where was Mrs. Levine? A She was in the dining room, back and forth from the dining room to the kitchen.

Q And with her baby? A No, sir. He was asleep then; and he shortly woke up, and she brought the baby out.

Q Now, come down to the time when the Doctor came. Did he come there? A Yes, sir.

Q About what time? A About twelve o'clock.

Q On Friday, the 12th of February? A Yes, sir.

Q Now, then, what took place? Give us in full, as full as you can, what he said or did? A I said, "Good morning, Doctor. Just walk back to the dining room, the room that the nurse selected."

MR. LYNN: I ask that that be stricken out,

"the room that the nurse selected".

BY MR. CLARKE:

Q Did you say that to him? A Yes, sir; I did. He took off his coat, and began to push the table around, and asked Mrs. Levine a question or two about the baby having a cold, and how long he had had it.

THE COURT: No, no. You must state what was said, witness.

BY MR. CLARKE:

Q What did he say about the baby? A He said, "Oh, I see your baby doesn't look well. He has a cold", and she said, "Yes", and he said, "How long has he had it?" And she said, "A few days", and he said, "Mrs. Levine, you can get ready, now", and turned to the nurse, and told her to prepare Mrs. Levine, and prepare herself. And he hollered to Mrs. Levine, "Take off all your clothes."

Q Where was she, when he hollered that out to her? A Going through the hall, towards the front.

Q That is, from the dining room towards the front room?

A Yes, sir.

Q That what off? A "All your clothes".

Q Well, did you say anything to him then? A And I said, "Doctor, I guess you want to see the money coming now?" And he said, "Oh, no hurry", and I counted out \$125 to him, and laid it on the table, and he picked it up, and rolled it up, and put

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it in his pocket.

Q Do you know what kind of bills they were? A Ten tens, one five and one twenty.

Q Had you made any memorandum of the money? A Yes, sir.

Q Have you got it with you? A Yes, sir; in my purse.

MR. CLARKE: I don't know that it is disputed; is it?

MR. McMANUS: No. We will concede that the money was paid.

BY MR. CLARKE:

Q Did you make a list of the numbers of the bills?

A Mr. Andrews made a list, and gave it to me, and told me to compare it, which I did.

Q Did you compare it? A Yes, sir.

Q Now, after you gave him the money, what did he do then?

A He put it in his pocket.

Q And what did he do with regard to the baby? A He didn't do anything. What did I do?

Q What did he do about the baby, the Doctor? Try and remember everything? A Why, I told before what he said about the baby having the cold.

Q What was the next thing? A The baby was on the floor, and the nurse come in, and she said, "You take the baby, and go out", and I said, "I thought I would remain", and she said,

"No, the baby will cry, and you take the baby, and go to the front".

Q Did Dr. Conrad hear that said? A Yes, sir. And I went to the front, and they closed the dining room door.

Q Did you see Mrs Levine come through the hallway, after that time? A Yes, sir; to the dining room.

Q How was she dressed? A She was dressed in her night robe only.

Q How was the table, when you left the room? A It was pushed back against the sideboard.

Q And what was on it? A The sheets and pillows and blankets.

Q Did the doctor have anything, when he came there?

A Yes, sir, a satchel.

Q Do you think you would know it if you saw it again?

A I think I would.

Q Is that the one, or one like it (indicating)? A That looks like it. It is just about the same size and shape.

Q And where was this satchel when you last left the dining room, the dining room? A Sitting on the chair.

Q In the dining room? A Yes, sir.

Q What was the nurse doing, or the woman, doing, while you were in the dining room? A She was helping Mrs. Levine disrobe herself.

Q Well, after that? A She was in the dining room, with the doctor. I wasn't seeing her doing anything in particular then.

Q Now how far into the front of the house did you go, after leaving the dining room? A Into the parlor.

Q Through the private hall to the parlor? A Yes, sir.

Q And you took the baby with you? A Yes, sir.

Q Well, now, what is the next that you heard? How long were you in the parlor, before you heard anything? A About half an hour I suppose.

Q About half an hour? A Yes, sir; three-quarters or half an hour. It must have been half an hour.

Q After you left the doctor and the woman and Mrs. Levine in the dining room, you went into the parlor, with the baby, and was there about half an hour? A Well, from 20 to 30 minutes; every bit of 20.

Q Well, what occurred then? A Well I could hear the doctor going back and forth to the little basin in the hall, washing his hands, and the door was closed every time he went in and out.

Q Well, what did you finally hear? A I heard Mrs. Levine holler.

Q What did she say? A "Oh, Lulu, don't let the baby cry," and then the detectives jumped out.

Q Did you see them? A Yes, sir.

Q Where were they? A Behind the door in the bedroom.

Q And did you go into the dining room then? A No, sir; I went out to the front door, and gave Officer McNaught and Mr. Andrews the signal, and they came in.

Q They were outside? A Yes, sir.

Q Did you see the instruments? A Yes, sir.

Q Is your name Lulu? A No, sir. That's the only thing she could think of, I guess. That's the reason she said Lulu.

THE COURT: Strike out that observation of the witness.

BY MR. CLARKE:

Q Well, had you made any arrangement for a signal?

A Yes, sir.

Q What was it? A Well, she was just to say something real loud. We didn't make any definite-- anything definite, what it was, only that she was to say something loud, to let us know.

Q Who was she to say it to? A So that I would hear it. I was to be in the hallway, to hear her, and I was to give the officers the signal.

Q Did you see any of the instruments? A No, sir. I didn't understand you before.

Q Did you see the syringes or the rubber bag? A No, sir.

Q Did you see a basin of hot water? A Yes, sir.

Q Where was it? A On the chair near the table, in the dining room.

CROSS-EXAMINATION BY MR. LYNN:

Q The baby was crying, was it not, Mrs. Blocher, when she gave the signal? A Yes, sir.

Q Now, then, there was no words fixed upon, as a code of signals? A Nothing settled; no, sir.

Q Just simply to shout out something loud? A Something loud; yes.

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BY THE ELEVENTH JUROR:

Q Nothing about the baby? A No; that wasn't settled on, at all.

BY MR. LYNN:

Q Cummings? How did you come to take the name of Cummings, in talking to Dr. Conrad? Had the name been in the family? A No family name at all. It just simply come into my head.

Q You know no one by the name of Cummings; do you?

A No, sir.

Q No acquaintanceship? A Oh, yes; I have an acquaintance, but not in this country.

Q A lady that you know? A Yes, sir.

Q How? A Yes, sir.

Q Is she a friend of yours? A Yes, sir.

Q Eh? A Yes.

Q On friendly terms?

MR. CLARKE: Oh, I object. It has nothing to do with this case.

THE COURT: She may answer the question.

A I don't know what you mean, by friendly terms. I only met the lady once, in a hotel.

BY MR. LYNN:

Q Had you ever met any other persons by the name of

Cummings? A No, sir.

Q I understood you to say that you were a married woman?

A I am.

Q And you live with your husband? A I do.

Q And children? A I have none.

Q You have no children? A No.

Q How long have you been married, Mrs. Blocher?

A Five years.

Q Is your husband the head of the detective agency that you have referred to? A No, sir.

Q He is simply employed in Thiel's Detective Agency?

A He is employed by them.

Q By them? A Yes, sir.

Q Well, he is employed as a detective, I mean? A Yes, sir.

Q How many cases, Mrs. Blocher, have you figured in, assisting your husband, or working directly for the company, or outside people? A About three or four.

Q What were you engaged in, prior to your marriage?

A I wasn't engaged in anything. I lived at home.

Q To whose suggestion did you come to figure first in this matter here? A Through the suggestion of the Manager of Thiel's Detective Service.

Q He sent for you? A Yes, sir.

Q And he referred you to whom? A To Mr. Andrews.

Q When did you see Mr. Andrews first? A On the 3rd of February.

Q Did you make your arrangements with Mr. Andrews, as to the employment? A Mr. Andrews explained the nature of the case to me.

Q Well, did you make, so far as the compensation was concerned-- I don't want to know what Mr. Andrews said, but was the compensation fixed with Mr. Andrews? A No, sir.

Mr. Andrews had nothing to do with it.

Q Who fixed the compensation which you were to receive, Mrs. Blocher? A Thiel's Detective Service.

Q Well, were you a day employee, or were you working in lump? A Working what?

Q Working in a lump, a lump sum? A I was just working whenever they needed the assistance of a lady.

Q I mean, in reference to your compensation. Were you to get a fixed sum for the whole work, or were you to be paid per diem, per day? A Per day.

Q Did Mr. Andrews, at no time speak to you about paying you any sum of money? A No, sir.

Q How much money have you received already, in this case? A I haven't received any of my salary; only expense money.

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Q How much might that be? A \$30.

Q And you spent \$30, as expenses, in what way? A In necessary expenses. I had to eat, and I had to have car fare.

Q Well let us see how you spent \$30 in car fare, for one week? A I lived at the house, several days, and I had expenses there.

Q Did you pay the rent of that flat? A I did not.

Q Did you buy the food? A I bought the food that Mrs. Levine and I and the baby ate.

Q And that amounted to how much, that week, four days?

A Well I have never itemized the statement at all; I have never thought of it.

Q Did it amount to \$10? A I presume.

Q More than \$10? A Yes, sir; It may have exceeded ten.

Q During five full days, then, Monday-- you didn't get really started until Tuesday; did you, Tuesday morning?

A What do you mean by starting, please?

Q Starting to eat, in the 65th street house? A Oh, we were there Monday.

Q From what time Monday? A Monday morning.

Q Monday morning? A Yes, sir.

Q Mrs. Levine, you stated, didn't come in, or make an appearance, until late Monday? A Mrs. Levine came Monday afternoon.

Q Yes. You bought her supper that night? A I did not.

Q Did you buy the food for the supper that night? A I did not. I went to the restaurant, and took my supper.

Q Did you take her with you? A No, sir.

Q Did you buy any meals, the first day, for Mrs. Levine?
A No, sir.

Q What expense was your restaurant supper, that night?

A Oh, about 50 cents or 75 cents.

Q And, for the morning's breakfast, what did you expend?

A Well, I don't know as I can answer to those questions, because I don't just--

Q Was it a dollar? A It may have been.

Q And for dinner, how much? A A dollar? A I don't know whether it was a dollar, or whether it was less; I couldn't say.

Q Would it be as much as a dollar for supper? A I couldn't say.

Q Can't you give me some idea of how you spent \$30, in four days? A Well, for one thing, I had a trunk taken over there, that--

Q How much was that? A \$5 for cab hire and hauling the trunk over.

Q From where? A From Brooklyn, New York.

Q You came over in a cab, and carried a trunk with you?

A Yes, sir.

Q And he charged you \$5 for bringing you over from Brooklyn to New York? A Yes, sir.

Q Now did you spend \$10 in food, in those four or five days?

A I must have; yes.

Q Did you spend \$15? A Perhaps I did.

Q Well, would you guess on twenty?

MR. CLARKE: I think that this examination has gone far enough, if your Honor please.

THE COURT: I think so.

MR. LYNN: Don't you think it is a proper rule, your Honor, where an absolute fraud is sitting on the witness stand--

THE COURT: I do not wish to hear argument.

I sustain the objection to that question.

BY MR. LYNN:

Q Did you spend as much as \$20 for food, during the four or five days that you were in 65th street? A Yes, sir.

Q And they were spent at what place, those dollars?

A At the butcher shop, and at the grocery and bakers' and most any place where people have to go to furnish a house.

Q And did you keep an item of the expenses that you made?

A I did not.

Q You simply, then, guessed at it, and put it in your bill; did you? A Yes.

Q And that bill is where? A Why, in the hands of the people I am employed by, of course.

Q The Thiel's Agency? You can bring it here to court, can't you? A I presume so.

Q What is your salary, per day? A Will I have to answer that?

BY MR. CLARKE:

Q Well, what did they agree to pay you? You don't object to that? A \$2, and expenses.

BY MR. LYNN:

Q How much have you earned so far in this case? A I don't know. I never itemized it.

Q \$20 or \$50? A (No answer.)

Q Won't it aggregate near \$100? A Oh, I doubt if it will.

Q Eh? A Not near so much.

Q Did you say to anyone that you expected to earn a hundred dollars out of the case? A I did not.

Q Would it aggregate \$75? A No, sir.

Q \$50? A Possibly.

Q You are paid for the days you are coming down here as a witness; are you not? A I am, so.

Q And, in addition to your regular witness fees, given to you? A I don't know anything about a witness fee. I never inquired into that.

Q Who gave you the money you had, on the day referred to, \$125? A Mr. Andrews.

Q It was with Mr . Andrews that you tallied and marked these bills; was it not? A I didn't mark the bills, at all.

Q Well he had the bills that were marked with him?
A Yes, sir.

Q And you checked off the numbers, and compared them?
A Yes, sir.

Q Dr. Conrad, at no time, asked you for any money, in any of the visits that you made to his office? A He did not.

Q How many times, Mrs . Blocher, did you visit Dr. Conrad's office, in 47th street? A Three times.

Q How many times did you call him up on the 'phone?
A Once.

Q So it took four interviews between you and he to induce him to get up to 65th street? A It seems that it did.

Q Well that is the fact, Mrs. Blocher, four times; is it not? A Yes, sir; four times.

Q Haven't you been promised a little present, in money?
A Sir? What is that?

Q From some one, haven't you been promised a little present from some one, in connection with this case? A No, sir.

Q When it is finished? A No, sir.

Q Some one has said to you that, if things come out right, that he will make you a nice present? A No, sir.

Q Mr. Andrews never intimated that to you? A He never did.

Q Mrs. Levine, you stated, said that she had had an operation performed on her before, and it nearly cost her her life? You said that Mrs. Levine had said that. Did she state, at that time, where that operation had been performed? A She did not.

Q Did she state when? A She did not.

Q Did the doctor drop you a line, that you requested him to do? A No one requested him to drop any line.

Q Didn't you just testify-- A He requested us to drop him a line when we were ready.

Q Well did you? A No, sir.

Q You bought the pot. Was there no pots in the flat? A Oh, there were a few kettles and pans.

Q Was this a furnished flat, or a flat that you had fixed up quickly, for this occasion? A It was partly furnished. I brought some of the things from my apartments, such as

curtains, portieres, rugs, to help to fill up.

Q Had you been paid, or do you expect to be paid, for the use of your furniture, carting and taking it there?

A I have not.

Q Is it up there now? A No, sir.

Q Do you consider that a fair charge to make, for allowing your furniture to be carted about, and used in that way? A That's my lookout, that is.

Q The 8th was the first time you went to Conrad's?

A The first?

Q Yes. A No, sir.

Q When was that? A The 3rd.

Q The 3rd? A Yes, sir.

Q Was that the first time you had met the Levine woman?

A Yes, sir.

Q Had you known anything about the arrangements of this matter, prior to that day? A No, sir.

Q Who suggested that the Levine woman should call you her sister-in-law? A Well, as I remember, Mr. Andrews.

Q Well, did he give any name to Mrs. Levine, that she should use? A To me? My name?

Q No. That she should use? A I didn't hear him give any.

Q Well you were sitting there together; weren't you?

A We were.

Q Did have writings, that he was reading from, or was he just talking? A Just talking.

Q And then did he tell you just about what your part was, and what the part of the other woman was? Did he instruct you how to proceed, and in what way to proceed? A He instructed me to see Dr. Conrad, and induce him to come from his home, to leave his home.

Q Well, had the Levine woman communicated, at that time, to Andrews that she had had an operation performed upon her before? A I couldn't say whether she did or not. I didn't hear the conversation between Mrs. Levine and Mr. Andrews.

Q You testified before the Grand Jury, did you not, Mrs. Blocher? A Yes, sir.

Q At any of the conversations had with Dr. Conrad, were the words "criminal abortion," or, "abortion," used? A No, sir.

Q You have conferred frequently, since that day, with Mr. Andrews; haven't you? A No, sir; not frequently.

Q Well, on one or two occasions? A Yes, sir.

Q On more than two occasions? A I couldn't say positively.

Q Well, when did you see Mr. Andrews first, after this day of the 12th of February? A I saw him, that evening. He came back to the house.

Q Wasn't he in the house, after Dr. Conrad was arrested, Mrs. Blocher? A Yes, sir.

Q Where was he at the time, or during the hour previous to that? Was he in the building, that you know of, or in the street? A Before the arrest, you mean?

Q Yes. A He was on the street.

Q And where was Mr. McNaught, Detective Sergeant McNaught? A On the street.

Q On the street? A Yes, sir.

Q And the other Detective Sergeant, Connelly? A He was in the house.

Q McNaught and Andrews were on the street? A Yes, sir.

Q And Connelly and Reardon were in the premises? A Yes, sir.

Q Now, what part of the premises was Connelly in?

A The same part Reardon was in.

Q With Reardon? A Yes, sir.

Q Now what part was that? A In the little bedroom.

Q Well, is that a bedroom facing on the rear of the house, or does it face on a shaft? A It faces on a shaft.

Q Just indicate to Mr. Clarke, there, as he kindly holds the map up to you? A That's the bedroom. (Indicating)

MR. CLARKE: And I will mark it with the letter B.

BY MR. LYNN:

Q Well when did they go into the bedroom first, that day? A After the nurse came.

Q Now, you would have to pass-- you had to pass this door; did you (indicating)? A Yes, sir.

Q Well, the door was closed, after they went in? A No, sir.

Q The door was open? A The bedroom door?

Q Yes. A It was open; yes.

Q Now, do you know whether they were in the closet in the bedroom, or under the bed, or what position they took in the bedroom? A Well, when I saw them, they were behind the door.

Q Well, the door swings towards the closet; doesn't it?

A Yes, sir.

Q Well, when did you last see them there, before the doctor came? A I didn't see them there before the doctor came.

Q Well, now about what time was it, Mrs. Blocher, that you saw them there in the position that you have described, behind the door? A Well, it was about 20 minutes after the doctor was there; 12:15 or 12:20; something along there.

Q So that, while the doctor was there, you saw them in there? A Yes, sir.

Q Well, was the door of the dining room closed? A Yes, sir.

Q At the time the doctor was in there? A Open and closed, off and on, when he would go in and out.

Q Well, was the door closed after anyone passed out or in, or was it left open? A The dining room door?

Q Yes. A It was closed.

Q It was closed? A Yes, sir.

Q You sat in the parlor; did you? A Yes, sir.

Q Near the front window, or in the alcove? A I was in and out of the parlor. I went in the hallway, and back into the parlor.

Q And was that to keep the baby quiet, that you were walking about the hallway and parlor and alcove, or to catch what was said in the dining room? A Both.

Q Both? A Yes, sir.

Q Was the baby crying then? A Yes, sir.

Q During all the time that you were walking there with him? A Pretty much all the time, but not all the time.

Q You didn't pinch that baby, did you, to make it cry?
A I don't know for what purpose I would do that.

BY THE COURT:

Q Did you do it? That is the question.

BY MR. CLARKE:

Q Did you? Yes or no. A I did not.

BY MR. LYNN:

Q Well, do you know why the baby cried, at the very time that the mother screamed for the signal? A I do not.

Q Well, the fact is that the baby did cry, at the time that she did cry out, "Lulu, don't let the baby cry"? A He was acrying, when she hollered.

Q And you still remained, then, when the signal was given, remained in the parlor? A Sir?

Q You went then to the rear door? What did you do, after the signal was done? A I went into the parlor first, and took up the baby.

Q Well, didn't you let some one in? A I let Mr. McNaught and Mr. Andrews in, yes.

Q How did Mr. Andrews and Mr. McNaught get up to the door of this flat, just following the signal? A How did they get up?

Q Yes. A They come up the stair.

Q Well, how did you proceed to let them know? A I went to the door and waved the signal.

Q What door? A The front door, the street door.

Q Well, was this flat on a level with the street? A No, sir; it was the second floor.

Q Then you went downstairs? A Yes, sir.

Q Through the hall and out to the street? A I didn't go out to the street. I went to the door.

Q Well, to the doorway of the street? A Yes, sir.

Q With the baby in your arms? A No, sir; I set the baby on the floor.

Q Well, the child was strong enough to take care of itself; was it not? A Well, I didn't care, just then, whether it was or not.

Q And you waved a handkerchief; did you? A I waved a shawl.

Q A shawl? A Yes, sir.

Q And where were Andrews and McNaught, as far as you saw?

A Standing up near the corner of 65th street, near the church.

Q And did they walk or run down to the house? A They walked pretty brisk.

Q And they went upstairs, to the second floor, about as soon as you did; did they? A Yes, sir.

Q And did you go back into the parlor or into the dining room? A I went into the parlor.

Q And what took place in the parlor, of course, with these detectives and the doctor, you know nothing about?

A I do not.

MR. CLARKE: Now, I again offer the evidence as to the telephone message.

THE COURT: I do not think it is admissible.

MR. CLARKE: It seems to be admissible, if she will swear that she recognized the voice. However, it is just a repetition.

RE-DIRECT EXAMINATION BY MR. CLARKE:

Q Now, had the baby been crying, before you heard the signal? A Yes, sir.

MR. CLARKE: It seems to me, now, if your Honor please, that this witness would be competent to testify as to the statements of this woman that came there, on the ground that, when the doctor came there, and gave her instructions, and she obeyed them, they were acting in concert, and that that is sufficient to connect the two.

THE COURT: Well, the question is not presented to me, Mr. District Attorney.

SADIE BLOCHER, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Now, do you recognize the woman in court, who was at that flat, that day? A Yes, sir.

Q Sitting in the back of the room there (indicating)?

A Yes, sir.

Q Now I ask you to state what that woman said, when she came to that flat, that morning?

MR. LYNN: I object, your Honor.

THE COURT: I sustain the objection.

BY MR. CLARKE:

Q Well, I ask you to state what that woman said, after the doctor arrived?

MR. LYNN: I object to that.

THE COURT: I sustain the objection, unless it was said in the defendants presence.

MR. CLARKE: The witness has testified that the doctor came there, and gave orders to this woman, and she obeyed them. It is not offered on the theory of being in his presence, but that a statement of either one is binding upon the other, as they were acting in concert.

THE COURT: This is reopening her direct ex-

amination.

MR. CLARKE: But your Honor ruled it out, in Mrs Levine's testimony.

THE COURT: Yes; because there was no foundation in her testimony to warrant its introduction. But this witness says that she heard the defendant give certain instructions to this woman, described as a nurse.

BY MR. CLARKE:

Q Had you given this woman the address of 14 West 65th street? A No, sir.

Q Had you ever seen her before she came to the house? A No, sir.

Q Had you given the address to any one but-- A No one but the doctor.

Q Dr. Conrad, the defendant? A Yes, sir.

Q And Mr. Andrews and the detectives and Mr. and Mrs. Levine? A Yes, sir.

Q Did any one else know that you were there?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

MR. CLARKE: Of course it is a matter of discretion. It escaped my mind, at the time. Of course, she couldn't state what the statements

made by the woman were, until the doctor had come; but, he having come there, and she taking orders from him, I would ask your Honor to admit the statements of the woman.

THE COURT: Well, there is nothing before me to rule upon now. Put your questions and I will rule upon them.

BY MR. CLARKE:

Q Did you have a conversation with the woman who came there before Dr. Conrad, in the dining room? A Yes, sir.

Q While you were waiting for the doctor? A Yes, sir.

Q What? A Yes, sir.

Q Who was present? A Mrs. Levine, part of the time.

Q And yourself and this woman? A Yes, sir.

MR. CLARKE: Now, I ask that she be allowed to state that conversation.

THE COURT: Put your question.

BY MR. CLARKE:

Q What did the woman say to you?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

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JOHN O. PALMER, a witness called on behalf
of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Now, you are a physician and surgeon? A I am.

Q Admitted to practice in the city of New York?

A I am.

Q And do you know this lady who has been a witness in
this case, Mrs. Minnie Levine? You have seen her here;
haven't you? A Yes, sir.

Q You know her; don't you? A I know her.

Q Now, did you visit her, or make any examination of her,
on or about the 13th of February, 1904? A I did.

Q Where? A In the office of Dr. Young.

THE COURT: What date?

MR. CLARKE: February 13th, the day after this
occurrence.

THE COURT: The day after the defendant visited
the witness Levine, at her house, as described by her?

MR. CLARKE: Yes, sir.

BY MR. CLARKE:

Q At whose request did you make that examination?

A At the request of Mr. Andrews, of the County Medical
Society.

Q Well, who was present at that examination? A At my

examination?

Q Yes. A Why, Dr. Young, who kindly gave us the use of his office and equipment to make this examination, was in and out.

Q And you and the young lady were there? A Yes, sir.

Q Anybody else? A No one except Dr. Young.

Q Mrs. Reardon, was he there? A Reardon came in and identified--

THE COURT: No, no. Strike that out.

BY MR. CLARKE:

Q Well, he was there part of the time? A Yes, sir; part of the time. Certainly not during the act of examination.

Q Well, state what the examination consisted of?

MR. LYNN: Now, your Honor, it seems to me that we might take the ruling of the court on the particular principle that it is privileged. Here is a physician who made an examination of a woman.

THE COURT: The witness is not asked as to what Mrs. Levine stated to him, or as to any communication that she made to him.

MR. LYNN: I understand that, sir. But he is asked to give the examination, and what he found

there, by that examination, on Mrs. Levine, a female patient, the day following the accusation against the defendant.

THE COURT: On what ground do you base your objection?

MR. LYNN: Section 829 of the Code-- no, 831 of the Code.

THE COURT: Step aside, Witness. You can call Mrs. Levine, and ask her if she consents or not to have the doctor state the result of his examination.

MR. CLARKE: Yes, sir. I will recall Mrs. Levine.

M I N N I E L E V I N E , being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Now, you stated, on your direct examination, that you were examined by Dr. Palmer, at Dr. Young's office.

A Yes, sir.

Q The day after the day on which Dr. Conrad came to your flat; is that so? A I don't remember that it was exactly the day after, but it was after.

Q Well, it was after Dr. Conrad came to your flat, in

65th street? A Yes, sir.

Q Is that Dr. Palmer (indicating)? A Yes, sir.

Q That gentleman there? A Yes, sir.

Q Now have you any objection to his telling the Court and jury the results of his examination of you?

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

A Well, I object to his telling it. I would rather not.

BY MR. CLARKE:

Q Why? Didn't you consent to the examination being made? A Yes, sir.

Q At the request of Mr. Andrews? A Yes, sir.

Q Specially for the purpose of securing evidence as to your condition; was it not? A Yes, sir.

Q And now do you mean to say that you object to his telling the result of his examination? A No; I don't object. I have changed my mind.

THE COURT: Ask her if she is willing that Dr. Palmer may or will state in court the results of his examination of her, on that day.

BY MR. CLARKE:

Q Now are you willing that he should state the results of that examination, on the 13th of February, 1904?

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A Yes, sir.

CROSS EXAMINATION BY MR. LYNN:

Q Well, you would rather not; wouldn't you?

A Well, in fact, I would rather not be here at all.

Q You would rather that he wouldn't tell what he found, in examination of your person, on that day, because of your private feelings? A Yes, sir; because of the way I feel about it.

REDIRECT EXAMINATION BY MR. CLARKE:

Q Well, are you willing or not? A I am willing that he should tell. I have changed my mind.

J O H N O. P A L M E R , being recalled by the

District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Now, Doctor, is that the lady, who was just on the witness stand, whom you examined, on the 13th of February, 1904? A Yes, sir.

Q Who employed you to make the examination? A Mr. Andrews.

Q And this lady was not your patient? A No, sir.

Q Now, state what examination was made, and what was the

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result of it?

MR. LYNN: We object, and want on the record our objections, your Honor, that it appears, by the examination of Mrs. Levine, that, while she consents, it is with reluctance, and prefers that the matter should not be told, and that it was only on the very apparent urging and coercion of the District Attorney that she consented to it, and is a violation of Section 829 or 831 of the Code of Civil Procedure.

THE COURT: I overrule the objection.

MR. LYNN: We take an exception.

BY MR. CLARKE:

Q Well, now, Doctor, just give the jury some idea of what you did?

MR. LYNN: This is all subject to the general objection, Mr. Stenographer, which you will kindly note, and I take an exception to it.

A Well, I instituted the ordinary examination, to determine whether or not this woman was pregnant.

BY MR. CLARKE:

Q A little louder, Doctor, please? A I instituted the ordinary process of examination, to determine whether this woman was pregnant or not, and that is all I was asked to do.

and that only.

Q Well what did you do, Doctor? A Well, must I detail?

Q Did you lay her on the table, and examine her?

A Yes, sir. We placed her upon the table, in Dr. Young's office, in the position for such examination, and we conducted it.

Q Who is "we"? A Well, pardon me--

MR. LYNN: I object to that generalizing. You must get the doctor to particularize. Don't sum it up, Doctor.

MR. CLARKE: That's just what I want, the particulars.

BY MR. CLARKE:

Q Did you strap her up? A No, sir. There were the usual stirrups on the table, in which her feet were placed.

Q Well, this usual business, we don't know anything about. Can't you tell what you did? A Well, we--

Q You did it, yourself, didn't you? A Yes, sir.

Q Now, then tell us? A Her abdomen was uncovered, and palpation and feeling were practiced.

Q What do you mean by feeling? Putting your hands here, and feeling her (indicating)? A Yes, sir.

Q You felt of her abdomen? A Yes, sir. To put it in

plain English. And a tumor was discovered, and its conditions were such that made it positive that pregnancy existed.

MR. LYNN: I object to that, as being a conclusion, if your Honor please, and ask that the latter part of the answer be stricken out.

THE WITNESS: Well, I don't know just how I am expected to express myself.

BY MR. CLARKE:

Q Well, we can't testify for you, Doctor. Give us what you found, without deductions. A Well, from her symptoms and conditions--

THE COURT: Strike out the previous answer.

BY MR. CLARKE:

Q Can't you tell us what you found on that woman?

A The enlargement of the abdomen.

Q You found the abdomen enlarged? A Yes, sir.

Q To what extent? A Well, the state of her pregnancy, as to time.

Q Well, that is a conclusion. But tell us? A About four months, from four to four and a half months, or five months. Of course, it is impossible to determine that positively.

Q Well, she was pregnant between four and five months?

A Yes, sir.

Q Well, you have spoken of a tumor. Was it a diseased tumor? A No, sir.

Q Her abdomen was swollen? A Yes, sir.

Q Indicating pregnancy? A Yes, sir.

Q Now what other symptom did you find? A Well, the position of the fundus of the uterus with this tumor, the womb was enlarged, to the extent that it is usually at four or five months, between four and five months; perhaps four and a half months, or such matter.

Q Is the child quick, at that age? A It is the age, about, when quickening appears subjectively to the patient. It was very perceptible that the child was alive.

Q Well, how did you discover that?

MR. LYNN: Objected to, and I ask your Honor that that be stricken out, as reasoning.

THE COURT: No. If he can state it as the result of his examination.

BY MR. CLARKE:

Q Did you feel with your hand that the child was alive?

A Yes, sir.

Q Could you feel the pulsation? A No, sir. But we could feel the motions of the fetus, in utero, excited by the palpation with the hands.

Q What does "palpation" mean? A Kneading the abdomen.

Q How did you notice this swelling that has been spoken of, or abscess? Did you notice any abscess on the woman?

A No; I noticed no abscess.

Q Or any diseased swelling? A Well, there was a little swelling of the left labia majora, the external parts, the external lips, the vulva, was enlarged a little, I think, on the left side.

Q And what does that indicate? A Well, some inflammation, that possible might result in abscess.

Q Well, was it anything that required treatment?

A Well, I should say that it did. It should be treated, yes, sir

Q Just a little inflammation? A Yes, sir.

Q Well, slight or considerable? A Well, considerable inflammation.

Q Well is that the outside part of the private parts of the woman? A Yes, sir.

Q The vulva? A Yes, sir.

Q One of the lips, you say? A Yes, sir; the labia majora.

Q Slightly enlarged? A Yes, sir.

Q Which one? A The left.

Q And would that require any operation to treat it?

A No, sir.

Q It could be reached from the outside? A Yes, sir. I wasn't asked -- if I may make an explanation-- to determine any other condition, except pregnancy, and I didn't direct my attention to anything else.

Q Now, as the result of your examination, and your knowledge as a physician, are you able to say whether or not that woman was pregnant on the 13th of February, 1904?

A She was:

Q And for how long had she been pregnant? A Well, from four to five months. I can't say exactly, because we have no right to do that.

CROSS EXAMINATION BY MR. LYNN:

Q Well, that is what we call a doctor's best guess, is it not, Doctor? A Yes, sir.

THE COURT: Gentlemen of the jury,

You remember my caution, not to talk about the case, or form or express any opinion concerning the guilt or innocence of the defendant, until the case be finally submitted to you.

MR. LYNN: Will your Honor indulge the defendant in my custody?

THE COURT: No. The officers may retain the defendant here, without transferring him to the

City Prison, because I want to accommodate
counsel as much as possible, but he has to be in
the custody of the officers of the court.

The court will take a recess until a
quarter-past two o'clock.

AFTER RECESS:

J O H N O. P A L M E R, his cross examination being continued, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. LYNN:

Q Doctor, you are an expert, I presume, upon such examinations; are you? A Well, I never called myself such. They, of course, come in the way of a practitioner.

Q Well, it is a thing that you do every day, or every other day, frequently, constantly, all the time, these examinations? A No, sir. Only as---

Q Well, Doctor, won't you describe more in particularity or detail the position that you placed the woman in, at the time you made this examination? I understand there was a regular examining table? A Yes, sir.

Q That physicians have for such things? A Yes, sir.

Q And, at the sides of it, are places for the legs to be strapped on? A No, sir; there are stirrups at the end of the table, supported by metal standards, into which the feet are placed, so as to retain the position most convenient for such examination.

Q Well, that holds the knees somewhat up, does it not?

A Yes, sir.

Q And spreads the legs? A Yes, sir, to some extent.

Q Now, in the absence of a regular operating table, is what we call the dorsal position one that is used in the profession? A Yes, sir.

Q Now will you describe what the dorsal position is?

A Well, the patient lying on the back, simply lying on the back.

Q Yes. And what position as to the legs? A Well, the dorsal position, proper, wouldn't give any particular position to the legs.

MR. LYNN: Well, will you give me then straps?

BY MR. LYNN:

Q In the science of gynecology-- it is a new word to me, but I presume it means the treatment of women's diseases and the examination of them? A Yes, sir.

Q Am I right in the pronunciation of it? A Yes, sir.

Q You have seen this strap and buckle, or what has been referred to? A Not except very imperfectly.

Q This here, Doctor? (indicating) It has two snap hooks on the end, and four eyes set on the side. Have you ever seen such a strap before? A Yes, sir; there are many forms of such things for that purpose, where a physician is--

Q Are such straps used for examinations? A Yes, sir; when at the patient's house; a physician is very apt to have in his office an operating table, with stirrups.

Q But when he is called away from his office to a residence, he is very apt to have these things? A Yes, sir; I think so.

Q And you use these to make an examination, in a private house, in the absence of an operating table? A Yes, sir; that or something equivalent to it. There are a legion of such things.

Q Now, Doctor , did you see the instrument that was marked in evidence, that is now on the table there, People's Exhibit 3, what we call a speculum, Mr. Clarke and I? Is that such as you know to be a speculum? A I do; yes.

Q Well will you describe the general uses of the speculum, as you find it there, what the instrument is for? A Well, chiefly, to gain free access to the mouth and neck of the womb, in case there are operative procedures to be undertaken, at that point.

Q Or examinations to be made? A Or examinations to be made.

Q This is to enlarge the opening of the vagina; is it not? A Yes, sir.

Q Coming back to the pregnant question, that I overlooked

asking you, can a physician ever be positive that a woman is pregnant four months? A Yes, sir.

Q Now, you recognize Dr. Gaillard Thomas as quite an authority on that subject; do you not? A I do.

Q And his work on abortion, I presume, you have read, Doctor? A Well, possibly not consecutively. I have read much of Dr. T. Gaillard Thomas's literature.

Q He was recognized as one of the highest authorities on that subject in America; was he not? A Yes, sir.

Q Let me read from the 97th page, Doctor, from Dr. Thomas on abortion, and let us see whether or not you and he agree: "You will find, in the community in general, very positive ideas regarding recognizing pregnancy. People think that a medical man ought to know at once whether a woman is pregnant or not, under all circumstances. In fact, however, the diagnosis of pregnancy, in the early stages, is often one of the most difficult that a physician is called upon to make. Still further, it is by no means always easy to make the diagnosis, even at a later period; and, every now and then, a pregnant uterus is cut down upon, under the supposition that it is an ovarian tumor, even by most excellent and careful physicians." You agree with that, don't you, Doctor?

A Well, perhaps, with some reservation, I do.

Q Well, then, you don't wholly agree with Dr. Thomas?

A No, sir; not in that bald statement.

Q "We now come to the consideration of the question of the artificial--" No. That is all I want of that. Does every woman feel independent quickening of a fetus, at four months? A Seldom at four months.

Q What you diagnosed as quickening, was it not a sensation excited by your own handling of the parts?

A Couldn't be.

Q Well, didn't you squeeze the abdominal, at the time you were feeling for the condition of the woman? A I did.

Q Well, don't you think, Doctor, that somewhat helped to give that pulsation that you have described? A It excited what I have described as the motion of the fetus.

Q Yes. Doctor, what is the ordinary and accepted treatment for an external swelling, such as you saw in the patient? A Well, one moment--

MR. CLARKE: I object, unless he makes it clear whether he refers to the swelling of the abdomen, or the inflammation of the vulva.

MR. LYNN: No. I am speaking of the swelling now. The doctor said that he found pregnancy. I refer to the external inflammation or protuberance later. I can't use the medical terms.

BY MR. LYNN:

Q What is the ordinary treatment that the physicians would ordinarily follow in treating that? A Well, it depends upon what is found to be the cause of the swelling. Should there be pus gathered there, manifested by fluctuation, possibly an incision would be the proper treatment.

Q Assuming that Mrs. Levine has testified that she had discharges and pain besides the swelling, and assuming that to be true, Doctor, and those pains and discharges had been felt for two weeks, how then would you say was the treatment necessary? A Well, perhaps, either a succession of constant hot applications there, to allay this inflammation, together with absolute cleanliness insisted upon, and await the issue, perhaps, as to whether an abscess would form or not.

Q You would clean out the parts, with the douche, wouldn't you? A Why, most certainly.

Q And you would use hot water; wouldn't you?

A I should prefer hot water to cold applications, under most circumstances.

Q Would you use a syringe, such as has been seen in court here, to apply your douche? A Yes, possibly. I didn't see the syringe distinctly, but I assume that it is an ordinary fountain syringe.

Q You saw it at a distance; did you? A Yes, sir.

at a distance.

Q Your mind, Doctor, of course, was not directed at all, on this day of the examination, to anything except one particular thing, to inquire as to the pregnancy of the woman?

A That's what I was employed to ascertain, whether the woman was pregnant or not; and I found the signs of pregnancy existing.

Q You are unable to say whether the discharges that the patient herself says she had were present or not, because your examination didn't go that length? A I don't quite understand the question.

Q Assuming that the patient-- Repeat my last question, please?

(It is repeated by the Stenographer)

A Well, in making the examination to ascertain the color, I might say, the appearance of the vaginal walls, et cetera, I say, in looking for that sign of pregnancy, which I found existing, I casually noticed that there was a leucorrhoeal or other discharge there, very slight, perhaps.

Q Well, will you give us, with a little more amplitude, what you call a leucorrhoeal discharge, what its nature is? Is it a foreign substance? A No, sir; it is a fluid discharge. You might perhaps assimilate it to the discharge of the nose, in the case of hay fever or cold. It

It is a discharge from those parts, indicating an inflammatory state of those parts.

Q An inflamed condition? A Yes, sir; an inflamed or congested state.

Q Could you use the word "unhealthy condition? A Yes, sir; perhaps so.

Q Well, there would be less, on the day following the day you made your examination, had it not been that Dr. Conrad had douched and washed out the woman, assuming that he did so, the day previous, that is, if the leucorrhoeal discharges had not been washed and cleansed the day before, their presence, the day after, would not be so pronounced? A Well, 24 hours might bring, in ordinary circumstances, a quantity of this discharge.

Q You found the presence of it, even the next day, after the cleaning, though? A Yes, sir; and that is perfectly natural.

Q Have you not known many cases, or some cases, Doctor, where a diagnosis has been made as pregnancy, and that the physicians found, subsequently, that it was the opposite?

A Oh, yes.

Q And even as late, in some cases, as four months?

A Well, I can hardly conceive how it could be.

Q Well, I am speaking of the cases, Doctor, not your

own judgment in the matter? A When it is possible to map out the parts of the fetus distinctly, and provoke their voluntary movements in the uterus, it is--

Q You don't proclaim, do you--

MR. CLARKE: Let him finish.

A (Answer continued) I say, when it is possible to map out the parts of a fetus, in a pregnant woman, and provoke their spontaneous action, such as kicking of the feet, and the moving of the fetus, why, I think that is very strong, if not positive evidence of pregnancy.

BY MR. LYNN:

Q But you don't pretend to be infallable, I know, Doctor? A No, sir.

Q Would you call yourself an expert gynecologist?

A No, sir.

Q You are in the general practice of medicine; aren't you, Doctor? A Yes, sir; a general practitioner of medicine.

Q Are you in the employ of the County Medical Society?

A Except in this instance, that Mr. Andrews wished me to perform this service for him.

Q You are a member of the County Medical Society?

A Yes, sir.

Q And your services were paid for, as a physician, in this case as in any other matter, where you attended a

patient? A Well, I suppose so. No bargain was made. I was simply asked to go and get--

BY MR. CLARKE:

Q And what?

BY MR. LYNN:

Q Doctor, aren't women, four or five months in pregnancy, rather large and full? A Of course, there is an enlargement.

Q Well, is it not a stage of pregnancy that begins to be discernible to you and I or others? A I presume to myself, but--

Q No. I don't mean to the patient or woman herself, but I mean to the physical eye, to a person passing on the street? We often meet pregnant women going about. Isn't a woman, four or five months pregnant, so swollen that she would be recognized at once as pregnant? A No, sir, not necessarily. I think her dress would so conceal it that the laity would hardly recognize it.

Q But isn't it true that a four or five months child is noticeable externally in the dress of a woman, in the bearing and carriage of a woman? A Well I should say that it would not be, because the woman is apt to dress to conceal that. The laity would hardly be expected to notice it.

Q When a woman is strapped, such as you have described this strap, heretofore, she is on her back, and the knees are

brought up as high as they can be, strapped from there (indicating) and buckled to the shoulders; are they not?

A Usually, yes.

Q You heard the testimony of some of the witnesses, describing the position of the Levine woman in this flat, did you not, Doctor? A Yes, sir.

Q Well, is that in keeping with the position used in gynecology? What is called the dorsal position, in private houses? A Well, as far as I could hear, it was. I couldn't hear everything that passed.

BY THE COURT:

Q You mean everything that passed here, on the witness chair? A Yes, sir. I couldn't hear the answers and questions distinctly, being back there, and my hearing not being very acute.

BY MR. LYNN:

Q Well, if you are in doubt about it, I don't know that I can accurately describe it, Doctor. However, I think you can understand it, without giving you an illustration of it.

A Yes, sir.

REDIRECT EXAMINATION BY MR. CLARKE:

Q Doctor, is this strap that has been shown you, which is marked People's Exhibit 4 for identification, would that

be a proper strap to use on a patient, if an abortion was about to be performed?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, what do you call it? A Well, I hardly know what to call that. A strap for the purpose of sustaining the feet and knees in position for operative gynecology.

Q Now, if a physician was about to perform an abortion on a woman, and wanted to strap her in position, I ask you if that is the sort of strap that physicians use for that purpose?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, will you describe what sort of a strap is used for that purpose?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Are you familiar with the methods used by physicians in performing operations to cause miscarriages?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Now, if you were simply examining a woman, for the purpose of finding out the nature of an inflammation of the vulva, or outer lips of the organs of generation, would it be necessary to clean out the womb and the inner parts of the vagine, with a syringe?

MR. LYNN: Objected to, as not based on the evidence, because the patient herself says that she saw a discharge.

THE COURT: The form of the question is objectionable.

MR. CLARKE: The woman testified that he used the syringe on her womb.

THE COURT: I have ruled.

BY MR. CLARKE:

Q Would it be necessary to syringe the inner parts of the organs, if the exploration was simply to ascertain the nature of this inflammation of the vulva that you have described?

MR. LYNN: Objected to, as to form.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, if a woman were suffering merely from a leucorrhoeal discharge of the outer lips of the vulva, such as you have described this woman as suffering from, or some inflammation

of that part of the organ, would it be necessary to syringe out the inner parts of the organ?

MR. LYNN: Objected to, as not based on the evidence, as that is not shown to be the condition in which she was, when she went there.

THE COURT: Well, if this is intended to be an hypothetical question, the objection is well taken.

MR. CLARKE: Well, it is a simple question. The woman says that he syringed out the neck of her womb, and I want to find out if that was necessary, to find out the nature of this inflammation.

THE COURT: A physician can testify to matters brought under his observation, as matters of fact, and then he may testify as to matters of opinion, but that testimony must be based upon hypothesis.

BY MR. CLARKE:

Q Now, assuming that a physician was examining this woman, to find out the cause, and treat this condition of inflammation of the vulva, which you found, that leucorrhoeal discharge, would it be a part of the treatment to wash out all of the inner parts of the organ?

MR. LYNN: Objected to, as not based entirely on the evidence in this case.

THE COURT: I overruled your objection, on the

ground cited by you. I exclude the question, because it is improper, at this stage of the proceedings. I do not know what claim may be made in reference to that condition which the District Attorney points out.

BY MR. CLARKE:

Q Now you spoke of mapping out different parts of the foetus? A Why, feeling what was very evident to be the head of the foetus, perhaps.

Q The foetus is the unborn child, is it not? A Yes, sir; the unborn child.

Q And, in mapping out, you mean that you, with your fingers, through the walls of the abdomen, feel the different parts of the child or foetus? A I could feel the different parts of the body, to a certain extent.

Q And did you, in this case? A Yes, sir.

RE-CROSS EXAMINATION BY MR. LYNN:

Q Doctor, could you feel the foetal parts, between four and five months? A Yes, sir.

Q Do you think that you could?

A Yes, sir.

Q In all cases?

A Well, I could feel them in this case. Of course,

not as distinctly as we could approaching parturition or confinement.

Q But you say it is only a guess, as to the time you fix?

A Well, but it was distinctly enough impressed upon me, so that I didn't go any further and listen for the foetal heart. I was satisfied--

Q That's all.

A I was satisfied that I had accomplished--

BY MR. CLARKE:

Q Accomplished what?

A What I was asked to do, to ascertain whether that woman was pregnant or not. I felt satisfied in my own mind that she was pregnant, and then I was not looking for anything else.

BY THE FOURTH JUROR:

Q You have stated that, on February 13th, according to your best knowledge, the woman was four or five months with child?

A Yes, sir.

Q How large would she be at six months?

MR. CLARKE: I object to that.

THE COURT: Oh, I don't think that is a

proper question, Mr. Juror.

THE JUROR: I would like to know if it is large enough to be seen, your Honor.

THE COURT: But I do not think it is essential to elucidate anything in this case. Unless both sides agree to the question being asked and answered, I will not allow it. If either side opposes, I will not allow it.

MR. LYNN: We haven't any wish for that, because it wouldn't make much difference here.

MR. CLARKE: Well, I object, because it is based on something that might happen, months after.

THE COURT: Then both sides object.

THOMAS J. O'CONNELL, a witness called on behalf of the people, being duly sworn, testified as follows

DIRECT EXAMINATION BY MR. CLARKE:

Q You are a Detective Sergeant of Police? A Yes, sir.

Q Of the New York Police Force? A Yes, sir.

Q Where are you assigned to duty? A The District Attorney's Office.

Q And were you assigned to duty at the District Attorney's Office in this County, on February 12th, 1904? A Yes, sir.

Q Now do you know Mr. Champe S. Andrews? A I do.

Q Do you know Mr. Edward S. Reardon? A I do.

Q And do you know Detective Sergeant McNaught? A Yes, sir.

Q He is also assigned to the District Attorney's Office? A Yes, sir.

Q Have you visited the premises No. 14 West 65th street, in this City and County? A Yes, sir.

Q When did you first go there? A February 9th, in the afternoon, about 2 o'clock.

Q That was Tuesday, was it? A Yes, sir.

Q What flat did you visit? A One flight up, east.

Q Who did you see there? A I saw two ladies there; one by the name of Mrs. Levine, and another by the name of Mrs. Blocher.

Q Those are the two women that have testified in this case? A Yes, sir. And a young man by the name of Levine, Mrs. Levine's husband, I believe.

Q Now how many times were you there, prior to the time that Dr. Conrad was there? A Well, we went there, that afternoon, and looked the flat over, and went there, next morning at 9 o'clock, and were there for three days.

Q You stayed there for three days? A Yes, sir.

Q And were you there all the time? A No. ,There were two of us inside all the time, and one out.

Q Now, were you there on the 12th of February? A Yes, sir.

Q Now, were you there at 11 o'clock? A Yes, sir.

Q Who was with you? A County Detective Reardon, Mrs. Levine and Mrs. Blocher.

Q Had McNaught and Mr. Andrews been there, that morning?

A Yes, sir.

Q Where were they at 11 o'clock? A McNaught was outside.

Q Where was Mr. Andrews? A I believe he was outside also.

Q Now can you describe this flat? Was it furnished?

A Yes, sir.

Q Throughout? A Yes, sir.

Q Well, now, state what occurred there, at or about

11 o'clock in the morning of February 12th, 1904? A On the morning of February 12th, 1904, about 11 o'clock, a knock came to the door, and it was answered by Mrs. Blecher. The woman that was there said, "I am the nurse from Dr. Conrad."

MR. LYNN: I object to that, your Honor, and I ask that that be stricken out.

THE COURT: Motion granted.

BY MR. CLARKE:

Q Don't state what was said, until the doctor gets there.

A Well, at about a quarter after 12, the doctor came.

Q Well, no. Go ahead and tell what took place. A Well, this nurse was escorted into the front room, and Reardon and I went into the bedroom.

Q Where had you been, when she came? A Sitting in the dining room.

Q Did she pass the dining room door? A No, sir; she came in the outer door, and went down the hall to the front room.

Q And what did you do when she went in there? A We concealed ourselves in the bedroom off the hall, and stayed there.

Q You and Reardon? A Yes, sir. And we were there from 11 o'clock, or a quarter after eleven, until Dr. Conrad knocked at the door, and he was let in by Mrs. Blecher?

Q This defendant? A Yes, sir. And he was escorted into the dining room.

Q Did you any of the preparations in the dining room?

A Yes, sir.

Q What did you see? A I saw a whole lot of instruments on a chair.

Q I mean, before the doctor came, you didn't see anything on the table? A No, sir.

Q Now, after the doctor came, where were you? A We were still in that room.

Q So that you didn't go into the dining room? A No, sir.

Q Could you see into the dining room? A No, sir.

Q Did you hear anything that the doctor said? A No, sir; I heard Mrs. Blocher counting out the \$125 to him.

Q Where was she when she did that? A In the dining room.

Q What did you hear her say? A She said, "Doctor, I'll give you the money, before I leave the room," and she counted out the money to him, in fives and tens.

Q But you didn't see that done? A No, sir.

Q Had you seen the money before that? A Yes, sir.

Q In whose possession? A In the possession of Mr. Blocher.

Q Who gave it to her? A I couldn't say.

Q You heard that while you and Reardon were in the bedroom? A Yes, sir.

Q And what became of Mrs. Blocher? A She left, and went into the front room, and, shortly after that, the baby cried, and she took charge of the baby, and she had the baby in her hands, and was walking up and down the hall.

Q Where were you and Reardon? A In that bedroom, behind the door.

Q And the door turns in? A Yes, sir; towards the east.

Q And you were behind it? A Yes, sir.

Q And then you couldn't see Mrs. Blocher, as she came along the hall from the parlor? A We could see her through the crack of the door, as she came along past the door; but they couldn't see us in there, because it was too dark.

Q Now, how long after Mrs. Blocher had gone, with the baby, towards the front, did you hear anything in the dining room? A Well, we heard walking back and forth from the dining room to the basement hall.

Q There was a bathroom in the hall? A Yes, sir; and there is a basin there, too, right next to the ice box, I believe, or near the bathroom.

Q Is that indicated by the word "basin" there (indicating)?

A Yes, sir.

Q And what did you hear, with regard to that basin?

A Well, we heard quite a little walking back and forth to that basin, and then the door was slammed each time, and that's the last time the door opened, until I opened it.

Q And what made you open it?

MR. LYNN: Objected to.

BY MR. CLARKE:

Q Well, what happened before you opened it? A Well, we stood there, and Mrs. Levine made this scream for us to jump in there, just about the time that the doctor was to use any instrument, or any--

THE COURT: No, no. Strike that out.

MR. LYNN: I object to that, and ask that it be stricken out.

THE COURT: Strike out the statement of the witness regarding a signal being agreed upon, and when it was to be put into operation; and the jury will disregard it.

BY THE COURT:

Q Now, Officer, you know that you should confine yourself to just what you saw and heard there, at that place.

THE WITNESS: Well, your Honor, that was the last I heard from her.

BY MR. CLARKE:

Q Well, weren't you under the bed there? A Yes, sir; for 5 or 10 minutes.

Q Were you under the bed, when you heard this cry? A No, sir; we had got out.

Q Then what did you hear? A We heard a scream, "I want my child," or, "The baby is crying," or something of that kind.

Q And what did you do, with Reardon? A We ran along the hall, and opened up the door, and the doctor was standing there, with his sleeves rolled up.

Q This defendant? A Yes, sir. And his nurse was standing over on one side.

THE COURT: No, no.

THE WITNESS: Well, a woman.

BY MR. CLARKE:

Q Do you recognize that woman in court here? A Yes, sir.

Q She is sitting over there, isn't she (indicating)? A Yes, sir.

Q How was she dressed? A She was dressed in black, and had a satchel, or dress suit case.

Q No. I am talking of when you jumped into the room? A Well, she had a regular suit on her.

Q. What was it? A. Blue and white, with an apron over her shoulder.

Q. Now tell us. Give us some idea of what struck your eye, when you opened that dining room door?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q. Well, tell us what you saw? A. Well, the doctor's sleeves were rolled up, and he had this instrument in his hand (indicating).

Q. People's Exhibit 3? A. Yes, sir.

THE COURT: Is that the instrument referred to as a speculum?

MR. CLARKE: Yes, sir.

A (Continued) And I took it away from him.

BY MR. CLARKE:

Q. Now, one moment. Is that all you saw? A. No, sir.

Q. Did you see a table? A. No. Mrs. Levine was doubled up on the dining room table, with this strap all around her (indicating).

Q. This strap that I show you? A. Yes, sir.

Q. Can you give us some idea how that was put on her?

A. No, I couldn't. But I know it was around her, and her knees were up on her breast, and this was strapped up around her,

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Q On what? A On a chair, a large armchair.

Q Did you see any receptacles? A Yes, sir; I saw a pail and a pan there.

Q Where was the pail? A At the foot of the table.

Q And where was the pan? A I think the pan was on the chair, if I ain't mistaken; or, one of them basins, rather, it is.

Q Did you see a satchel? A Yes, sir.

Q I show you a satchel, and ask you if you recognize that?

A Yes, sir; that's the satchel.

Q Where was that? A On the chair, on one side of the chair.

Q And what did you say to the doctor? A I said, "I am Detective Sergeant O'Connell, and I place you under arrest;".

Q And what did he say? A "All right, gentlemen. I'm at your service." So then I asked him the names of the different instruments, and he told me.

Q What did he do, with reference to the woman on the table? A Well, I asked him to unloosen this harness around her. So, while he done that, the nurse went in front.

Q Now, he did unloose it? A And, after I asked him that, the nurse ran into the front room, and I after her, and, when I got back, he had the woman undone and off the table, and she was making her way to the front room, to the passageway.

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in some way.

Q What was her position, Officer? Can't you describe?

A She was lying on her back on the table.

Q And what was on the table under her? A There was a couple of blankets I think, and a sheet and a pillow.

Q Now describe her position. Take your time and go slow. A And a big rubber pad also. And, as we jumped in, as I said, the doctor was standing off on this side (indicating), right between the square of the table, and this woman's whole lower extreme of the body was all exposed.

Q And her legs, where were they, with reference to her body? A They were propped up in the air, and widened out a little bit. And I also think that this strap was around her arms, if I am not mistaken, or over across that way, he had them, anyway (illustrating), and her head was like that (illustrating).

Q And where was the woman? A She was standing there, up against the cupboard.

Q And what did you see on the chair or table? A Well, then, as we stepped in, I took this instrument away from the doctor.

Q No. I want to get the scene first, what you saw?

A And so I then turned around, and on the chair were a lot of instruments, strewn out.

Q Were they on anything? A Yes, sir; on a towel.

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Q Did she have any clothes on? A No, sir; only her nightgown. And so I asked the doctor what was the name of the instruments, and he told me, one name after the other, and I marked them down, as he told me what they consisted of.

Q Now, I show you a large rubber bag? A Yes, sir; that's the pad that was on the table. My initials are on it.

Q Did you take possession of all the things that you found there? A Yes, sir.

Q And have you had possession of them ever since? A Yes, sir.

Q Now state whether or not these articles that I now take from this satchel were all in the dining room of that flat, on that occasion. Come down here and look at them.

MR. LYNN: Now, I wish to object, Mr. Clarke, to the description of any instruments, except those that the testimony shows have been used in any way, or handled, or made necessary to the patient's position on the table.

THE COURT: But I cannot pass upon such a sweeping and general objection as that.

MR. LYNN: Well, I object to any identification of any instruments.

THE COURT: Well, wait until the identification

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takes place. I cannot rule in advance. I cannot lay down rules in advance.

BY MR. CLARKE:

Q Now, I show you a syringe. Was that there? A Yes, sir.

Q Where was that? A On the table, I think it was, or on the chair.

Q And I show you a number of instruments, and ask you if those were there?

MR. LYNN: Objected to, as it appears that the instruments handed to the witness are not such as have been testified to, but were merely found in the bag in the room.

THE COURT: The witness has testified that there were a number of articles, which he calls instruments, resting upon a large armchair, and that he asked the defendant the names of those instruments, and that the defendant gave him the name of each one, and that he wrote it down, as he gave it to him.

MR. LYNN: Non constat, what that might lead to.

THE COURT: I am simply stating what the witness stated. And the District Attorney has a right to question him relating to those articles.

MR. LYNN; And we take an exception to that

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ruling, your Honor.

BY MR . CLARKE:

Q And these eight metal articles, which I show you, were those on the chair in that room, on the occasion testified to?

MR. LYNN: Objected to, further, on the ground that it has not been shown that the instruments now shown the witness have been in any wise connected, in any part of the testimony, as being in the hands of the defendant , or used on the patient, or even intended to be used on the patient.

THE COURT: I overrule the objection.

MR. LYNN: Exception.

A Yes; those are the same instruments.

BY MR. CLARKE:

Q Now you say that he told you the name of each instrument?

A Yes, sir.

Q Can you give the name of each instrument? A Yes, sir.

Q Now I show you this one. What did he tell you this one was? A I think he said that was a pair of dressing forceps.

Q How can you tell which one your description applies

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to? A From my knowledge and belief. I just made the list as he told them to me.

THE COURT: Mr. District Attorney would it not be better to allow the witness to select from the bundle or number of instruments those that he can identify by name, which the defendant described to him?

MR. CLARKE: Well, that is just what I am asking him. I don't believe that he can do it.

BY MR. CLARKE:

Q As he told you what each instrument was, what did you do with it? A I put it in the bag.

Q And did you make a record of the name of each instrument?

A Yes, sir.

Q And did you make a memorandum of the name? A Yes, sir.

Q Did you make a picture of each instrument? A No, sir.

Q It is only a matter of memory, then? A Yes, sir.

Q Now I ask you to pick out the instruments, and give the names of them, as Dr. Conrad named them to you, as far as you can go.

MR. LYNN: Objected to.

THE COURT: Objection overruled.

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A Well, that is the scissors for one, and that is the sound (indicating).

Q Now, hand me each one. You pick it out, and tell the jury what he said about it? A I think he said it was a pair of dressing concept.

BY THE COURT:

Q Well, either you know or do not know. You must not think. A Well, he gave me the names, and I wrote them down.

BY MR. CLARKE:

Q Well give me the names, as you wrote them down?

A Yes, sir. He gave me three rubber capheters.

Q Now I show you a rubber instrument. Was that there?

A Yes, sir.

Q Did you ask the doctor what it was? A Yes, sir.

Q What did he say it was? A Well, he said it was either a sound or a probe.

Q That you rememb^{er} distinctly? A Yes, sir.

Q Well, he gave you a name for each instrument separately that I have here? A Yes, sir.

Q And he gave it to you as you asked for it? A Yes, sir.

Q And is that true of these rubber articles (indicating)?

A Yes, sir. And there is another one in that bag (indicating).

Q These three rubber articles he called what?

A Capheters, he called them.

Q Now, I show you some other articles, consisting of bottles. Were those in there, at the time you mention.

A Yes, sir. This bottle was on the mantelpiece (indicating).

Q Did you ask him what that was? A Yes, sir.

Q What did he say? A He said it was a jar of gorge or gage, he said it was.

Q Gauze, you mean? A Well, either one.

Q Well, were these towels there? A Yes, sir.

Q Where? A On the chair.

Q And that article (indicating a sheet of oil skin.).

A On the chair, too.

Q And so that every article that has been produced here was on the chair or table? A Yes, sir; or on the mantelpiece.

Q Was anything left in the bag? A Yes. Those two small bottles that is in there.

Q And this other bottle? A I think that was on the mantelpiece, too.

mQ Now, I show you a bottle, containing small white tablets; did you see them there? A Well, I saw one bottle.

Q One of those bottles (indicating)? A But I don't

know whether that is the one or not.

Q Well, what did you do with these articles? A Well, I dosed them all up in the bag.

Q In this satchel (indicating)? A Yes, sir.

Q And have you had them in your possession since? A Well, they have been in the Property Clerk's possession ever since.

Q And you brought them here from the Property Clerk?

A Yes, sir.

MR. CLARKE: They are offered in evidence, if your Honor please.

THE COURT: They are not properly identified.

MR. CLARKE: They are the articles found in the room.

THE COURT: But, to take a bundle of articles in that way is not proper. I sustain the objection.

BY MR. CLARKE:

Q Now, take that large rubber bag?

A That was on the table, underneath the lady.

Q You wrote your initials on it? A Yes, sir.

MR. CLARKE: I offer that in evidence.

(It is admitted without objection, and marked
People's Exhibit 5.)

BY MR. CLARKE:

Q I show you what has been referred to as a fountain
syringe? A Yes, sir; that was there too.

Q Do you recognize that? A Yes, sir; that was there.

MR. CLARKE: I offer that in evidence.

(It is admitted without objection, and marked
People's Exhibit 6.)

BY MR. CLARKE:

Q I show you a strap, a cloth strap? A That was around
the woman.

Q Do you recognize that? A Yes, sir.

Q Did you have that in your hands? A I did, yes.

Q What did you do with it? A I put it in the bag.

MR. CLARKE: I offer that in evidence.

(It is admitted in evidence without objection,
and marked people's Exhibit 7.)

BY MR. CLARKE:

Q Now I show you a metal instrument, and ask you if you
recognize that? A I think he said that was a pair of dressing
forceps.

Q Do you recognize it? A I do.

Q Where was that? A On the chair.

Q In this dining room? A Yes, sir.

MR. CLARKE: I offer it in evidence.

MR. LYNN: Objected to.

THE WITNESS: These instruments were all wet, when I got them.

BY MR. CLARKE:

Q Were they in water? A No, sir, but they were wet.

MR. CLARKE: I offer ^{it} in evidence.

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: It is objected to, if your Honor please, on the ground that there is no testimony connecting the particular instrument shown to the witness as being in the hands of the Doctor, at any time during the so-called operation, or as being used on the patient, and because we think that the Doctor might have a hundred things in that bag properly.

THE COURT: Objection overruled.

MR. LYNN: Exception.

(It is marked People's Exhibit 8.)

BY MR. CLARKE:

Q I show you another instrument, and ask you where that was? A That was on the chair, too.

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Q You recognize it, do you? A Yes, sir.

MR. CLARKE: I offer it in evidence.

MR. LYNN: Objected to, on the same ground.

BY THE COURT:

Q Did the defendant say anything about that instrument?

A Well, I believe, your Honor, that he said that was a pair of dressing forceps, also. There are two pair or sets of dressing forceps, and that is the other pair.

MR. LYNN: Objected to, as before.

THE COURT: Objection overruled.

MR. LYNN: Exception.

(It is marked People's Exhibit 9.)

BY MR. CLARKE:

Q I show you a copper colored instrument. Did you see that there? A Yes, sir.

Q Where? A On the chair.

Q On the towel, spread out on the chair? A Yes, sir.

Q And did you ask the Doctor what it was? A Yes, sir.

Q And did he tell you what it was? A Yes, sir.

Q Do you remember what he said? A Well, he said it was either a sound or a probe.

Q Do you remember what he said? A Well, he told me the name for it.

Q What was it? Do you remember what he said it was?

A No, sir, I don't.

MR. LYNN: Objected to.

THE COURT: I sustain the objection, generally, that the witness is not able to specifically identify it as an instrument described by the defendant.

MR. CLARKE: Well, I understand that he testifies that he described them all to him, but he simply can't put them together.

THE COURT: No. But the witness cannot abridge his testimony.

BY MR. CLARKE:

Q Well, did you make a memorandum, at the time, in your own handwriting, of the names of the instruments? A Yes, sir.

Q In your own handwriting? A Yes, sir.

Q At the time? A Yes, sir.

Q Have you got it here? A I have got a copy of it.

Q Haven't you got the original? A Well, what I had was with lead pencil, and it got all blurred up on me. Yes, there it is.

Q Now, I ask you whether on this list you put down, as you asked the Doctor what each instrument was, what he told you the instrument was?

MR. LYNN: Objected to.

THE COURT: You mean on the paper?

MR. CLARKE: Yes, sir.

BY THE COURT:

Q You wrote down what the Doctor said, describing each instrument? A Yes, sir.

MR. LYNN: Objected to.

THE COURT: Objection overruled.

A Just as I took up each instrument off the chair, I asked the Doctor what it was, and he very kindly told me, one after the other.

BY MR. LYNN:

Q But you have no clear idea of identification now, as to each instrument, Officer; have you?

THE COURT: No. Wait. The District Attorney is examining.

BY MR. CLARKE:

Q What did you do with each instrument, as he named it to you? A I put it in the bag.

Q And, after the name of each instrument, as he told it to you, what did you do? A I wrote it down on the paper.

Q In each case? A Yes, sir.

Q So that this is a complete list, as he told you the instruments were named? A Yes, sir.

Q And that is in your own handwriting? A Yes, sir.

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MR. CLARKE: It is offered in evidence.

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Now, I show you a wire, and ask you if you asked him what it was? A Yes, sir; that was there too.

Q What did he say? A Well, I am puzzled between this one and the other.

Q Well, did he give you the name of it? A Yes, sir. It was either a sound or a probe.

Q And it was there on the chair? A Yes, sir.

MR. CLARKE: It is offered in evidence.

MR. LYNN: Objected to.

THE COURT: It is admitted in evidence.

MR. LYNN: Exception.

(It is marked People's Exhibit 10.)

BY MR. CLARKE:

Q Now, I ask you the same question as to that (indicating). Did you see that in that room, at the same time? A Yes, sir.

Q And did you ask the Doctor what that was? A Yes, sir.

Q And did he tell you what it was? A Yes, sir, I believe so.

BY THE COURT:

Q No, not what you believe. Did he? A Yes, sir.

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BY MR. CLARKE:

Q Do you remember what name he said? A No, sir.

Q But did you write it down, at the time? A Yes, sir,
and put it in the bag.

Q And you identify it? A Yes, sir.

MR. CLARKE: I offer it in evidence.

MR. LYNN: Objected to.

THE COURT: Well, it seems to me, Mr. District
Attorney, that this could have been made very simple.

BY THE COURT:

Q Can you refresh your memory now, by looking at the
memorandum that you made at the time? A I think I could,
yes.

Q Then look at it. Have you examined the memorandum?
A Yes, sir.

Q Are you able to state now, having looked at the memoran-
dum that you made at the time, what the name of the instrument
that the District Attorney has in his hand now is, and which the
defendant gave to you? A No, sir, I can't.

MR. CLARKE: I will offer it then, as one of the
instruments that were found on the chair, and spread
out there, and identified now by the witness.

(It is admitted in evidence and marked People's
Exhibit 11.)

BY MR. CLARKE:

Q Now, here is a straight metal article, with a hook in the end. Did you ever see that before? A Yes, sir; I saw that one there.

Q Where was it? A On the chair. And I asked him the name of it, and he gave it; and I also put that in the bag.

BY THE COURT:

Q Can you give the name of it, that he gave to you?

A No, sir.

BY MR. CLARKE:

Q Can't you refresh your memory as to that, by looking at your list? A No, sir; I don't think I could.

Q Well, your list wasn't very much good? A Well, it was all right. I had the number of instruments, that is all. I thought I would be able to recollect the names of them, but I don't seem to be able to.

MR. CLARKE: It is offered in evidence.

MR. LYNN: Objected to.

THE COURT: Admitted.

MR. LYNN: Exception.

(It is marked People's Exhibit 12.)

BY MR. CLARKE:

Q I show you another article? A Yes, sir. He said that

was a pair of scissors.

Q Did you see those there? A Yes, sir.

Q Did you ask the defendant what they were? A Yes, sir; a pair of scissors, he said.

Q And did you put them in the bag? A Yes, sir.

Q You recognize them; do you? A Yes, sir.

MR. CLARKE: I offer them in evidence.

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

(They are marked People's Exhibit 13.)

BY MR. CLARKE:

Q I show you another instrument. Did you see that there?

A Yes, sir; I saw that on the chair.

Q Did you ask the Doctor what it was? A Yes, sir; and he gave me a name for it.

Q Do you remember what he said it was? A It was either a sound or a probe.

Q What did you do with it then? A I put it in the bag.

Q And you recognize it? A I do.

MR. CLARKE: I offer it in evidence.

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

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(It is marked People's Exhibit 14.)

BY MR. CLARKE:

Q Now, I show you three rubber articles and ask you if you ever saw those before? A Yes, sir.

Q Where? A These were on the chair, too.

Q And did you show those to the Doctor? A Yes, sir.

Q And did you ask him the name of them? A Yes, sir; and he said they were three rubber catheters, and I put them in the bag.

Q And do you recognize them? A Yes, sir.

MR. CLARKE: I offer them in evidence.

MR. LYNN: Objected to.

THE COURT: Admitted.

MR. LYNN: Exception.

(They are marked People's Exhibit 15.)

BY MR. CLARKE:

Q Now I show you a hard rubber instrument? A Yes, sir.

Q Did you see that there? A Yes, sir.

Q Whereabouts? A On the chair.

Q Did you ask the defendant what that was? A Yes, sir; and I think he said that was a sound.

BY THE COURT:

Q Do you know? Not what you think. Do you know or do you not know? A No,,your Honor, I couldn't swear positively.

BY MR. CLARKE:

Q You couldn't swear positively? A No, sir.

Q But he told you the name, and you put it on your list?

A Yes, sir.

Q Do you recognize it? A Yes, sir; and I put it in the bag.

Q And do you recognize it now? A I do.

(It is offered in evidence.)

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

(It is marked people's Exhibit 16.)

BY MR. CLARKE:

Q I show you a small bottle, and ask you if you saw that there? A Yes, sir. That was in the bag.

Q In the bag? A Yes, sir.

Q Did you ask the Doctor what that was? A No, I did not.

Q But you saw it in the bag? A Yes, sir.

Q And you recognize it? A I do.

MR. CLARKE: It is offered in evidence.

MR. LYNN: Objected to.

THE COURT: I do not see the relevancy. I sustain the objection.

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(It is marked People's Exhibit 17 for Identification.)

BY MR. CLARKE:

Q Now pick out whatever articles were in the bag, and not taken out at all? A That was in the satchel (indicating a bottle). And that was in the satchel (indicating another bottle); and those two were on the mantel-piece (indicating).

Q Now those two that were on the mantel-piece, did you ask what they were? A I asked him what this one was (indicating).

Q And what did he say? A He said it was gauze.

MR. CLARKE: It is offered in evidence.

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

(It is marked People's Exhibit 18.)

BY MR. CLARKE:

Q And I show you a small bottle, in a paper box, and ask you where that was? A That was in the mantel-piece.

Q Did you ask him what that was? A I asked him what that was, and he said they were tablets.

Q What did you do with it? A I put my initials on the bottom of it, and put it in the bag.

Q I show you the initials, "T. J. O'C." A Yes, sir.

Q Did you put those there? A Yes, sir.

Q Do you recognize it as the same box? A Yes, sir.

MR. CLARKE: It is offered in evidence.

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

(It is marked People's Exhibit 19.)

BY MR. CLARKE:

Q Now what did you do when you got inside of the room, with regard to this defendant? Did you take hold of him, or anything? A I just took that instrument out of his hands.

Q Referring to the speculum, People's Exhibit 3?

A Yes, sir. So, as I stated before, I told him I was a detective sergeant, and I placed him under arrest, and he said, "All right, gentlemen. I am at your service".

And I said, "Now, where is that \$125?" And so he took it out of his pocket, and handed it to me, and I handed it over to Detective Sergeant McNaught.

Q Did you look at the bills? A I did.

Q Had you ever seen them before? A I did.

Q And you recognized them? A Yes, sir.

Q What were they? A One twenty, and one five, and the rest were tens.

MR. LYNN: There is no issue on that, sir.

BY MR. CLARKE:

Q And then you say the woman went out of the room?

A Yes, sir; she run out of the room, and went into the front room, and I went in after here, and brought her back.

Q Did you take hold of her? A Yes, sir. And I brought her back, and asked her to help this woman get off the table.

Q Well, was the woman still on the table? A No, sir; she was just coming through the hallway, as we came back.

Q Was Mrs. Levine on the table still? A No, sir. When I left the room, she was on the table, and, when I came back, she was on her way to the bedroom.

Q And what did you do then? A We started to gather up/ all these things on the chair, and asked the Doctor the names; and then asked him to put on his hat and coat, and started to the Detective Bureau with him.

Q Did you talk with him? A No, sir. He walked along with Detective Sergeant McNaught, and I walked with the lady.

Q Well, was Reardon there? A Yes, sir, he was there.

Q And when did McNaught and Andrews come in? A Mrs. Blocher then jumped downstairs for McNaught and Andrews, and they came up, after we were in that room.

Q And was any search made of the defendant? A Yes, sir; I searched him to see if he had anything on him.

CROSS EXAMINATION BY MR. LYNN:

Q He was not armed; was he? A No, sir; he was not.

Q You had no occasion to pull your pistol, Officer; did you? A No, sir; I found him a different man than I was--

MR. CLARKE: One moment.

BY MR. LYNN:

Q Nor did Sergeant McNaught have occasion to pull his pistol? A No, sir.

Q Officer Reardon he had a pistol; didn't he? A I believe he did.

Q Was he flourishing it around, right vigorously? A Not while I was there, I don't think.

Q Did you see him strike the Doctor? A No, sir; I did not.

Q Were you in the room when the first rush was made into the room? A No, sir; I was right behind him.

Q And, while you were away with the woman, in the front, Reardon was left in the room? A Yes, sir.

Q He was left with the defendant? A Yes, sir.

Q He had the pistol in his hand when you returned to the room; didn't he? A No, sir. He had a pistol when we went into the room.

Q When you went into the room? A Yes, sir.

Q Well, he kept the pistol in his hand? A No. I told

him to put it back in his pocket.

Q Did he act on your advice, Officer? A Well, I really I don't know, because I went into the front room, for the nurse.

Q The bedroom that you were in was the one that had been referred to on this map as containing a bureau and a closet; is it not? A Yes, sir.

Q Off the parlor? A No; right off the hall, as you walk in from the door.

Q How long were you under the bed, Officer? I don't want to humiliate you. A Under the bed for about twenty minutes, I guess.

Q And Reardon was inside, or you? A No; Reardon was inside.

Q And you put him inside, and yourself outside?
A Yes, sir. We were in that room, all told, about an hour and fifteen minutes.

Q Did the Doctor have any hesitancy or express any unwillingness or objection, Officer, or Sergeant, to telling you the names of the things when you asked him? A No, sir.

Q He done it quite freely; didn't he? A Yes, sir.

Q Didn't he say, when you asked him for the money, taking it out of his pocket, "This is the money that I received from the woman", or words of that kind or character? A Well, he

took the money out, and he said, "This is the money".

Q "This is the money?" A Yes, sir.

Q And he handed it direct to you? A To handed it to me, and then I handed it to McNaught.

Q You are not willing, Sergeant, to have it appear that you are positive about any of the names here, as to the identification? You are positive about the names being the names he gave you, but the location of the names on the particular instruments, you have some doubt about; haven't you? A I have; yes.

Q Have you ever seen packages of instruments such as these? A Not of this kind.

Q You don't know what a doctor's or surgeon's kit is made up of; do you, then? A I have seen them; yes.

Q Who was conferring together, when you first went to that flat, Officer? A We met Mr. Andrews there, the first afternoon we went there.

Q Well, under whose instructions were you and McNaught acting directly? A District Attorney Jerome's.

Q Well, was it through a direct order from himself, or some one of his staff? A No, sir; through himself.

Q Well, after you left the office of District Attorney Jerome, had County Detective Reardon to take your orders, or were you acting under the orders delegated to County Detective

Reardon? A No, sir. County Detective Reardon joined us, the second day we were there, under orders from District Attorney Jerome.

Q But I mean, while he was there, was County Detective Reardon acting under your guidance, or you under his guidance?

A We were just working along smoothly. We weren't working under either one's directions at all.

Q So that there was no head one, saying, "You get under the bed or in the closet", or anything like that? A No, sir.

Q How many days were you there, Sergeant? A Three days.

Q And, during those three days who visited those premises?

A No one visited there, only Mr. Andrews came there, every morning.

Q About what time in the morning? A Around nine or ten o'clock.

Q And with whom did he hold converse? A With us all.

Q Who was that? A Mrs. Levine, Mrs. Flocher, myself, Sergeant McNaught and Mr. Reardon.

Q And would you act upon any instructions that Mr. Andrews would give? A Well, there were no instructions to be given. We went there, and looked this house over, and then we waited very patiently until the day the Doctor came. He was to come there on Wednesday.

Q Well, don't state something that you are only hearing, Sergeant. We don't want that? A Well, Wednesday he didn't come.

Q You saw him for the first time on Friday? A Yes, sir; on Friday.

Q Well, Mr. Andrews' instructions were not acted upon by you or Pearson? A We didn't take any instructions from Mr. Andrews.

Q Well, were the women there at that time? A Yes, sir.

Q Well, was his conversation directed to the women more than towards you and your associates? A No, sir. Whenever Mr. Andrews was talking to the women, we left the room, that is, if they were sitting in the room where we were.

Q How long did Mr. Andrews remain on the premises, during these various visits of his? A The longest would be ten or fifteen minutes.

Q And Dr. Conrad didn't come there, on any of the days but Friday? A Not that I saw; no, sir.

Q How long did you wait there, during the days that you were there? A The first day, we waited until--

Q Wasn't that Monday? A No, sir; Wednesday. We waited all day Wednesday, until about eight or nine o'clock, I guess it was.

Q At night? A Yes, sir. And, the next morning, we were there at nine o'clock and waited until ten o'clock or eleven o'clock, that Thursday night.

Q Now, on Friday, you waited until the arrival of the Doctor? A Yes, sir.

Q Then you hadn't been there, Sergeant, on Tuesday? A On Tuesday afternoon we got there, at three o'clock.

Q And part of Tuesday, all of Wednesday, and all of Thursday and a part of Friday, you waited? A Yes, sir.

Q Were you present when any orders or instructions were issued to get Dr. Conrad up there? A Yes, sir; I was there one afternoon.

Q Well, do you remember what afternoon that was? A Yes, sir; it was Thursday afternoon. He promised to be there at three o'clock.

Q Now don't say that, because that is something that you only hear from some one else. And who was it made the suggestion, or gave instructions towards getting Dr. Conrad, on Wednesday or Thursday, that you now speak of? Did they come from Andrews or Reardon or you or McNaught or the lady detective? A No. When we went there, on Tuesday afternoon, Mrs. Blocher said--

Q No. I am asking you from whom the instructions emanated to get Dr. Conrad? A That I couldn't say.

Q Well, were instructions given while you, Sergeant, were there, to try to get Conrad up to that house? A There was one day there, they went out to telephone.

Q Now, was that a time that Andrews was there? A No, sir.

Q Well, now, do you recall, Sergeant, from whom the suggestion emanated to telephone to Dr. Conrad; whether it was through you or McNaught or Reardon or the Blocher woman?

A Yes, sir; I believe it was between Reardon and I and McNaught and the two women, to see if he was going to come or not.

Q And the Blocher woman was to do the telephoning?

A Yes, sir.

Q Had you learned of the details of this case, prior to your going there, on the day in question? A No; only on Tuesday afternoon, Judge Jerome called us to his room, and told us.

Q That is the first time that you had any information of it? A Yes, sir.

Q You had never figured in any case similar to this case before; had you? A No, sir.

MR. CLARKE: Well, I will offer in evidence this bag or satchel.

MR. LYNN: We object, your Honor.

THE COURT: Was anything said by this witness

to the defendant, or by the defendant to the witness,
in relation to this bag?

BY MR. CLARKE:

Q Where did you find this bag in the room? A It was
underneath the chair. And I asked him if it was his bag, and
he said yes.

Q Did you see it in his hand, when he came in? A Yes,
sir.

Q And that is the bag that you put the instruments in?
A Yes, sir.

MR. CLARKE: I offer it in evidence.

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

(It is marked People's Exhibit 20.)

BY MR. CLARKE:

Q Have you got the money? A Yes, sir.

Q Is this the money that you took off the defendant?

A Yes, sir.

MR. CLARKE: I offer it in evidence.

THE COURT: Mark it, it being already conceded.

MR. LYNN: Yes, sir. We admit that that is the
money that the defendant handed to the officer.

(It is marked People's Exhibit 21.)

BY MR. CLARKE:

Q Were you there when the photograph of the room was taken?

A No, sir.

Q Do you know who took it? A No, sir, I don't. It was the day after.

JAMES M. WEST, a witness called on behalf of the

People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Are you a physician and surgeon? A Yes, sir.

Q And where is your office? A 71 West 49th Street.

Q And you are practicing in the City of New York?

A Yes, sir.

Q Are you familiar with surgical instruments? A I am, sir.

Q How long have you been practicing as a surgeon?

A Since '93.

Q Have you made any speciality of women's diseases?

A I have.

Q And, in the course of your practice as such surgeon, do you use the various instruments for treating women's diseases? A I do.

Q And you are familiar with them? A Yes, sir.

Q And you know their names and uses? A Yes, sir.

Q Now, Doctor, I show you People's Exhibit 3, and ask you to tell the jury what it is? A It is a vaginal speculum.

Q What is it used for? A For distending the vagina, for the purpose of making examination for operations in the vagina, or the top of the vagina.

Q That is the part of the vagina where the neck of the womb is? A Yes, sir, that is right.

Q The inner part? A Yes, sir.

Q Now won't you take any of these People's Exhibits, and tell the jury the name of them, and what their uses are?

MR. LEWIS: Please refer to them, Doctor, by the numbers appearing on the cards, and we can then follow:

A Exhibit 14, this is marked, People's Exhibit 14. That is a uterine sound.

It is made for exploring the interior of the uterus, or passing into it for any other purpose that maybe required, the interior of the womb.

BY MR. CLARKE:

Q Well, if it were passed into the womb of a pregnant woman, what would be the effect?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q What is the next one there? A This is People's Exhibit No.9. It is marked, "Dressing forceps," but it looks more to me like a placental forceps, that is a forceps for the extraction of something within the womb.

It might be used as a dressing corceps either.

This is People's Exhibit No.11. That is a uterine dressing forceps. That is a forceps for making dressings within the womb, packing it with gauze or other substances.

Q Well, under what conditions would that be used?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, I mean, is it peculiar to operations or not?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, for packing you say? Packing what? A Gauze into the womb, or any other substance that wants to be placed in it.

It is a dressing forceps. The name indicates it, you see. It is a uterine dressing forceps, for placing dressings in the womb.

This is People's Exhibit No.16. That is an applicator, which is used for applying medicines, with a little cotton wrapped around the end of it, or something of that sort, into the interior of the womb.

This is marked People's Exhibit 10. It is simply a piece of wire.

That is sometimes used in a catheter, to give it stiffness, so that it may be passed with a certain degree of firmness in any direction that it is desired to pass it (illustrating). Such a catheter as this, for instance (indicating).

People's Exhibit No. 15 consists of three rubber catheters, such a catheter as that could be passed into any somewhat resisting body, by having within its interior one of these wires, such as Exhibit No.10.

People's Exhibit No.13 is simply a pair of surgical scissors.

Q What is it used for? A It might be used for almost any purpose.

Q For cutting bandages and such things? A Yes, sir. It might be used in surgery, or for cutting bandages, or anything of that sort.

This is People's Exhibit No.12. That little sharp

instrument, like a hook is a tenaculum.

It is used for taking hold of the neck of the womb, and holding it in place, while operating upon it, or examining the uterus, the womb, or the neck of the womb.

This is Exhibit No. 8. That is a cervical dilator, the cervix being the neck of the womb. An instrument used to dilate the neck of the womb.

Q What is that used for? What is the use for it in surgery?

MR. LYNN: Objected to. He has already stated.

BY MR. CLARKE:

Q Well, to accomplish what purpose?

MR. LYNN: Objected to.

MR. CLARKE: Well, we want to show the purpose of these instruments.

BY MR. CLARKE:

Q What is the common use of it?

BY THE COURT:

Q Have you stated the general use of the instrument?

A Yes, sir; it is to dilate the neck of the womb. That is the general use of that instrument. That is what it is for.

BY MR. CLARKE:

Q Well just say how it is used. Is it first inserted

into the neck of the womb? A It is first inserted into the opening of the neck of the womb, and passed up in, and worked from side to side that way (illustrating), by a firm but steady motion, until the dilation of the neck of the womb is accomplished. That's all.

Q Well the womb, as I understand it, is the organ where the foetus is, in a pregnant woman? A Yes, sir.

Q Now I show you this bottle, marked People's Exhibit 18. What is that? A This is a bottle of gauze.

BY THE COURT:

Q No. That will not do. Can you tell the contents of that bottle, doctor? A By looking at it, yes, sir.

Q Examine the contents and say. You can't tell by the label, you know. A No, sir. I am not looking at the label. I could see the contents from the outside. But it is a bottle of iodoform gauze, unquestionably.

BY MR. CLARKE:

Q What is it used for? A For dressing wounds.

Q It is a kind of cloth; is it not? A Yes, sir.

Q Soaked with a liquid? A Yes, sir. A cheese cloth, soaked with iodoform, specially prepared, and sterilized.

Q And look at People's Exhibit 19. A People's Exhibit

Q Take one of them out, doctor. A Is a bottle of tablets,

which appear like--

THE COURT: No. Do not state, doctor.

A (Continued) Well, of course, I can't state what a tablet is, of course. It is simply a bottle of tablets.

BY MR. CLARKE:

Q Well, what would you have to do, in order to ascertain what they are? A I am perfectly satisfied of what they are.

BY THE COURT:

Q Wouldn't they have to be subjected to analysis? A Yes, sir.

MR. CLARKE: Is there any objection in stating to his stating what they are? He says he is sure of what they are.

MR. LYNN: None at all. The doctor has none, he says.

THE WITNESS: Well, they are bichloride of mercury tablets, which are used in surgery, as an antiseptic.

BY MR. CLARKE:

Q Now I show you People's Exhibit 7, what is that?

A That is a cloth leg holder.

Q What is it used for? A It is used for operations upon the pelvis, the lower part of the body.

Q Well, what is it used for? What is the special

purpose of it? A To hold the legs up, in operations. It is used in operations.

Q Operations on the female organs? A Not necessarily.

Q But that is one of the uses for it? A Yes, sir.

MR. LYNN: The previous answer is objected to, and I ask to have it stricken out, your Honor.

THE COURT: Motion granted.

BY MR. CLARKE:

Q Now I ask you if this article is used for binding the legs, by surgeons, in examinations and operations upon the female organs.

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Now I show you People's Exhibit 6, and ask you what that is? A This is a rubber douche bag.

Q What is it used for, and how is it used? A It is used by placing the fluid in it, and hanging it up, above the level of the part where the solution is to be used, and then spraying upon the parts, from this end (indicating).

Q A stream of water? A Yes, sir; or whatever solution may be contained in it.

Q What is it called? A It is called a douche bag.

Q Is it a vaginal syringe? A A fountain syringe, or douche bag. Either name might be applied.

Q Now look at People's Exhibit 5. What is that?

A That is a Kelly pad.

Q A Kelly pad? A Yes, sir; a Kelly pad.

BY MR. CLARKE:

Q Dr. Kelly is the inventor of it? A Yes, sir; it is a slight modification from the Kelly pad, but it is practically that. It is an instrument which is intended, by being inserted here (indicating) by air, to be placed under the body of a patient, who is on his back, and to catch solutions which may be used to irrigate those parts with.

Q What parts? A The parts of the lower part of the body, about the pelvis.

Q Well, the female organs? A Not necessarily.

Q But it would be proper to use it for that; would it not?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

Q Well, I ask you, as a surgeon, if you were going to operate upon a woman's genital organs, isn't this the kind of bag that is used?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q I ask you, generally, doctor, whether all these instruments that you have examined, whether they are instruments that are known in the profession as instruments used to produce miscarriages?

MR. LYNN: Objected to.

THE COURT: ? Objection sustained.

BY MR. CLARKE:

Q Or any of them?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

MR. CLARKE: If your Honor please, I wish to show the uses of these instruments.

THE COURT: I have ruled, Mr. Clarke.

BY MR. CLARKE:

Q Can you pick out any of these instruments that you or any other physician would use, if you intended to perform an operation, to procure the miscarriage of a pregnant woman?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY THE ELEVENTH JUROR:

Q Are there any instruments in there that can be used for anything else?

MR. LYNN: Objected to.

THE COURT: No. I shall not permit any inquiries as to these matters, Mr. Juror. The first question being excluded, your question would necessarily come under the same head. The doctor simply describes what these articles are known as, and used for, in the profession. But now to ask the doctor what they might be used for, or might not be used for, would be to go into the domain of speculation, and that is not evidence.

THE JUROR: Am I not permitted to ask the doctor what the general nature of this outfit is?

THE COURT: No, Mr. Juror; because it may be that the act of abortion could be committed without any one of these instruments at all. It does not necessarily follow that abortion can be committed only by particular instruments.

BY MR. CLARKE:

Q. Now are you familiar with the operation to produce a miscarriage of a pregnant woman?

MR. LYNN: Objected to.

THE COURT: The form of the question is objectionable.

BY MR. CLARKE:

Q Well, have you ever performed operations to procure the abortion of pregnant women?

MR. LYNN: Objected to.

A Never.

THE COURT: Do you press your objection, in view of the doctor's answer?

MR. LYNN: Well, it is opening up a line of discussion, sir.

THE COURT: If you object, I will sustain it, in that form.

MR. LYNN: Well, if he has never done it.

THE COURT: Therefore, it becomes harmless. As I before stated, if you press your objection, I sustain it. Strike out the answer.

BY MR. CLARKE:

Q Now I show you People's Exhibit No. 8, which you have described as a forceps, a cervical forceps? A Cervical dilator, People's exhibit 8.

Q I show you People's Exhibit 8, a cervical dilator, which you have described, and ask you if that is not used in the profession for dilating the neck of the uterus, for the purpose of producing a miscarriage, if that is not one of its regular uses?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is not that one of the uses of that instrument?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q If a woman is pregnant with child, and a cervical dilator of that description is inserted into the neck of the womb, and distended, I ask you if that would not produce a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q And I ask you if that is not the purpose of that instru-

ment?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q And I ask you if it is not one of the uses of the instrument?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

THE 11TH JUROR: Well, has that instrument any other use, Your Honor?

THE COURT: Any objection to the question of the juror?

MR. LYNN: The Court must guide us in that.

THE COURT: I must exclude the question, Mr. Juror.

BY MR. CLARKE:

Q You say that it is used to insert into the neck of the womb? A Yes, sir.

Q And is that the only use? A For dilating the neck of the womb.

Q Well, that does not state the use of it, why you dilate it?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Have you stated in full the uses to which that instrument is put, in the profession? A Yes, I have. It is for dilating the neck of the womb, which might be for many purposes, you understand.

Q Well, I say, take the case of a pregnant woman. What is the use of it?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Would it be possible to insert that into the neck of the womb of a pregnant woman, and dilate it, without causing a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Do you know what instruments are used in producing a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q You say that some of these instruments are used for packing material into the womb. Under what conditions is the packing put into the womb; under what conditions is it necessary

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or proper to put packing into the womb, with an instrument of this character?

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

THE COURT: The words used by the Doctor may not be understood by the laymen on the jury, as to what he means by packing. So that the Doctor can state, in general, without having reference to any particular case, or form of disease, or treatment. He may state, within those limitations.

A This is the uterine dressing forceps, Exhibit No. 11.

MR. LYNN: We object, your Honor, on the ground that there is no testimony that connects the instrument being testified to with the defendant, or the crime charged.

THE COURT: Allowed.

MR. LYNN: Exception.

A The general use of this instrument is to pack gauze in the inside of the uterus, to check hemorrhage. It is one of the most efficient methods of checking hemorrhage. And this instrument is used to pack gauze into the womb, and check hemorrhage; and it is also used for the purpose of making applications to the inside of the womb, by taking hold of

cotton, and dipping it into whatever solution may be wished to apply, and pass it into the womb. The curve here and here (illustrating) is made applicable to pass it into the womb, from the vagina. That is what that is for, in a general way.

BY MR. CLARKE:

Q Well, is that used on women who are pregnant?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Can it be used on women who are pregnant?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Would it be possible to put packing into the womb of a pregnant woman, without causing miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Now, if this cervical dilator is put into the womb, in the way that you have described, and then opened, will it dilate the neck of the womb?

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

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A Yes, sir.

MR. LYNN: It is objected to, further, on the ground that it is not within the issues here.

THE COURT: Objection overruled.

MR. LYNN: Exception.

A (Continued) Yes, sir; by using this motion (illustrating), it does dilate the neck of the womb.

BY MR. CLARKE:

Q What do you mean by that? A Open the womb.

Q What is the condition of the womb, in pregnancy?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is the womb open or shut, in pregnancy?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Won't you describe to the jury the condition of the womb of a woman, who has been pregnant between four and five months?

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

A A woman, who has been pregant for four or five months.

has the womb enlarged. It begins to rise up in the pelvis, ²⁰⁸ 208
the bony part of the body that protects it; and it becomes
softer, in consistence. In the normal state, it is a fairly
hard body, and it will give the sensation of hard rubber; but
then it becomes softer; and it becomes somewhat discolored;
but the neck of the womb does not open; it simply remains
closed, as it is always, until--

BY MR. CLARKE:

Q What forms inside the womb? A Inside the womb the
foetus is formed, with the placenta.

Q What is that? A That is the medium through which
the foetus gets blood from the mother. It is attached to the
inside of the womb, to the mother, and also attached to the
foetus, by what is called the umbilical cord, through which the
blood of the mother-- of the foetus-- is bathed in the blood
of the mother, and in that way gets its nourishment.

Q Well, is the foetus enclosed in a bag? A Yes, sir;
called the amnion, and this placenta is attached to the womb of
the mother.

Q And is the placenta a sort of fluid? A No; it is a
spongy body, full of blood vessels.

Q Well, there is a fluid inside of that bag? A Yes, sir.
The foetus floats in that bag, just like a cork, which has been
forced down into a bottle. It floats in that bag of water,
which is commonly called the bag of waters.

Q Now, if this cervical dilator is inserted in the womb, when it is in the condition that you have described, if inserted into the amnion, or bag in which the foetus is contained, what is the result?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Could a miscarriage be produced-- the placenta is drawn away, in miscarriage; is it not?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q What is a miscarriage, Doctor?

MR. LYNN: Objected to, as not within the issues of the case.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, if the neck of the womb is dilated by this cervical dilator in that way, in the case of a woman, pregnant between four and five months, what would be the effect upon the woman?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Would it cause a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q I suppose there are other surgical instruments used by surgeons upon the organs of women; are there not? A Yes, sir.

Q This is not a complete outfit, for all purposes; is it?
A No.

Q Have you seen outfits similar to this before; somewhat? A Yes, sir.

Q Now, I ask you what the general purpose of such an outfit as this is, in the profession?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Do you know what instruments are used by surgeons, for the purpose of producing a miscarriage on a woman?

MR. LYNN: Objected to.

THE COURT: He may answer yes or no. I overrule the objection, for that purpose only.

A Yes, sir.

BY MR. CLARKE:

Q And I ask you if these instruments, which I have shown

you, or any of them, are such?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q What instruments are used for the purpose of producing a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Does it require an instrument to produce a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Can the neck of the womb be dilated, and the bag, called the amnion, be punctured, without causing a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q State whether or not the instruments that you have examined here are the proper instruments for dilating the neck of the womb, and puncturing the amnion, and thereby causing a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q State whether any of these instruments are suitable for that use?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Or, are commonly used for that purpose?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q State whether or not any of them are exclusively used for that purpose?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q State whether or not, in certain cases it is necessary for a surgeon to produce a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection overruled.

A Yes, sir; under some circumstances it is necessary.

BY MR. CLARKE:

Q Under what circumstances, generally?

MR. LYNN: Objected to.

THE COURT: I do not see that that is essential to this case. Objection sustained.

BY MR. CLARKE:

Q Well, what instruments are used for that purpose?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Are any of these instruments shown you, used for that purpose?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Could any of these instruments, or could this dilator, specially-- well, any of the instruments-- be inserted into the womb of a pregnant woman, without causing a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Now, Doctor, if you were about to operate upon a woman, to cause a miscarriage, what would be the first thing that you would do?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q What is the first thing usually done?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is the speculum used?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is it customary to syringe out the vaginal cavity?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Would you syringe out the vaginal cavity?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is that one of the proper methods, preparatory to causing a miscarriage, to syringe out the vaginal cavity, or the neck of the uterus?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q And is this speculum used to dilate the vaginal cavity, prior to causing a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is that one of the uses of People's exhibit 3?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

MR. CLARKE: Now, if your Honor please, under the indictment, it is necessary for the People to prove that this was done with the intent to commit a miscarriage; and, if we are not allowed to prove by an expert what a miscarriage is--

THE COURT: I can go no further than to rule on each question, Mr. Clarke.

BY MR. CLARKE:

Q Do you know what a miscarriage is, Doctor? A Yes, sir.

Q Will you state what it is?

MR. LYNN: Objected to, your Honor. It is a discussion that will open up very wide doors, as to what a miscarriage is, because miscarriage can occur until five months after conception.

THE COURT: I overrule the objection.

MR. LYNN: Exception.

A Yes, sir.

BY MR. CLARKE:

Q What is a miscarriage? Define it? A It is a premature discharge of the ovum, and this is arbitrarily spoken of as a

miscarriage, when it occurs at a certain time of gestation, at a certain time of the growth of the foetus in the womb. Before that time it is spoken of as abortion.

Q Yes? A And then, later on, it is called a premature delivery. But it all means the same thing. It means a premature discharge of the ovum, from its resting place in the womb.

Q And the first few months, it is called an abortion?

A Yes, sir; it is called an abortion. The authorities differ simply as to the time, but, up to four and a half or five months, I should say it was called an abortion.

Q And, after that, it is called a miscarriage? A Yes, sir.

Q And at what time is it called a premature delivery?

A Up to the sixth month; after the sixth month, when the foetus becomes viable, when it can possibly live after being discharged from the womb, it is called a premature delivery.

Q Now, what are some of the causes of abortion, as defined by you?

THE COURT: Wait a moment. May I ask a question here, which may possibly facilitate, and relieve the District Attorney and counsel for the defendant of the necessity of asking, subsequently, on the same point, and so that the jury may understand?

BY THE COURT:

Q When you say premature delivery, Doctor, does that phrase include the action of nature itself, or an action produced by some external agency? A Any of these terms used may be used in either way, either when produced by an external agency, or when coming on naturally.

In medicine, the term abortion, does not necessarily mean that it has been induced. It may come on perfectly naturally, from natural causes, and so on, all the way through the term.

BY MR. CLARKE:

Q But, in any case, it consists in the emptying of the uterus, before the regular nine months period? A Yes, sir.

Q That is to say, both an abortion, a miscarriage and a premature delivery may be caused in either of two ways: By some natural, internal cause, or some external agency? A Yes, sir. That is correct.

Q Now, I ask you whether the insertion of an instrument in the womb is one of those external agencies?

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

A Yes, sir; it is one of the external agencies.

BY MR. CLARKE:

Q And, if an expulsion of the contents of the uterus is

caused by the insertion of an instrument into the womb, what would that be called?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Now, will you show me whether any of these instruments that you have identified here are such as, when inserted in the womb, would produce a miscarriage or abortion, such as you have defined it?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well you say that one of the external means or agencies which would cause such a miscarriage is an instrument. You have already said that? A Yes, sir.

Q Now I ask you, in general, to state whether you mean a blunt or a sharp instrument.

MR. LYNN: Objected to.

THE COURT: The form of the question is objectionable.

BY MR. CLARKE:

Q Well, what form of instrument do you mean?

MR. LYNN: Objected to.

BY THE COURT:

Q Generally state what form of instrument would be capable of producing such a miscarriage or abortion or premature delivery?

THE COURT: Is that your question?

MR. CLARKE: Yes, sir.

MR. LYNN: And we object to it.

THE COURT: That is the District Attorney's question, and not mine. I overrule your objection.

MR. LYNN: Exception.

A I want to understand my position, in regard to this matter. Am I to describe how a man might produce an abortion, under proper circumstances?

BY THE COURT:

Q No. Confine yourself to what instrument would be capable of producing, or would be adequate to produce it? A Well, any instrument that is introduced into the womb, to stretch the neck of it, or to puncture those membranes, may produce an abortion, and very probably would do it. It would start up the expulsive powers of the womb, and start the abortion coming. It wouldn't scrape and clean it all out. So that, possibly, nature might do the rest, and no other instrument would be required.

BY MR. CLARKE:

Q Now, I show you the cervical dilator, People's Exhibit 8,

and I ask you if such an instrument as that would produce such a result?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q And I show you People's Exhibit--

THE COURT: There is no necessity, Mr. District Attorney. I have ruled upon all these matters before, adversely to you, and there is no use of taking up the further time of the Court.

MR. CLARKE: Very well, sir. That is all.

CROSS EXAMINATION BY MR. LYNN:

Q Doctor, you have instruments of similar make and nature, such as you have described here, and have used them as a student? Have you a surgeon's kit as we call it? A Yes, sir.

Q So that you are familiar with these instruments that you see before you? A Yes, sir; I am familiar with them.

Q Now, Doctor, take the speculum, this instrument called the speculum. I didn't quite catch what you gave. gynecologists generally use that, don't they? A It is used for separating the walls of the vagina, for examinations.

Q Is it generally used by gynecologists, in their professional work, I ask you? Yes or no? A No. Other speculums

are used.

Q Is that one of them?

A Yes, sir, that is one of them.

Q Yes. That is an answer. Exhibit No. 9, which you have described as a placental forceps, aren't those ordinary dressing forceps? A Well, I wouldn't call those ordinary dressing forceps. They might be used for ordinary dressing purposes, but--

Q Well, that is what I want to get at.

MR. CLARKE: He hasn't quite finished his answer. Finish your answer.

MR. LYNN: I am quite willing that he should finish his answer.

A (Continued) But they appear to me more like forceps to take hold of something in the uterus, more like placental forceps.

Q But they might be used as dressing forceps? A Yes, sir; they might be.

Q No. 11 there, that you called uterine forceps. Might they be used for any other purpose than dressing the womb?

A They might be used for many purposes, but that is what they are made for.

Q But they can be used for many other purposes? A Any of these instruments are used for any purpose.

Q But the dressing of the womb is a common, ordinary treatment; is it not? A No, sir.

Q You have stated that about the dressing of the womb; haven't you? A No, sir; it is not a common treatment. It is rather unusual.

Q Doctors all have those; don't they? A Yes, sir.

Q Of course, you know the difference between bougies and catheters? A Yes, sir.

Q No. 15, you have described as what? A Well, I do know the difference, yes.

Q Well, weren't you a little in error, Doctor? A I didn't examine the ends of these. They are bougies, instead of catheters. The difference is that the catheter looks exactly like that, except that it has a little opening there, to draw off fluid with (indicating). I didn't turn around these to see that there was no opening. But they are made like these, of rubber, with a canal running through them.

Q And then these are bougies, instead of catheters? A Yes, sir; that is the proper name for them.

Q Now, Doctor, have you ever used the strap that we have referred to here in any of your practice, what has been called the leg strap? A I have used it for-- not that strap.

Q Well, a strap similar to that? A Yes, sir; for similar purposes.

Q Now, the patient is on his back, isn't he? A Yes, sir.

Q On her or his back? A Yes, sir.

Q And this binds the legs, the knees, up towards the front of the body, so that the physician can have a composed state, or a quiet state of the patient, without any muscular contractions?

A Let me see that strap one moment again, please.

BY MR. CLARKE:

Q Can you fasten those hooks, and show us how they do it? Don't they hook those through the loops? A Excuse me. I will answer his question, first, and then I will answer yours.

BY MR. LYNN:

Q It is to keep the patient in a fixed position, so that you may examine or dress or cleanse? A Well, I don't believe that those straps are used for examinations. I have never seen it done.

MR. LYNN: I move to strike that out. He says that he doesn't believe it is done.

THE COURT: Motion denied.

MR. LYNN: Exception.

BY MR. LYNN:

Q Would they hold the patient for an examination?

MR. CLARKE: Objected to.

BY MR. LYNN:

Q You buy those in the regular stores, where physicians procure their supplies, surgical supplies? A Some form of leg holder, you get; yes.

Q What is that called, when you put the patient in that position? The dorsal position? A Lithotomy is the correct name for it.

Q You have read Dr. Thomas, on abortion, Dr. Gaillard Thomas? A No, sir; I have never read that book.

Q You have never read this? A No, sir.

Q Well is he recognized, Doctor, in the professional world, as an expert, as an expert gynecologist? A He would hardly be today, sir. In his day, he was.

Q But you consider his views fairly sound on the subject that he treated? A Not today, sir.

Q You set up your own views as better? A No sir; the views of more modern men.

Q Let me read a short paragraph from Dr. Thomas, his publication of 1898, page 8: "In abortion, we have the expulsion of the product of conception before the end of the fourth month; in miscarriage, between the end of the fourth month and the end of the sixth month; and, in premature labor, between the end of the sixth and ninth months." Would you agree with the Doctor on that? A In explaining that, I said that these divisions of time were arbitrary.

Q Well, that only calls for the answer, whether your

opinion differs from that which I have read? A Well, I would neither agree, nor disagree with him on that, because it is an arbitrary thing, the time set.

Q You have those instruments in your kit, did I understand you to say? A Most of them, yes, sir.

REDIRECT EXAMINATION BY MR. CLARKE:

Q You said that you had some of these instruments, or similar instruments to some of these instruments--

MR. LYNN: He said, most of them.

BY MR. CLARKE:

Q But what ones haven't you got, Doctor?

MR. LYNN: Objected to.

THE COURT: Allowed.

MR. LYNN: Exception.

A I haven't any of the bougies.

BY MR. CLARKE:

Q What are they used for?

MR. LYNN: Objected to.

THE COURT: That has all been testified to.

MR. CLARKE: No, sir. When he thought they were catheters, he testified to them.

BY MR. CLARKE:

Q What are they generally used for?

MR. LYNN: Objected to.

THE COURT: Allowed.

MR. LYNN: Exception.

A Well, these are instruments which are frequently used in inducing abortions.

MR. LYNN: I object to that, and move to strike

it out, as irresponsible.

THE COURT: Motion granted.

A (Answer continued:) They are, also, used for passing into the urethra, to aid in dilating it. They are used for various purposes.

BY MR. CLARKE:

Q Well is one of those purposes for insertion into the womb, to cause a miscarriage?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q These are the only ones that you haven't got in your possession; are they? A I have no instrument of that kind (indicating).

Q What is that exhibit? A No. 16, a rubber applicator. It doesn't concern--

Q It doesn't concern what? A Well, it just happens that I haven't such an instrument as that. I don't keep that kind.

Q Have you any such instrument as this, No. 10?

A Yes, sir.

Q What is that for, generally? A That is to place inside of a bougie or catheter, to give it stiffness, so that it may be inserted through some resistant surface.

Q Well, about these chemicals. Now, Exhibit 19. They are tablets of hydro chloride of mercury; did you say?

A Bi chloride of mercury. That's what it appears to be, but I wouldn't go any further than that.

Q That is an antiseptic used by surgeons in gynecology?

A Yes, sir.

Q And, prior to an operation, would you use that?

MR. LYNN: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is it used in the course of operations, for antiseptic purposes? A Yes, sir.

EDWARD J. REARDON, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Where do you live, Mr. Reardon? A 227 East 87th street, New York County.

Q And what is your business? A County Detective officer, in the office of the District Attorney of New York County.

Q Now do you know Detective Sergeants O'Connell and

McNaught? A I do, sir.

Q And Mr. Andrews? A Champ S. Andrews?

Q Yes. A Yes, sir.

Q Now, were you at the flat No. 14 West 65th street, on the 12th of February? A Yes, sir.

Q Now, Detective Sergeant O'Connell has told what took place there, in detail. Now, just tell us, briefly, what occurred there. What was the first day you went there? A On the 9th day of February, of this year, in company with Detective Sergeants Robert McNaught and Thomas J. O'Connell.

Q And did you see these ladies there, Mrs. Levine and Mrs. Blocher? A Yes, sir.

Q And what days did you go there? A The 9th, 10th and 11th, and the 12th, the day of the arrest.

Q On the day of the arrest, when did you go there? A Some time about 9 o'clock.

Q And were you there when the woman called? A Yes, sir.

Q Do you recognize that woman in court? A Yes, sir.

Q Sitting in the back of the room there (indicating)? A Yes, sir; with the white waist.

Q What time did she come there? A About 11.10 in the morning.

Q How did she see you and O'Connell? A Not at that time.

Q Where were you? A At that time I was under the bed, in one of the bedrooms.

Q No. I mean, when the woman first came.

A When she first came, it was just about the time we got under the bed.

Q Now did you see this defendant there? A I did.

Q How long after the woman came? A About an hour and ten or fifteen minutes.

Q And you were under the bed all that time? A No. Yes.

Q Well which is it? A I was under the bed.

Q Who was with you? A O'Connell, the detective sergeant.

Q Now when did you come out from under the bed?

A After the doctor, after the defendant, Dr. Conrad, come into the--

Q Now, don't give us any conclusions. Just what you saw? A After we had heard a man's voice in the hallway, and heard the walk, as though a person were washing the hands, and the rattle of bottles, and smelt a strong smell of iodoform or some sterilizer, and the closing of the bedroom door--

Q The bedroom or dining room door? A Well, I heard what, to my mind, was the dining room door closed.

Q Your bedroom door was open? A Yes, sir.

Q And then did you come out from under the bed?

A Yes, sir, and stood behind the door.

Q with O'Connell? A Yes, sir.

Q And where was Mrs. Blocher, at the time? A Part of the time, she was in the hallway, between the dining room and the bedroom, where we were stationed.

Q Yes. A And between the bedroom where we were stationed, and the first bedroom, at times; and she was walking to and fro.

Q Well now what happened, briefly? A About 12.20, on February 12th of this year, I heard a woman's voice, calling for her baby, "I want my baby."

O'Connell and myself entered the room, from which we heard the voice--

Q What room? A That was the dining room.

Q Who went in first? A I think O'Connell; although both of us at the same time.

Q And what did you find? A I found a woman on the table, with a rubber pan under her, and her legs elevated, and private parts exposed, and different parts of the body strapped, so that she couldn't get her legs down.

MR. LYNN: I ask that that be stricken out, your Honor.

THE COURT: Which part?

MR. LYNN: So that she couldn't get her legs down.

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THE COURT: Strike out those words.

BY MR. CLARKE:

Q Well, she was strapped in some way? A Yes, sir.

Q Did you see the defendant there? A Yes, sir; I did.

The defendant was in his shirt sleeves, no hat. He had a metal instrument in his hand. He was standing very close to the person of this woman on the table.

Q Can you pick out the instrument, from those instruments there? A Yes, sir, I can.

Q People's Exhibit 3? A Yes, sir. I placed my initials on it, at the time, for identification.

Q Where are they? A Here they are (indicating).

Q Are those letters on there, "E. J. R.", the letters which were placed on there by you, on the 12th of February last? A Yes, sir. And the other initials were placed there by Detective Sergeant O'Connell.

THE COURT: Gentlemen of the jury,

You will remember my admonition to you, not to talk about the case among yourselves, or with any one else; and not to form or express any opinion concerning the guilt or innocence of the defendant, until the case be finally submitted to you.

The court will take an adjournment until

tomorrow morning, at half-past ten o'clock.

(The trial was then adjourned until
Wednesday morning, March 30th, 1904, at 10.30.)

TRIAL RESUMED:

New York, March 30th, 1904.

ROBERT McNAUGHT, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Now, you are a detective sergeant of police?

A Yes, sir.

Q And you are attached to the District Attorney's office, I believe? A Yes, sir.

Q How long have you been on the Force, McNaught?

A 28 years.

Q Now were you at the flat, 14 West 65th street, in New York County, on or about the 12th of February, 1904? A Yes, sir.

Q Had you been there prior to that time? A Yes, sir.

Q Did you have anything to do with fitting it up, or securing the flat? A No, sir.

Q Did you see Mr. Andrews there? A Yes, sir.

Q And did you see these two ladies who have testified, Mrs. Blocher and Mrs. Levine? A Yes, sir.

Q Now, on the 12th, prior to the coming there of this woman who has been described as a nurse, where were you?

A On the outside, on the sidewalk.

Q On the sidewalk? A Yes, sir.

Q With whom? A Mr. Andrews.

Q Did you see the woman come there? A Yes, sir.

Q And enter the flat? A Yes, sir.

Q That is the lady in the back of the room, or that was there, yesterday, at least? A Yes, sir.

Q And did you see the defendant there, that day?

A Yes, sir.

Q At what time did you see him? A At about a quarter past 12, on the 12th.

Q Where did he come from? A He came from towards Columbus-- from Columbus avenue towards the house, and went into the house.

Q Did he have anything with him? A Yes, sir; a satchel.

Q Is it the satchel that is in evidence? State whether it was similar to that (indicating the satchel in evidence)?

A Yes, sir; that is the satchel.

Q I refer to Exhibit 20. A Yes, sir.

Q How did you see Mrs. Blocher, after that?

A Yes, sir.

Q How long after? A About 20 minutes, I imagine.

Q Where did you see her? A She came down to the door, and called us, called Mr. Andrews and myself.

Q Did she make any signal? A Yes, sir.

Q What? A Just called us. She had a shawl, or something on her head, and just called us over (illustrating). We were on the other side of the street, a little way down from the house.

Q And that had been arranged before; had it?

A Yes, sir.

Q And you went up stairs then to the second floor, east flat? A Yes, sir.

Q And what did you see there? A Well, I went into the dining room of that flat, and, on the table, we saw the complaining witness, triced up with a strap, and her parts exposed; and Dr. Conrad standing at the foot of the table, and Detective Sergeant O'Connell on one side, and Detective Reardon right alongside of him, and Dr. Conrad standing there, with his sleeves rolled up.

Q Was the woman there, the so-called nurse?

A Yes, sir.

Q And did you see any instruments? A Yes, sir.

Q Where were they? A They were on a chair.

Q Well, in what way were they arranged? A Spread out, arranged on the chair.

Q On a towel, do you remember? A Yes, sir; on towels.

Q Do you remember whether they were wet or not, as though they had been soaked? A I noticed the rubber things were wet, because I picked them up, but I didn't handle the others, at the time.

Q You mean the bougies? A Yes, sir.

Q How did y the defendant make any statement, in your hearing? A No, sir; none at all.

Q Did you have anything to do with the money? A Yes, sir; I took the money. I asked where the money was, and the doctor took it out of his pocket.

Q The defendant? A Yes, sir; and handed it over; and I counted it out, in the presence of the other witnesses, and put it in my pocket.

Q How much was there? A \$125.

Q State whether or not you recognize the bills as having been seen by you before?

THE COURT: There is no question about that.

There is no use wasting time about that.

BY MR. CLARKE:

Q Well, now were you there when a photograph was taken of the room? A No, sir, I was not.

(CROSS EXAMINATION, NONE)

MR. CLARKE: Mr. Reardon is not here, your Honor. These County Detectives appear to be above the law of subpoenas. I have never been able to have him here when I wanted him. I understand that he has a prisoner.

THE COURT: Possibly that is not an isolated case, where they are above the law.

MR. CLARKE: He has some prisoner to arrest, this morning, I am informed. With the exception of the photographs, which I wish to offer, that is the People's case, and he might be cross examined, later.

THE COURT: Oh, no. Let the People's case be completed.

EDWARD J. REARDON, his direct examination being continued, testified as follows:
DIRECT EXAMINATION CONTINUED BY MR. CLARKE:

EDWARD J. REARDON, his direct examination being continued, testified as follows:

DIRECT EXAMINATION CONTINUED BY MR. CLARKE:

Q Were you present, on the 12th of February, 1904, in this dining room on the first floor east, at 14 West 65th street, when Mr. Cole, the photographer, took a photograph there? A Yes, sir; the two Mr. Coles.

Q There were two of them? A Yes sir.

Q And what was the condition of the room, as regards the condition it was in when you and Detective Sergeant O'Connell broke in, as you have described? A The room was the same, with the exception that the bag and the instruments and the defendant and his subject, on the table, were absent.

Q How about the dining room table? A It was the same as it was left by the defendant.

Q And the chairs? A The same.

Q How long after the time that you and the detective went into the room, as described by you, was this photograph taken by Cole? A When we brought the prisoner to Headquarters, I telephoned Cole, and met him, and immediately went up town with him.

Q Within a few hours? A Yes, sir.

Q The same afternoon? A Yes, sir.

Q I ask you to look at People's Exhibit 2 for identifica-

tion, this photograph, and I ask you if that correctly shows the dining room table and the chairs and utensils that were there? A Yes, sir.

MR. CLARKE: I offer it in evidence.

MR. LYNN: Your Honor, we don't see any objection, further than the fact that it was in a different condition, on the day following, perhaps.

MR. CLARKE: No; it was on the afternoon of the same day.

MR. LYNN: However, I don't see the purpose of it, but, if there is any light or intelligence to be drawn from it, it may go in.

MR. OLCOTT: We withdraw the objection.

(It is admitted, and marked People's Exhibit 2 in evidence.)

BY MR. CLARKE:

Q Now, you had got as far in your testimony as this speculum, which you said was in the hands of the defendant.

A Yes, sir.

Q Had you not? A Yes, sir.

Q Did you have anything in your hand? A At the time I entered the room?

Q Yes. A I had a pistol.

Q And, when you first came in, what did you say to the

doctor, or what did he say to you? A I think O'Connell said, "You are under arrest, Doctor," and he handed over the speculum, and said, "All right;" and we told him--

Q The defendant said that? A Yes, sir. Then I said to him, "I guess we have got you all right, Doctor; we've got you in the act," and he said, "No. I think you will find you haven't;" and I said, "Well, you have run a long time, but we've got you this trip."

Q Did he make any reply to that? A No, sir.

Q Did you see these instruments that have been mentioned? A Yes, sir.

Q Have you seen them here? A I have seen some of them, on the Stenographer's Table. I saw some here, yesterday.

Q Did you have any conversation with the defendant about his instruments, or were you present when the defendant spoke of them? A I was present when the defendant gave the name of each instrument, when they were taken from the chair, and put into the bag.

Q Who put them into the bag? A Detective Sergeant O'Connell.

Q And who asked the defendant what each instrument was? A O'Connell, according to my best recollection.

Q Do you remember any of the names? A Yes, sir. He called three rubber catheters, a probe, a speculum, a dilator,

a tenectum; and there were some other instruments; and there were bottles, containing some fluids.

Q I ask you to look at these instruments, which have been marked in evidence here, and say generally whether you recognize them as the instruments that were there upon that occasion?

A These are the three rubber catheters (indicating).

Q Well, just look them over, and say whether they are the instruments? A I believe they are. I know for a fact that the speculum is.

Q You marked that? A Yes, sir.

CROSS EXAMINATION BY MR. LYNN:

Q Mr. Reardon, you are an employee of the District Attorney, are you not? A Yes, sir.

Q In what capacity are you employed? A County Detective.

Q How long have you been so employed? A Since the 2nd day of January, 1902.

Q Is that a title that is under the law, or is it the creation of the office, County Detective? A I think it is the creation of the office; as to that, I don't know.

Q You serve subpoenas; don't you? A No, I don't.

Q What was your business before you entered the District Attorney's office? A I was Superintendent for the Anti Policy Society of the City of New York.

Q How long had you been Superintendent of the Anti Policy Society? A About 18 months.

Q What were you engaged at, prior to that time? A I was engaged as an agent for the Assembly Investigating Committee.

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Q National? A No, sir; the State Assembly; the state Assembly Investigating Committee.

Q Was that the committee known as the Haset Committee?

A Yes, sir; commonly known.

Q As what were you employed there? A As an agent.

Q As an agent? A Yes, sir.

Q Doing what? A Serving subpoenas for the Committee; doing general detective work.

Q How long were you employed at that work? A From April, 1899 to October or November of that year-- November of that year.

Q What had you been doing, prior to that occupation?

A Employed as a law clerk.

Q Law clerk? A Yes, sir.

Q In whose office? A The Legal Aid Society, 239 Broadway.

Q How old a man are you? A Twenty-five, going on twenty-six.

Q Did you help fit up this flat, in 65th Street? A I did not.

Q Do you know who did? A Of my own knowledge, I do not.

Q Did you have any conversations with Mr. Andrews, at any time, concerning this case? A Yes, sir.

Q When did you first see him about it? A I think I first saw Mr. Andrews, on or about the 9th day of February, of this year, sir.

Q Was that the same day that you entered into this flat, on 65th Street? A Yes, sir.

Q You had known nothing of it before that? A I had received some information from District Attorney Jerome.

Q And, through that information, you were put into communication with Mr. Andrews? A No, sir; I was not put in communication with Mr. Andrews.

Q After receiving instructions from the District Attorney what did you next proceed to do? A I had a conversation with Detective Sergeants McNaught and O'Connell, and the result of that conversation was that I went to the flat in 65th Street.

Q How long had you been at the flat in 65th Street?
A Well, any particular day?

Q No. A continuous time? How many days? A I was there several days. On the day of the 9th, an hour or two; and I was there on the 10th; and I was there on the 11th; and I was there on the 12th, from about nine o'clock in the morning, until the time that the defendant arrived, and was placed under arrest.

Q Who were you taking your instructions from, if you

received any, while you were in the flat? A I wasn't tal any instructions from any one.

Q Who was guiding you as to what you should do? A There was no one guiding me. Connelly and McNaught and myself were acting according to our best judgment.

Q Your best judgment? A Yes, sir.

Q Had you had conversations with any of the women who have appeared in this case? A Yes, sir; we talked with them.

Q Had you met Dr. Conrad? A Never, until the day of the arrest.

Q That was the first time you ever saw him? A To the best of my knowledge and belief, sir.

Q You hadn't known him a long time, then; had you? A No, I hadn't; but I had heard about him.

Q I asked you, if you had known him a long time? A No; I hadn't known him, except from information.

Q That is all. That is an answer. You were armed in that flat; weren't you? A Yes, sir.

Q A revolver? A Yes, sir.

Q Have you it with you now? A Yes, sir; not the same revolver. I have another revolver now.

Q Loaded? A Yes, sir.

Q What occasioned you to pull that pistol, that day, if anything? A Well, as a matter of precaution, more than any-

thing else.

Q Did you strike the Doctor, that day? A I shoved the Doctor.

Q Shoved him with your shoulder or your hands? A With my hand.

Q When you entered that room, two detective officers were there, alongside of you? A Connolly and myself entered the room. There were two persons there, the defendant and his co-defendant, the woman, Jennie Brown, who ran from the room.

Q I haven't asked you about the co-defendant. Detective Sergeant Connolly was with you in the room? A Yes, sir; part of the time.

Q Had the Doctor made any attempt to strike you, or the other detective? A In my opinion, he went for the instruments.

MR. LYNN: That is objected to, and I ask that it be stricken out.

THE COURT: No. Strike that out.

BY MR. LYNN:

Q (Question repeated.) A I couldn't say that he did.

Q You testified before the Grand Jury; didn't you?

A Wop not on this indictment; no.

Q I haven't asked you about any indictment, sir.

THE COURT: Well, you must define the question.

We may have testified before the Grand Jury on some

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other matter.

BY MR. LYNN:

Q I will qualify that. Did you testify before the Grand Jury as to the matter now before the court? A I was called as a witness, but I didn't testify.

Q Did you give testimony before the Grand Jury? A No; I did not.

Q Is your name Edward J. Reardon? A Yes, sir.

Q Are there any other Edward J. Reardons, in the District Attorney's office, if you know? A Now, Judge, by testifying in this case, I mean testifying on this particular indictment.

BY MR. CLARKE:

Q Well, you testified before the Grand Jury; didn't you?
A Not on this particular indictment, I didn't.

BY MR. LYNN:

Q On the matter that is before the court, I ask you, and you said no.

THE COURT: The matter that is before the court is the indictment.

MR. LYNN: Yes, sir. I know of no other matter.

THE COURT: And the witness testifies that he did not testify, on the finding of this indictment.

BY MR. LYNN:

Q Wasn't the subject matter that you testified to before the Grand Jury, wasn't that the same subject matter here?

A On a matter pertaining to this case, I did.

Q Was there any other indictment found, that you know of, Mr. Reardon, except the one before his Honor? A No; but--

MR. CLARKE: One moment. That is all you know about it.

BY MR. LYNN:

Q Whatever the proceeding was that you testified to in relation, in relation to this matter, was referring to the same state of facts that you are now relating to the Court and jury?

A I so believe.

Q But don't you know that, Mr. Reardon? A I can't tell what was in the minds of the Grand Jury. I was called upon a matter pertaining to this indictment; but on this particular matter, I didn't testify.

Q What followed your testimony before the Grand Jury, if you know, as a physical fact?

MR. CLARKE: Objected to, as immaterial, irrelevant and incompetent.

THE COURT: Objection sustained.

BY MR. LYNN:

Q Your memory is very good, I suppose? A Quite good, sir.

Q Have you conferred with any one about this matter, since the day of the 12th of February? A Yes, sir. I spoke to Mr. Perkins, who is in charge of the Grand Jury work; I spoke to Mr. Clarke, who is conducting the prosecution; and I spoke to persons in charge of the house run by the defendant.

Q Any one else? A No; not that I can recall.

Q Have you disbursed any money in connection with this case? A Why, I spoke about the case to some detectives, in a general way.

Q No. The question was, Mr. Reardon, have you disbursed or paid out or expending any money, in connection with this case? A No, I have not.

Q What is that? A No; I have not.

Q Have you had any expenses, in connection with this case, that you intend charging for? A I might charge for suppers for the nights, which I was detained.

Q Suppers of the nights that you were there? A Yes, sir; that I missed my supper home.

Q Did you remain in the flat evenings, too? A Oh, what would be from my usual supper time.

Q What hour is that? A Generally, six.

Q What days did you remain after your supper hour?

A I think I was a little over, on the 9th, on the 11th and

possibly on the 10th.

Q The 9th and 11th? A And possibly the 10th.

Q You were waiting for Dr. Conrad to come; were you?

A Waiting for some person, who I was led to believe was Dr. Conrad.

Q Hadn't you heard the name, Dr. Conrad, discussed by any one? A Yes, sir.

Q Then why do you answer, that you were waiting for some one that you believed was Dr. Conrad? A Well, not knowing him.

Q Is there any doubt in your mind that any other person was expected? A There is none now whatsoever, sir.

Q Then you mean to say that you were waiting for Dr. Conrad; weren't you? A Yes.

Q Were you present at the flat, on Tuesday the 9th, when any conversation was had between any persons, touching sending for Dr. Conrad, telephoning or telegraphing, to get him there? A There was some talk. I don't recall just what it was, sir. I don't know whether it was on the 9th or 10th. I couldn't say.

Q Who was that talk between? A I think the conversation was between Mrs. Flocher and O'Connell, McNaught and myself. That is my best recollection. I wouldn't say positively, though.

Q But you had talked with these women in the flat?

A Oh, yes.

Q You knew who they were? A I knew that they were there at the-- that one woman was to be operated upon, at the hands of some physician.

Q Yes? A And the other woman, I understood, was a detective.

Q Did you instruct the detective woman, Mrs. Blocher, on any matters, while there? A Yes, sir.

Q Did she act upon them? A I think she tried to act upon them. Her efforts were blocked.

Q Did you give the Levine woman any instructions, while you were there? A I think I did.

Q Did she act upon them? A I think she did. And it resulted in this defendant's arrest.

Q Just answer the questions, and we will get along nicely? A Yes, sir.

Q Now, had you ever met either of the woman, before seeing them in the flat, on 65th Street? A Never.

Q Had you been informed by any one of their presence, or expected presence, there, prior to your entering the 65th Street flat? A I was told that there were some women there, but who they were, I wasn't informed.

Q Who informed you that there were women there? A I think McNaught, going up in the elevator to the house.

Q Did you receive any information from Mr. Andrews about any women figuring in the case? A None whatsoever. I hadn't seen Mr. Andrews until the time I got to the flat.

Q You saw him there, then? A He came there, after we got there.

Q What day was that? A On the 9th.

Q Did he give any instructions on that day? A He gave me none.

Q Were you present while he gave instructions to any one else? A Why, he had conversations with--

Q I don't want the conversations? A Well, I don't know that you could call them directions.

Q Other than "Good morning", or "Good day", or "How do you do?" I mean some talk touching matters concerning this case? A Oh, the case was spoken of.

Q Mr. Andrews spoke of the case; did he? A Yes, sir; he asked whether the Doctor had arrived, or not.

Q I haven't ask you what he asked. I have asked you whether he spoke of the case? A In a general way.

Q How many times have you been a witness in court, Mr. Reardon? A A number of times.

Q Less or more than fifty times? A I should say more.

Q And you know the difference between a question put by me as to whether you had a conversation, and a question as to what that conversation was? A Well, you are so skillful, Judge, that it is pretty hard to say.

MR. LYNN: I don't wish any compliments from you, sir, and I ask his Honor to strike it out.

THE COURT: Strike it out.

MR. LYNN: If that came from his Honor, I should appreciate it.

BY MR. LYNN:

Q Mr. McNaught or Mr. Connelly was there, at the time that you were there, at the time that the Doctor was talking, one or the other of them? A Yes, sir.

Q Who was in the room at the time you addressed yourself to Dr. Conrad? A The woman who was strapped on the table.

Q Yes. Who else? A That is all. Connelly went to the room in front, after the woman that ran out of the room, the co-defendant.

Q And who else? A That is all. Mrs. Blocher ran down for McNaught.

Q Who unstrapped the woman from the table? A The defendant.

Q How long was Connelly absent from the room, going from

the dining room back to the front of the house, or about to the front of the house? A Oh, a minute or a minute and a half.

Q How long did you have your pistol out? A Ten or fifteen seconds.

Q Officer Connelly requested you to put it away; didn't he? A I think he did.

Q Did you act on that request? A Yes, sir.

Q You did? A Yes, sir.

Q So that your statement you made before the Grand Jury, at the time you have referred to, in connection with this indictment, or any other indictment, touching the subject matter before the court here-- was that a statement that was the truth, in connection with your knowledge of this case?

MR. CLARKE: One moment. I object to that.

THE COURT: I sustain the objection.

MR. LYNN: Perhaps that is rather objectionable.

I withdraw it, with the permission of the Court.

BY MR. LYNN:

Q Did you testify before the Grand Jury, at any time, that the words such as you have used, today, were these: "Dr. Conrad, I said to him, "I have got you right, this time. I have been after you a long time"? Did you testify before the Grand Jury in words or substance, such as you have testified

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here, today? A I don't recall whether that was asked me or not. I hardly think it was.

Q "Q. What did they say, when you arrested them? A. Well, the defendant Brown, Jennie Brown, she became quite hysterical. Dr. Conrad was quite cool?" A Yes.

Q Is that all you answered, on that occasion, to that question, "What did they say, when you arrested them?" A To the best of my recollection that is the answer.

Q Why did you say, just now, that that question was not asked in the Grand Jury Room, as to what the defendant Conrad said, when you arrested him? A That was my recollection of it, sir.

Q Now your recollection is better; isn't it?

MR. CLARKE: This is what he said to them.

MR. LYNN: The question was, "What did they say", meaning this man and Jennie Brown.

BY MR. LYNN:

Q "What did they say, when you arrested them?" A Well, the defendant, Brown, Jennie Brown, she became quite hysterical. Dr. Conrad was quite cool?" A He was quite cool.

Q Did you make answer to the question, when the Grand Jury foreman asked you what this defendant said, as well as Jennie Brown, the words that you have used here today, "I have got you

right, this time. You have been a long time. We have got you right now?"

MR. CLARKE: I object to that. Of course, in answer to a question as to what the defendant said, he wouldn't say what he said.

BY MR. LYNN:

Q Didn't the question as to what the defendant said recall to your memory as to what the defendant said? A The questions are put so rapidly in the Grand Jury room, that it is pretty hard to get everything down, Judge.

Q That is the best explanation you can give? A Yes, sir.

RE-DIRECT EXAMINATION BY MR. CLARKE:

Q Well, I will ask you this. Haven't you repeatedly told different persons, before this trial, that that took place?

MR. LYNN: That is objected to.

MR. CLARKE: Question withdrawn.

BY MR. CLARKE:

Q How long were you under the bed, Reardon? A On the 12th?

Q Yes. A Oh, over twenty minutes.

Q And was Connelly there with you? A Yes, sir. And we

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came out from under the bed, and went behind the door.

Q You were both under the same bed? A Yes, sir.

Q It was pretty uncomfortable; wasn't it? A It was very uncomfortable.

Q What kind of a bed was it? A An old fashioned bed, with a wire spring.

Q Was it a full bed or a three-quarter bed? A I think it was a three quarter-bed.

Q And you got under that until the Doctor had got into the dining room? A Yes, sir.

Q And did you wait until he had shut the door, before you came out? A No, sir. About the time that he shut the door, we came from under the bed, and stood behind the door, of the bedroom in which the bed was.

Q I want to ask you one other question. Did you notice the condition of the instruments, as to whether they were dry or wet? A Wet.

Q Well, could you give the jury some idea of how they were arranged? Suppose that this is the chair (indicating the table). Just show the jury how they were arranged; will you? A The instruments were laid out across the chair, on a towel, laid across the chair.

Q Just step down here, and arrange the instruments as they were, on this table, and on this towel. How near the patient were they? A About two or two and a half feet.

Q Were they where the patient could see them?

A Yes, sir.

Q Now take the instruments and show us, in a general way, how they were arranged? A In this way (illustrating). This strap was around the patient.

Q Now, you say that they were wet? A Yes, sir.

Q What was there to indicate that they were wet?

A Drops of some fluid on them.

Q How about the towel? Do you remember whether that was wet or not? A I don't recall. I think it was dry. It was on the chair.

Q Did you see any fluid there? A Yes, sir; there was a bottle of cynol soap.

Q No. A bottle open, with a fluid, the odor of which was susceptible? A Yes, sir; and there was a pan, with fluid in it.

Q What was in it, in the pan? A Well, there was a white fluid, with a strong odor.

THE COURT: Witness, you were under examination, last evening, when the court closed, and you were instructed to be here, this morning, at the opening of court; and the court was adjourned until half-past ten o'clock, this morning. You kept the court waiting half an hour. You came in at 11 o'clock.

While this case is on trial, I do not mean to say anything to you, further than to say that, at the close of this case, you must hold yourself in readiness to respond, to show cause why you should not be punished for your negligence and delay. That will do.

THE WITNESS: All right, sir.

MR. CLARKE: The People rest, if your Honor please.

THE COURT: The case is with you, gentlemen of the defense.

MR. MC MANUS: We move to dismiss, or take the case away from the jury, upon the ground that the evidence does not show that an attempt to commit the crime charged in the indictment is made out.

That is, the evidence doesn't show, as is charged in the indictment, that the defendant attempted to commit the crime of abortion, or attempted to thrust and insert into the womb or private parts of the woman any instrument, for the purpose of procuring an abortion.

We, also, move to dismiss, upon the ground that the People have failed to sustain the burden of proof, as to its not being necessary-- as to an operation or abortion not being necessary for preserving the life of the complainant.

THE COURT: Of the woman, Mr. McManus?

MR. MC MANUS: Yes, sir; of the woman, Minnie Levine.

And we, also, move to dismiss, and to take the case away from the jury, upon the ground that the evidence further discloses that every step taken towards the consummation of the crime was instituted and instigated by the Prosecution; and that the initial step was taken by the complainant herself.

THE COURT: I deny the motion.

MR. MC MANUS: And we take an exception to your Honor's denial of our motions.

THE COURT:

Gentlemen of the jury,

Of course, this discussion between counsel, on either side, with the Court or with each other, has no interest for you, because you are not to determine the question raised here. These are matters of law, which are addressed to the Court, and as to which the burden rests upon the Court. You are the judges of the facts, and any questions that are submitted to you, as judges of the facts, you will determine, without any regard to this discussion whatever; and you will dismiss it entirely from your minds.

You will remember my admonition to you, not to talk about the case, and not to form or express any opinion concerning the guilt or innocence of the defendant, until the case be finally submitted to you.

The court will take a recess until a quarter past two o'clock.

THE DEFENDANT'S TESTIMONY.

EDWARD E. COWRAD, the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LYNN:

Q Where do you live, Doctor? A 127 West 47th Street.

Q How long have you resided in this city? A Since the spring of '89, fifteen years.

Q You are a practising physician? A Yes, sir.

Q How long have you been such, Doctor? A Fifteen years.

Q And where are you a graduate of? A The Schaghticoke School of Medicine.

Q Where is that located, Doctor? A In Illinois.

Q Doctor, you remember the last day of February, February last, the 12th of February, the 8th of February?

A Yes, sir.

Q When did you see Mrs. Levine that you recall, first?

A It was on one of the very first days of February.

Q And about what time of the day was it? A In the middle of the afternoon.

Q Did you receive her, when she came in first, or did

any one else? A She was ushered into my office.

Q And where is your office? A In the front part of the building, on what is commonly known as the parlor floor.

Q On the parlor floor? A Yes, sir.

Q And what did she say to you, Doctor, when she entered, for the first time, and talked with you? A She told me that she had been suffered from a train of symptoms that directed my attention to her pelvis; and that she had been suffering--

MR. CLARKE: I object to that. I want the language of the lady.

BY THE COURT:

Q That is your own language, is it not, witness, that you are giving now, your own words? A Yes, sir.

BY MR. LYNN:

Q Use your own words, Doctor, and her own words, as far as you can? A She said, "Doctor, for some time, I have been suffering from pain in my womb; also, I have noticed that there has been considerable discharge, and, latterly, I have noticed a swelling on my outside privates."

I said, "How long a time have you been suffering?" She said, "For at least two months".

I said, "You don't look very strong. You probably do require some treatment to improve your general health, and, evidently, some local attention, but I fear, by your appear-

ance, that my fees will be beyond your reach and I would advise you to see my assistant, state your case to him, and see if he can't arrange to help you". I didn't wait for her answer.

Q What did she say to that? A I didn't wait for her answer. She seemed rather diffident.

Q And what next took place? A I left the room, called in my assistant, who was sitting in the adjoining room, reading, and asked him to come in and see this woman.

Q Who was your assistant, Doctor? A Dr. Weil. And I asked him to see this woman, and get her history, and take charge of the case.

Q That was said in her presence? A No, no. These were my instructions to him.

Q No. Never mind what your instructions were to him, unless given in the presence of the complainant.

THE COURT: Strike out that observation of the witness. Confine yourself to what occurred in the hearing and presence of this woman.

BY MR. LYNN:

Q Well, what next took place? A In a very few minutes, my assistant came to me and said, "that woman"--

MR. CLARKE: Objected to.

THE COURT: Strike that out, what the assistant

said.

BY MR. LYNN:

Q Was the woman there then? A No, sir.

Q What followed your interview with your assistant, and this statement by him? A I returned to see the woman, who was still in my office, seated.

Q Now, had the assistant been together in the office with the woman in the meantime? A Yes, sir.

Q And how long had they been together? A Four or five minutes.

Q And, when you got back to the Levine woman, what did you say, or what did she say? A I said, "Why did you not arrange with my assistant?" She said, "Doctor, I have heard of your skill, and I would prefer, if you can make your charges reasonable enough, that you treat me personally."

Q And then what did you say? A I said, "I will do my best, but I would advise you to come into the sanitarium, because, evidently, there are some operative procedures necessary."

Q You said that to her? A Yes, sir.

Q Now what did she say then? A She said, "I will see my husband, and do the best I can, and return, in a few days."

Q Did that close the interview? A I dismissed her.

Q Now, did she return, in a few days? A Yes, sir; in

company with another woman.

Q Well, at that time, at the first interview, Doctor, was there any intimation as to any sum of money, or was any sum of money fixed by you or her that you would accept, on that first day? A I told her that the very lowest fee that I could accept to cover my services, and the charge for room and nursing in the sanitarium would be \$150.

Q Now, then get to the next time when she came. She came a second time; did she? A Yes, sir; in company with this other woman.

Q Now, tell us what took place. Do you remember what date that was? Was it the next day or some days after?

A It was at least three or four days after.

Q And she came with another woman? A Yes, sir.

Q Well what was said, when they entered, about the other woman? Did you know the other woman? A No. On this occasion, the occasion of the second visit, the woman who accompanied her acted as spokeswoman.

Q That is, she done the talking? A Yes, sir. She said, "Doctor, I am the sister in law of this lady, who was in to see you, a few days ago." I said, "Yes, I recall the case."

She said, "It will not be possible for her to come to the sanitarium, but I have arranged to have her with me,

at my apartment, on 65th street, and will keep her there as long as you think it necessary for her to be under your care."

I said, "It will be very difficult for me to accommodate myself. I am very busy, but I will do the best I can, and let you know when I will come, if you will leave me your address."

Q Well, did she give you a name or address? A She did.

Q Do you recall what the name was? A I don't recall the name of the second woman. The name--

Q The woman that is known here as Blocher? A Yes; exactly.

Q She gave a name other than Blocher; did she?

A She did.

Q Well, then, did they leave? Did the Levine woman do any talking that day? A Nothing.

Q Was anything said by the Blocher woman, or the Levine woman, at that time, in reference to any trouble that they had, the Levine woman had, before? A The Blocher woman stated that the Levine woman had been suffering, for some time, from the effects of an abortion, which she had had performed by some midwife.

Q Yes. A And I said, "Well, that is one of the two or three usual causes that give rise to the train of symptoms

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from which this woman is suffering."

Q Meaning the discharges, abscesses--

MR. CLARKE: I object.

THE COURT: No. Objection sustained.

BY MR. LYNN:

Q State whether anything was said, at that conversation, Doctor, in reference to the condition of the Levine woman, outside of what the Blocher woman said? A I don't understand.

Q (Question repeated) A I don't recall that the Levine woman said anything, on the second visit.

Q What was discussed as to your pay, if anything?
A By pleading with me, they succeeded--

MR. CLARKE: I object.

BY MR. LYNN:

Q No. Just state what they said, Doctor. I know your mind is not as clear as it would be ordinarily. A Well, the Blocher woman said, "Doctor, you agreed to treat this case for \$150, in the sanitarium. Now, in view of the fact that you are to take charge at my house, couldn't you still further reduce your fee?" I finally agreed to accept \$100 for myself--

THE COURT: No. State what was said.

THE WITNESS: Beg pardon.

BY MR. LYNN:

Q What did you say? A I said, "I will accept \$100 for myself, and \$25 for the nurse, because it will probably be necessary for you to have the nurse for a week or ten days, if the treatment that I contemplate is necessary in your case is carried out."

Q Well, did that terminate it? A Yes, sir.

Q That was the second visit? A Yes, sir.

Q Did you see the Levine woman, after that, previous to seeing her in 65th street? A I did not.

Q Now you fix this about the 4th, 5th or 6th of February?

A Approximately.

Q How many days elapsed between the time that you last saw the women, and the next time you saw them, in 65th street, Doctor? A The last visit of the women to my office was, I am quite sure, on a Monday; and, on the Friday of that week, I visited the 65th street house.

Q I see. Now, then, on Friday, you went to the 65th street house? A I did.

Q And what did you find there? Who did you find there, Doctor? A The Blocher woman admitted me to the apartment, and directed me to the dining room.

Q Well, just before that, had you received any message, by phone or telegraph or letter, from the Blocher woman, before

you went to the 65th street flat, a day or two before that? 277 2.6

A I received, between Monday and Friday, not less than three, possibly four, communications from her, urging me to come to see her sister.

MR. CLARKE: I object to that, unless he states what he means by communications.

THE COURT: I sustain the objection.

A (Answer continued:) Three visits, in person, to my office, and one telephone communication.

BY MR. LYNN:

Q Now, go back. During three visits at your office, and one by telephone--

MR. LYNN: What do you object to, Mr. Clarke?

MR. CLARKE: I objected to the last question, and the objection was sustained.

THE COURT: Proceed. There is no question pending before the Court. The Court has ruled.

BY MR. LYNN:

Q Now, you reached the 65th street house, and who did you find there? A The Blocher woman, who admitted me to the apartment, and directed me to the dining room, where I found Mrs. Levine, in company with my nurse.

Q Yes. Well, what did you say to any of them, if you said anything? Did you speak to any of the persons there?

A I spoke to the patient.

Q What did you say to her? A I said, "Good morning, how do you feel?" She said, "Quite well," and I said, "How is your baby?"

Q You said, "How is your baby?"? A Yes. And she said, "The baby has a cold, Doctor." I said, "That's too bad. Are you prepared for the examination?" She said, "Yes." I then instructed my nurse--

Q Yes? A To get me some water, which she had boiled; and, separating the instruments that I had brought on a chair beside me, I placed the woman upon the table.

Q Did you put her in any position? A I put her in the regular position that is necessary for examinations.

MR. CLARKE: I object to that.

THE COURT: I sustain the objection.

BY MR. LYNN:

Q Well just tell us what the position was? A I put her on her back, and flexed the thighs of the woman on her abdomen, by means of a strap that I always carry for that purpose.

Q Meaning this white bandage (indicating), with buckles on it? A Yes, sir.

Q Now, having placed her on the table in the position described, what next did you proceed to do, Doctor? A After

I put her in position, I went to prepare my hands, in the regular way.

Q Now, tell us what that was? A I washed my hands, and sterilized them.

Q Now will you tell me what sterilizing is? A Treating the hands with some germicide, to free them as much as possible from anything of an infectious character.

Q And, after washing them and sterilizing your hands, what next did you do, Doctor? A I instructed the nurse to fill the douche bag, which I had brought with me for that purpose, with the solution that had been prepared; and I prepared the vagina and external privates for examination.

Q Well, what did you do with the douche bag? A I sterilized the parts of the woman.

Q Well tell us what you mean by that? A That means freeing the external privates and the vagina, which is the canal leading to the uterus or womb of any infectious material.

Q By washing it out? A Yes, sir; by washing it out with a germicidal solution.

Q And that was inserted with the syringe? A With the ordinary hard rubber nozzle, that is attached to the regular douche bag.

Q And that falls from a bag that hangs upon the wall? A Yes, sir; three or four feet higher than the patient.

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Q Now, look at that bag (indicating), that is the
douche bag or syringe? A Yes, sir.

Q Is the nozzle there now? A Well, in this case, I
suppose the nozzle was not present. It is not essential.

BY MR. CLARKE:

Q Well, is there any nozzle on it (indicating)? A Well,
there is a regular vaginal nozzle that comes with such an
affair, such a douche bag.

BY MR. LYNN:

Q Now, after ~~examining~~ douching the vagina and external
genitals of the woman, did you make an examination?

A A very superficial examination.

MR. CLARKE: That is objected to.

THE COURT: Objection sustained.

BY MR. LYNN:

Q What did you notice, Doctor, during your examination?

A I noticed that, on inserting my finger into the vagina,
and examining the external parts, that there was an enlargement
in the uterus.

Q Now, will you tell me what that enlargement of the
uterus was, or is? A It might have been a number of things.

Q Well, give us the usual term that we understand,
so that we will understand it, by some plain description?

A An enlargement in the uterus--

MR. CLARKE: I object, unless he describes what he saw, and then he can tell, in his own way, what caused it.

BY MR. LYNN:

Q Yes. Just describe the enlargement of the uterus that you saw? A I simply noted that the organ was enlarged. My examination was not thorough enough, or extended enough, to admit of my forming of any conclusion as to the nature of the enlargement.

Q Or about the causes of it? A Or, as to the causes of it.

Q Now, then, we will come to the next thing. What next did you find on that woman, Doctor? A I found, immediately on inspecting the external parts, an enlargement or swelling of the gland in the left large lip of the external parts, on the external privates.

Q Well, was that of the same formation or character of the first one that you described? A No, sir. The first one was external, and the next one was the enlargement of the uterus.

Q Now, what part is the uterus, as you call it?

A The womb.

Q Now, what next did you find, Doctor, on such an examination? A I noted, before I douched, that there was con-

siderable discharge from the privates.

Q How can you describe that discharge? What is the name or character of that discharge? A The general term is leucorrhoea, a leucorrhoeal discharge.

Q Was there an odor from it? A Considerable.

Q Well, is that from a healthy condition? A It indicates, as a rule, a very catarrhal condition of those organs.

Q Now, Doctor, after observing and seeing what you have described, what next did you do? A I had just reached for the speculum, for the purpose of--

MR. CLARKE: I object.

THE COURT: Do not state the purpose. State what was done.

A (Answer continued:) I had just reached for my speculum, and had just picked it up, when the officers ran into the room, and notified me to put up my hands.

BY MR. LYNN:

Q The external swelling that you have mentioned here, is that the abscess-- that which Dr. Palmer characterizes as an abscess?

MR. CLARKE: Objected to.

THE COURT: Objection sustained.

BY MR. LYNN:

Q Well, was that what we call an abscess, the external swelling?

MR. CLARKE: Objected to.

THE COURT: Objection sustained.

BY MR. LYNN:

Q Well, what was it, Doctor?

A It was an abscess.

Q The officers entered and you were arrested?

A Yes, sir.

Q Well what next took place, Doctor? Who spoke to you?

A One or both of the officers.

Q What did they say? It isn't very material, but we might as well have it, we might as well hear it. A Reardon cried, "Don't touch that woman." I said, "I'm not very likely to, under the circumstances, with two guns pointed at my head." He said, "Unstrap the woman." I assisted the woman from the table.

They then asked me the names of the different instruments. I told them; and, putting them back into the bag, they took us down town.

Q Now, this bag-- what did Reardon do? Did he strike you, Doctor?

THE COURT: No. What did he do?

BY MR. LYNN:

Q What did he do? A While Connolly took the nurse into the front part of the apartment, Reardon, while covering me with a revolver, held in his left hand, struck me a blow in the face.

Q Now, these instruments that are here, Doctor, were brought there by you?

A Yes, sir.

Q And in the bag that is here in evidence?

A Yes, sir.

Q What did that bag consist of? What do these instruments consist of, Doctor?

MR. CLARKE: That I object to. It is too indefinite.

THE COURT: I think so.

BY MR. LYNN:

Q Well, will you go over, Doctor, and give me, describing each one in turn, its name and its general uses, its utilities, and why it was there; tell us all about it?

MR. CLARKE: Did you ask what it was there for?

MR. LYNN: No; I didn't ask that.

BY MR. LYNN:

Q Take up the speculum, Doctor. What is, that,

Doctor? Take up the first one, the speculum.

A The exhibit No. 3 is what is known as a duck-bill, bivalve vaginal speculum.

It is used for expanding the vagina, and exposing the mouth or neck of the womb. It is an instrument intended and suitable for--

THE COURT: No, no.

MR. CLARKE: I object to that.

MR. LYNN: No. Strike that out. I didn't ask for that.

BY MR. LYNN:

Q Tell us what it is used for? A It is used for examining the mouth--

MR. CLARKE: I object. You said it was used for distending the vagina.

THE COURT: Yes. I sustain the objection.

MR. LYNN: Exception.

BY MR. LYNN:

Q What was its general uses?

MR. CLARKE: I object. He has stated already, distending the vagina.

MR. LYNN: Well, perhaps he has, your Honor.

BY MR. LYNN:

Q Well, now, then, answer this question. Extending the vagina for what purpose? A Distending the vagina for the purpose of bringing into view the neck of the uterus.

Q So that you could see it? A The vagina is a collapsible organ and--

THE COURT: No. Let the witness answer.

A (Continued) So that you can examine the mouth or neck of the womb, as to its character or diseased condition that may exist in those tissues.

BY MR. LYNN:

Q Now take up the next exhibit that is nighest to that.

Is that the instrument that you had in your hand, the last exhibit, a speculum? A Yes, sir.

Q At the time that the officers came in? A Yes, sir.

Q Now, proceed to the next? A Exhibit No. 11 is what is known as a uterine dressing forceps.

This is used for the purpose of carrying dressings, either plain dressings, for the purpose of drainage, or dressings soaked in medications, into the uterus, up into the womb.

Q Well, what is the next exhibit? A This is not tagged. It is known as a penaculum.

The penaculum is used for the purpose of steadying the uterus, during the making of an application.

MR. CLARKE: That is Exhibit 13.

A (Continued) This small point is hooked into the mouth of the womb, and the organ is steadied in that way, while any application that is desired is carried up into the womb; because the womb is a moveable organ, and is very likely to get out of line, if not steadied in that way.

BY MR. LYNN:

Q Now, the next one? A This is what is known as a small uterine dilator.

It is used for dilating or expanding the neck of the womb.

The neck of the womb, or the womb, rather, being a closed organ, it often becomes necessary, before it is possible--

MR. CLARKE: Objected to.

A (Continued) Well, it is used for distending and expanding the neck of the womb.

BY MR. LYNN:

Q Now, the next one? A This is a uterine sound. With this we measure and determine the depth and direction of the womb.

This is an ordinary vaginal-- ticketed here, "Dressing forceps"-- I might say vaginal, as differing from the uterine dressing forceps.

With this, we pick up small pieces of cotton, and wipe out the vagina, at the mouth of the uterus, so that we can properly inspect and treat.

BY MR. CLARKE: "

Q What is the number of that exhibit? A No. 9. These are soft rubber bougies. These bougies are--

BY THE COURT:

Q How many in number, Doctor? A Three bougies, sir.

BY MR. CLARKE:

Q What is the number of the exhibit? A No. 15. These soft rubber bougies are prepared for the use of drainage, or, drainage tubes are prepared from these bougies. A small opening is cut here (indicating), or the bougie is left at its regular length, or cut off at the depth of the abscess cavity.

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BY MR. LYNN:

Q As they now exist, Doctor, they are of no use, until altered?

MR. CLARKE: Objected to.

THE COURT: No. That is improper. You are stating a fact, and that is not testimony.

BY MR. LYNN:

Q In what way must the change be made, before the last exhibit that you had in your hand can be made of use, Doctor?

MR. CLARKE: Objected to.

THE COURT: Objection sustained.

BY MR. LYNN:

Q Can they be of any use, now? A Not in my department of practice.

Q They must be altered? A They must.

Q In what respect, Doctor? A They are used quite frequently, not so much latterly, by workers in the department of distinctly male surgery, that is, as it applied to the male genital organs, for the distension of strictures in the urethra.

Q In the state that they are in now? A Yes, sir.

This is an ordinary wire, which I use either for--

MR. CLARKE: I object. What is it used for, is the question.

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BY MR. LYNN:

Q If it has a general use, describe it? A It is used for introduction here, into one of the small openings at this point (indicating), and the carrying, by means of this wire, into the abscess cavities either behind or at the sides of the uterus. The openings that would have to be made.

BY THE COURT:

Q The openings in what? A The openings that would have to be made in this drainage tube, at this point (illustrating).

Q In what you have described as a bougie? A Yes, sir. The wire is exhibit 10.

BY MR. LYNN:

Q Now, proceed, Doctor, to the next? A This is an ordinary dressing scissors, with which we cut gauze and dressings. That is No. 12.

Q Now, the next one, Doctor? A I think that covers the lot, sir.

Q The large rubber-- have you covered what they call the placenta forceps? A That is a mistake. This is an ordinary dressing forceps. A placental forceps is an entirely different thing.

Q Now, there is a big rubber bag here. What is that?

A That is a modification of the Kelly Pad.

That is inflated, and placed under the hips of the

patient, and the fluid that is used for irrigation is carried down that into the receptacle placed at the foot of the table.

Q Now, some vials have been offered in evidence, and Mr. Clarke has them there? A This is the regulation iodoform gauze, used for dressings and surgery.

Q And the tablets? A This is carbolized glycerine. And these are bichloride of mercury tablets. And this is a germicide, known as cresol.

Q Now, have we covered now, all the contents of the bag?
A I think so.

Q As far as we know? A Yes, sir.

Q Now, Doctor, are all the exhibits referred to by you such as are in ordinary use by physicians? A Yes, sir.

MR. CLARKE: I object. Well, he has answered it. Let it go.

MR. LYNN: And it was answered, yesterday, Mr. Clarke, by your own witness.

BY MR. LYNN:

Q Now, Doctor, did you agree to perform a criminal operation upon Minnie Levine, for the sum of \$125? A I certainly did not.

Q Did she ask you to perform a criminal operation upon her, for the sum of \$125? A She did not.

Q Did she ask you to perform a criminal operation upon

her body, for any sum whatever? A She did not.

Q Did you agree to perform a criminal operation upon the Levine woman for or with consideration, or without consideration? A I did not.

Q Did you agree to perform a criminal operation upon Winnie Levine with the Blocher woman? A No, sir.

Q Did you purpose or did you intend to perform a criminal operation on Minne Levine? A I did not.

Q Was the purpose of your visit there examination and treatment of the diseases that you found on this woman?

A For the purpose of what?

Q Was the purpose of your visit to the 65th Street house to examine and treat the patient for the diseases which you may have found on her person? A Yes, sir.

Q If you hadn't been interrupted, and had been allowed to convince yourself that the woman was pregnant, what would have been your conduct then, Doctor, or your treatment of her?

MR. CLARKE: I object to that.

THE COURT: I do not think that the question is material or relevant.

BY MR. LYNN:

Q Well, did you learn by the cursory examination that you made of the woman, while you had her on the table there, Doctor, sufficient to warrant you in any conclusion regarding her preg-

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nancy? A I did not.

Q When they asked for the money that you had received from the Blocher woman, you handed it over to the officers?

A Yes, sir.

Q Did you make demand for any money upon these people, the day you visited this house? A I did not.

Q Who tendered the money to you, when you went there?

A The Blocher woman.

Q And tell us the circumstances under which she tendered it to you. What was the conversation? A She said, "Doctor, I suppose you want to see the color of some money?" I said, "Yes, if it is perfectly convenient," and I received the money.

Q You didn't give her any intimation, prior to that, that you wanted any money? A No, sir.

Q The sum of \$125 had been fixed as your fee? A Yes, sir.

Q How long, Doctor, with the cursory examination that you had made of the Levine woman, at that time, and with good, careful, skillful treatment, how many visits would it require, operations or examinations or treatment of her, to have brought her about to a normal state? A If her condition was found to be such as I assumed it to be from her history, it would have required--

THE COURT: Is this proper?

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MR. LYNN: I want to show-- he is an expert, Judge. He has seen the patient, and knew better than any one else.

THE COURT: Well, as a question to an expert, it is wholly improper and inartificial. However, if the District Attorney has no objection, I will allow him to proceed.

MR. LYNN: He is stating, your Honor, about the condition--

THE COURT: I understand the position now; I understand the position.

BY MR. LYNN:

Q What were you to do for her for the charge of \$125, Doctor, that you made? That is what I want to get at? A I was to curet her.

BY MR. CLARKE:

Q To do what? A I was to curet her, if I found that the conditions required it, which I told her would probably be the case, and open and drain this abcess, which I found externally.

BY MR. LYNN:

Q What does curet mean, Doctor? A It means a scraping of the womb, which is done to correct just these diseased and catarrhal conditions that this woman was supposedly suffering from, so far as I could judge from her relation of the symptoms.

Q There was nothing about her appearance, when she first entered your office, that indicated to you she was pregnant? A Nothing at all.

Q Had she, at any of the conversations, made allusion, in any wise, that would lead you to know that she was a pregnant woman, at the time she visited you, Doctor?

A She did not.

Q Did you attempt, Doctor, at any time, to commit a criminal operation upon the woman named here as Minnie Levine?

A I did not.

Q Did you attempt to force any instrument into her body or person, with a view of committing a criminal operation upon her body? A Certainly not.

Q Were any of the instruments that are here marked as exhibits, outside of the douche bag, used upon the body of Minnie Levine? A They were not.

Q Had you started or attempted to use any of the instruments, marked as exhibits here, upon the body of Minnie Levine, with a view of attempting to commit a criminal operation? A I did not; further than I picked up the instrument.

Q Was that with a view of committing a criminal operation?

A Oh, no, sir.

Q And that was picked up for what? A For the purpose

of exposing the uterus to view.

Q And that was the speculum? A Yes, sir.

Q Did you attempt to use any other instrument, in any manner, upon her? A No, sir.

CROSS EXAMINATION BY MR. CLARKE:

Q Could an abortion be performed on a woman, without first distending the vagina, with the speculum? A Yes, sir.

Q Would that be a proper way? A No.

Q So that, if you were about to produce a lawful miscarriage on a woman, wouldn't you first wash out the vagina, and then insert the speculum? A Anything of an operative procedure would require the washing out of the vagina.

Q Yes. That is the first step; is it not?

A Yes, sir.

Q And wouldn't the second step be the insertion of a speculum? A Not that sort of speculum.

Q Any speculum? A No, sir.

Q What would you insert first? A A depressor.

Q Are you positive about that? A Absolutely.

Q Have you any depressors? A Yes, sir.

Q Well, after you get the depressor in, and get the vagina distended, what would be the next instrument used? A Forceps, a double tenaculum.

Q What would you do with that? A With that, I would have to grasp the neck of the uterus, and draw it down.

Q Yes. And then what would be the next step?

A A large dilator would have to be used.

Q Well, similar to the one here? A No, sir.

Q Larger than that? A Very much.

Q Referring to Exhibit 8. But similar in construction?

A No, sir.

Q Well, it would be a dilator; wouldn't it? A No, sir.

Q And it would have two arms? A No, sir.

Q How many? A Three or four.

Q To dilate the neck of the womb? A Yes, sir.

Q On a pinch, couldn't you get along with this one?

A No, sir.

Q Well, then, when you got the neck of the womb dilated, what would be the next step? A You would have to reach in, with a placental forceps, and a placental forceps of considerable size, to be of service in this case, and, with it, grasp the contents of the uterus, and extract what you could in that way.

Q Well, you didn't have that with you there; did you?

A No, sir.

Q And so, then, you were not equipped for a first-class abortion; were you?

MR. LYNN: Objected to, as not only improper, but offensive and insulting.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q You had no outfit for committing an abortion?

A No, sir.

Q If you had found it necessary to save this woman's life, you wouldn't have been able to produce a miscarriage?

A No, sir.

Q None of these instruments that you had there would possibly be effectual to produce a miscarriage? A I wouldn't say that.

Q Well, would they? A In a crude way, yes.

Q Which ones? A This one, Exhibit 9.

Q By distending the womb, with those scissors? A No, sir; by plunging this into the neck of the womb, and rupturing the foetal sac.

Q Well, if you used the dilator, this crude dilator of yours, and dilated the neck of the womb with it, and then put a wire inside of one of these rubber bougies, and inserted that into the womb, wouldn't it cause a miscarriage?

A No, sir.

Q wouldn't it start it? A It might start it. But that is not the accepted, scientific way of performing the

operation.

Q Well, a miscarriage doesn't occur on the same day as the operation; does it? A Immediately. You extract everything. That is the only proper way.

Q At any stage? A Yes, sir.

Q Well what is it that comes away later? A Nothing.

Q Well, then, why did you need a nurse? A Why, you need a nurse to take care of the woman, afterwards.

Q How many visits do you have to make, as a physician?

A Well, what sort of a case?

Q In a case where an abortion has been performed?

A Well, it depends entirely upon how the woman gets along.

Q Well, you have to make several visits; don't you?

A Any conscientious physician would make a number of visits.

Q Now, didn't you tell these ladies that you would have to have a nurse for a week? A If the treatment which I supposed was necessary--

Q Did you tell them that? A Yes, sir.

Q And you expected to be engaged on this case for a week; didn't you? A A week or longer.

Q Yes. You expected to make several visits?

A Yes, sir.

Q Now, you didn't examine the lady, at all, when she called at your office; did you? A No, sir.

Q Did you examine her through her clothes (illustrating)?

A No, sir.

Q Then you had no knowledge of her symptoms, except what she told you? A Just only by her history of the case, because I was very busy, on both occasions.

Q And you decided, that, without having & seen the woman, or without having examining her, it would require a week's time to treat her? A That it would probably require operative procedures that would extend over a period of a week, or more.

Q Well, what did you think was the matter with her? A I thought she was suffering from the effects of this neglected abortion, which she told me she was suffering from, and which manifested itself in the form of these catarrhal discharges, pains in the uterus, and, perhaps, around the uterus, and probably inflammatory conditions that might develop around the uterus.

Q Well, that would be a matter of several weeks, to get her back in shape; wouldn't it? A No, sir.

Q And you assumed that that was the trouble; didn't you? A I judged from the symptoms that that was the trouble. That class of cases are usually very distinct.

Q And you agreed to do it for \$125; didn't you? A Yes, sir.

Q \$100 for yourself, and \$25 for the nurse? A Yes, sir.

Q And, if you had found out afterwards, that she had something worse the matter with her than you understood, were you going to change your price? A No, sir; because she gave me to understand that that was all she had to give me for my services.

Q Well, then, if there had been a tumor to take out, you would have charged the same price? A Well, I didn't believe she was suffering in such a way as to require a capital operation; and that couldn't have been done in the flat, anyway.

Q Now did you ascertain whether this woman was pregnant or not? A Well, I intended to do that, before I proceeded with the operation.

Q You didn't think of asking her whether she was pregnant? A She didn't say anything that would direct my attention to a possible pregnancy.

Q Well didn't you ask her? A Women, when they--

Q Did you ask her, Doctor? A I didn't ask her.

Q How long before did she say she had had a miscarriage?

A That I don't remember.

Q Well, you said, a little while ago, two months; didn't you? A I said that she said she had been suffering with these symptoms for two months.

Q Now, don't you remember Mrs. Blocher saying to you that the reason they wanted you to come down to the house was family reasons? A I don't remember any such thing.

Q Well, do you usually go to the patient's house?

A Quite frequently.

Q I thought you kept a sanitarium? A I do.

Q Have you got a license for keeping a sanitarium?

A It doesn't require any license.

Q Why, weren't you convicted for illegally keeping some sort of a house? A A Maternity.

Q A Maternity? A Yes, sir.

Q A lying-in hospital? A Yes, sir.

Q Without a license? A Yes, sir.

Q Weren't you? A Yes, sir.

Q And do you keep that kind, now? A No, sir.

Q What kind do you keep now? A A sanitarium, for the housing of gynecological cases.

Q You are a gynecologist; aren't you? A Yes, sir.

Q You are an expert and a specialist on women's diseases? A Yes, sir.

Q And you prefer to perform your operations in your own sanitarium? A Yes, sir.

Q And you perform 99 per cent of them there; don't you?
A No; I wouldn't say that.

Q Well, a large percentage? A Yes, sir; a large percentage.

Q Now, here was a woman who was paying you a very small price, wasn't she, comparatively? A Well, a fair price.

Q Oh, was that a fair price? A Yes, sir.

Q I thought you said that was the lowest price that you could make? A It was the lowest price that I could make for the services that were indicated.

Q Well, how was it you were willing to make an exception to your rule, and go to her house, when she was paying you the lowest possible price for your services? A Physicians have often to do things--

Q Well, what induced you to do it, Doctor? A I felt sorry for the woman.

Q What reason did she give that induced you to do it? A She said that it wouldn't be possible for her to come to the sanitarium.

Q Why? A I don't remember the reason that she assigned. She said that she felt nervous and anxious, and afraid to go into an institution, as I remember.

Q Well did she say why she was not having it done at her own house? A I think she said-- I asked her about her own house, and I judged from her statement that the equipment--

THE COURT: No, no.

BY MR. CLARKE:

Q What did she say about it? A She said, "We haven't very many rooms. We live in a small apartment, and it can't be done there. It wouldn't be convenient."

Q Well, what reason did she give for having it done at her sister in law's? A Because her sister in law brought her there for the purpose of assisting in her care.

Q The sister in law was going to help nurse? A I suppose so.

Q Was that the reason? A That I don't know.

Q Well, but you had your own nurses, didn't you?

A Yes, sir.

Q Now why did you go to the sister in law's house, to perform this operation for this poor woman, that you were going to treat for the lowest price compatible with the services?

A Well, one of the reasons, and perhaps the chief reason, was that this apartment was situated on 65th street, and this woman lived away up on 133rd street and 3rd avenue, or somewhere in that neighborhood.

Q And you preferred to go to 65th street? A Because it was nearer to my house.

Q And you, also, preferred to have it in your own house?

A I would have preferred to have it in my own house.

Q And you can't give the jury any reason why you didn't

have it in your own house? A Because the woman practically refused to come to my own house.

Q And she didn't give you any reason? A She said her fear of going into an institution. Many women of this class have that aversion to going into an institution.

Q Don't you remember Mrs. Blocher saying that her parents lived near her, and that, if they got on to anything of this kind, they certainly would not allow it? A I don't remember any such statement.

Q And you said, "Do her parents live with her?" And Mrs. Blocher said, "No, sir, but very near; and, if they should miss her from her home, they would want to know where she was, and if they found out that she was at your house, they certainly would know what had been done?" A I don't remember any such speech.

Q And then Mrs. Blocher said there was something said about some one doing it for \$75, and you said that your assistant did that? A I don't remember anything of the kind.

Q Did that take place? A I don't remember any such thing.

Q Well, doesn't your assistant do that sort of thing?

A What?

Q Does he do it for \$75? A Do what?

Q What you did for \$125? A I don't remember any such arrangement.

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Q Now, do you remember saying that your assistant would do it for \$75? A I don't remember making any such speech.

Q And then Mrs. Levine saying, "Doctor, I would rather have you, knowing you to be more skillful"? A I don't remember anything of that kind at all. On the occasion of the first visit, when I returned to her, after she had seen my assistant, she said she would rather have me treat her than the assistant.

Q Now you say that you were under the impression that the woman was suffering from the effects of an abortion? A No; I didn't say that.

Q Well, what was it? A I said that the symptoms of which she complained were often due to the-- to a neglected abortion.

Q Well, she told you that she had had one; didn't she? A There was something said by the Blocher woman, on the occasion of the second visit.

Q And you were going to treat her for these effects of that supposed abortion? A I was going to treat her for what I found she suffered from, if it was perfectly legitimate.

Q But you took no means, at either of those first interviews, to determine what she was suffering from? A A physician often puts off examination--

Q Well, did you? A I did not; except by questioning her.

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Q But you didn't ask her whether she had had an abortion performed upon her; did you? A She--

Q Did you or not? A Did I ask her if she had an abortion performed upon her?

Q Yes. A I don't remember doing so.

Q You took the casual remark of a friend of hers, that she had had something of that kind, you took that for--

A I didn't attach any importance to it. That wasn't in my mind.

Q Are you in the habit of diagnosing cases in this way, without making an examination? A I didn't consider it a complete diagnoses.

Q But you made a complete agreement for compensation; didn't you? A If I found that the woman was suffering from the condition which I assumed she was suffering from.

Q Did you tell her that it would be more, if you found that she was suffering from something else? A No, sir.

Q Then that was a final agreement; was it not? A Yes, sir; a final agreement.

Q But, at that time, you didn't know what she was suffering from? A I had a pretty clear idea of what I would find.

Q But you didn't know positively? A I couldn't have stated positively, no.

Q Well, you didn't know that she was pregnant, did you?

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A I did not.

Q And you never found that out; did you? A Not positively.

Q Well, did you find it out, in any way? A No; I can't say, now, that the woman was pregnant.

THE 11TH JUROR: I would like to ask the witness a question.

THE COURT: You had better wait until counsel gets through, Mr. Juror. Reserve your question.

BY MR. CLARKE:

Q Now, Doctor, do you remember Mr. Levine coming to see you? A No, sir.

Q You don't? A No, sir.

Q Stand up, will you? Do you remember that man coming to see you (indicating a young man in the audience)? A I don't remember ever seeing him.

Q Well, you had a call from a gentleman, just the day before Mrs. Levine came to see you; didn't you? A There may have been one or a number in my house.

Q Didn't you have a call from a young man, answering this young man's description (indicating as before)? A I don't recall that man at all.

Q Well, do you remember receiving a call from a young man, who said that his wife was in the family way, and that he was

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too poor to have any more children? A No, sir.

Q Do you remember that? A No, sir.

Q And that you said you would not talk with him, but to send his wife down? A I don't remember any such thing taking place.

Q Do you swear that it didn't take place? A I will swear that I don't remember it.

Q Now, this Miss Brown is your nurse; isn't she, Doctor?

A She is a nurse that I employ, occasionally.

Q You sent her to 14 West 65th Street; didn't you?

A Yes, sir.

Q And she was under your instructions? A Yes, sir.

Q And she was to receive \$25 for her services? A For the services.

Q Which were to extend over a week, if necessary? A A week or more.

Q She was to get \$25 for seeing the case through?

A For remaining with the patient as long as I thought necessary; within a reasonable period of time.

Q And you were to receive \$100 for the same services?

A Yes, sir.

Q And it was under your instructions that she went there, and prepared this table; was it not? A Yes, sir.

Q Did you tell her to put the blankets and sheets and

pillows on the table? A She knows how to prepare a table for an examination.

Q Oh, you told her it was for an examination?

A Yes, sir.

Q How would it have been prepared for an operation?

A Well, perhaps not very differently.

Q Well, would it have been at all different? A Well, I can't say that it would have been.

Q You would have used these straps; wouldn't you; if you were going to operate, these leg bands (indicating)?

A If the operation was going to be performed on parts that could be reached with the legs flexed on the abdomen.

Q Well let us assume that an operation was to be performed on the female organs? A Not necessarily.

Q You wouldn't use this? A Not necessarily. It would depend upon the nature of the operation.

Q Do you mean to say that you would use it for any examination of the organs? A Yes, sir.

Q But not for an operation? A Not for every operation.

Q Well, you would use it for an operation on the womb; wouldn't you? A Not necessarily.

Q Well, suppose that you were examining this woman, and found that she had some trouble with the womb, you would have

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taken off the straps; would you? A Not necessarily.

Q Now, this bag that you had there, for draining purposes, you would use that in an operation; wouldn't you?

A That one or a larger one. It would depend.

Q And you had a number of instruments there that you could use in an operation; did you not? A They are not operative instruments.

Q None of them? A No, sir.

Q Do you swear to that, Doctor? A I will swear that those are instruments used for the daily examinations and minor treatment of gynecological cases, with the exception of the dilator.

Q This one (indicating)? A Yes, sir. Which might be used on the occasion of a simple cureting; that is a cureting for a catarrhal condition.

Q That means an emptying of the uterus; does it not?

A Not necessarily a scraping or cleaning of the uterus.

Q And what did you have with you, that day, to curet the uterus? A Nothing.

Q You said you were going to scrape or curet the uterus; didn't you? A Not on that day.

Q Well, you couldn't curet or scrape the womb, if she was pregnant, without serious damage; could you? A No, sir.

Q And so that none of these instruments are used, except for examination? A Except for examination and minor treatment; and the dilator must be included.

Q Eh? A That dilator is used more for examination and minor treatment than it is for operative procedure.

Q Now take these rubber affairs. Do you sometimes insert a wire into them, do you not, and that makes a bougie, does it not? A Yes, sir.

Q And is that used for examination? A In my department of practice--

Q I don't care what department. Any department?

A That couldn't be used the way you have it there, in any department.

Q Well, cut off some of it, then, so that the wire will go away up to the end? A Then it might be used, in the department of the male genital organ, for a bougie.

Q And could it be used in the department of female genital organs? A It might be used in the uterus, as I have

said, when prepared, for drainage purposes; but not as you have it there now.

Q Eh? A Not as you have it there now.

Q Now, when the woman came there, and said that she had pain in her womb, didn't you think of asking her whether those might be labor pains?

MR. LYNN: No. Don't make such a bull as that, Mr. Clarke.

A Women with labor pains are not running around the city or the streets.

BY MR. CLARKE:

Q Well, then, the pains of pregnancy. A A normal pregnancy doesn't cause pain.

Q Well, an abnormal pregnancy. Suppose that she had been on the eve of miscarriage; you wouldn't have known anything about it; would you? A Well, a man's experience in such things must count in that. She didn't look or act as though she was going to have a miscarriage.

Q Well, your experience of several years didn't enable you to see that she was pregnant, when you were syringing her; did it? A No, sir.

Q Did you use any palpation? A As I said, in a superficial way.

Q Now, Doctor, what did you have these instruments all

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out on the chair for? A Why, to employ them.

Q You were going to employ all of them; were you?

A Not necessarily.

Q Well, how many of them? A This here was absolutely necessary for examination, yes.

Q You had better state the number, to avoid confusion.

A Exhibit 3, Exhibit No. 9, Exhibit No. 14. This, perhaps, Exhibit No. 8. That's all, for examination.

Q What were the others for? A For treatment, if necessary.

Q And you had sterilized them all; hadn't you?

A Yes, sir.

Q And it is true that these instruments were all wet as they lay there? A They were sterilized in my office.

Q With some solution? A No; they were simply boiled.

Q Well, that is, with water? A Yes, sir.

Q And you had a pan of boiling water there; didn't you?

A The water that is prepared for the douche.

Q Did you use that for putting the instruments in it?

A No, sir.

Q And you sterilized them, before you left your office? A Yes, sir.

Q And then you intended to use them; didn't you?

A To employ them, if necessary.

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Q And you took nothing along that you didn't think you needed? A I didn't expect to use those bougies in that case.

Q The bougies? A No, sir.

Q Then what did you take them along for? A I had another case to visit, after that.

Q Now, Doctor, had you taken any means to find out how far developed the abscess was? A What do you mean?

Q Before you went there? A This external abscess?

Q Yes. A I didn't examine the woman before I saw her on that day, at 65th street.

Q Well, did you expect to treat that abscess, that day? A No, sir.

Q What did you expect to do with it? A I expected to examine the woman, and prepare her for whatever operative procedure might be necessary.

Q Then none of these instruments that you took there were taken there for the purpose of operating on any abscess, or treating any abscess? A No, sir.

Q Because you didn't know that there was any abscess, for sure? A I wasn't certain, because I didn't discover the abscess until--

Q So that you got out some dozen instruments, and sterilized them, and layed them out on a chair, although you

didn't know that you were to treat any abscess? A These are the instruments that every professional man uses for examination.

Q Now what did you have there that could be used to curet a woman? A Nothing.

Q Well, weren't you going to curet her? A No, sir.

Q Well, you swore, on your direct examination, that you were? A No, sir; not on that day.

Q When? A On the next day, perhaps.

Q And then you would take other instruments there, on the next day; is that so? A If I found that the cureting was indicated.

Q Well, you didn't examine the woman to find out; did you? A I didn't have a chance.

Q Did you tell these ladies that it was simply to be an examination? A Yes, sir; that it was to be an examination, and a preparatory treatment for whatever operative procedures I might think necessary.

Q So that these two ladies knew, while you were there, that afternoon, that you were not going to operate on this woman? A They must have understood that there was to be no operation, that day.

Q Did you tell them so? A Yes, sir, I did.

Q That you had no intention of operating, on that day?

A Yes, sir.

Q And you communicated that to both of them?

A Yes, sir.

Q And, I suppose, you told your assistant so too, didn't you? A You mean the nurse?

Q Yes. A She understood that there was to be simply an examination, and a preparation of the patient for operative procedures, later.

Q This nurse has been used by you in other cases; hasn't she? A She has been employed by me.

Q And is it not true that you have a great many cases of miscarriages of women?

MR. LYNN: Objected to.

THE COURT: I think it goes to the witness's knowledge.

MR. LYNN: But the only point is whether you are going to invade the homes of every family in New York.

THE COURT: I overrule the objection.

MR. LYNN: Exception.

A Repeat the question, please.

Q (Question repeated by the Stenographer) A A certain amount naturally follows in this department.

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BY MR. CLARKE:

Q Well, didn't you operate upon some forty cases, the month prior to this 12th of February? A No, sir.

Q And is it not true that you received, sometimes, as high as \$2,000 for causing a miscarriage? A No, sir.

Q And is it not true that you had a case at the Waldorf Astoria, just a few days before this case? A No, sir.

Q And is it true that you have patients that come from all over the world? A I should like to think so.

Q Haven't you had them from California? A Perhaps.

Q Well have you or not? A I don't recall any California patients.

Q Haven't you had them from Europe? A I have had several patients from Europe; yes.

Q Did you ever produce a miscarriage on a woman?

A Yes, sir.

THE COURT: We will suspend here.

Gentlemen of the jury,

You will remember my caution, not to talk about the case, or form or express any opinion concerning the guilt or innocence of the defendant, until the case be finally submitted to you.

Adjourn court until tomorrow morning, at half-past ten o'clock.

(The trial was then adjourned until
Thursday morning, March 31st, 1904, at 10.30.)

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TRIAL RESUMED.

New York, March 31st, 1904.

EDWARD E. CONRAD, the defendant, his testimony being continued, testified as follows:

MR. LYNN: What do you want, Doctor?

THE WITNESS: There is a physician here, prompting the District Attorney.

MR. LYNN: Oh, he has a right to do that. He can hire any one to help him, if he thinks he can help him.

CROSS EXAMINATION CONTINUED BY MR. CLARKE:

Q Now, Doctor, you say that you didn't expect to use these soft rubber affairs, in this case? A No, sir; not in this case.

Q And you say that they are drainage tubes? A Drainage tubes are made of them, I said.

Q Now aren't there regular drainage tubes, made for the purpose of draining, that don't have to be altered, as you described these? A There are such; yes, sir.

Q Don't you ever use those? A Yes.

Q Now, if you intended to drain an abscess, would you use the drainage tube? A I would prepare one of those for the purpose.

Q Then you didn't expect to drain an abscess, in this case? A No, sir; not in this case, not on that day, I will qualify.

Q Now, you recognize that these are also called bougies? A That is the general term applied to them.

Q Yes. People's Exhibit 15? A Yes, sir.

Q And they are used sometimes without being changed, without being altered? A On the male.

Q Only on the male? A Yes, sir; only on the male.

Q Do you operate on males? A To a limited extent.

Q Well, you said that you had these for another case that you were going to. Was that the case of a male?

A That I expected to dress; a female case, that I had operated upon, a few days before.

Q For what? A For pelvic abscess.

Q Oh, then you expected to use them to drain an abscess?

A I expected to change the dressing, in that case.

Q And put a hole in here (indicating), and make a drain out of it? A To make several holes.

Q And that is the reason you had them along with you; is it? A Yes, sir.

Q And then they are only used for two things, for use on the male organs, in case of stricture, or, when altered, as drainage tubes? A So far as I know.

Q Don't you recognize the use of bougies for the purpose of causing miscarriages? A No, sir.

Q It is not a recognized way of causing a miscarriage? A No, sir.

Q Do you know of no authority that holds that it is? A Not to produce a specific miscarriage; that is, within the limitations of the term.

Q Well, call it what you like. An abortion. Is it not one of the recognized ways of causing an abortion, to insert a bougie into the womb? A It is not.

Q Such as People's Exhibit 15? A It is not.

Q What? A It is not.

Q After dilating the neck of the womb, to insert the bougie, and leave it there? Wouldn't that set up the motion to expell the foetus? A It would I suppose. And any like means would, I suppose. But it is a crude way.

Q It is a crude way? A Yes, sir.

Q Not a recognized method? A No, sir.

Q How do you recognize the authority of Barton Cooke Hirst as a writer on obstetrics? A Yes, sir.

Q And he is a well known and authoritative writer; isn't he? A Yes, sir.

Q And do you know that he states that the use of bougies is one method of producing-- A Premature labor; not abortion.

Q Oh, premature labor? A Yes, sir.

Q After how many months? A Well, seven or eight months.

Q Don't you know that Dr. Hirst says that, after the fourth month, the method of inducing an abortion is the same as for premature labor?

MR. LYNN: Don't answer, Doctor. I object.

MR. CLARKE: Question withdrawn.

BY MR. CLARKE:

Q Well, you recognize the authority of this work, Hirst on Obstetrics? A Yes, sir; he is a man of good reputation.

Q Now, I read from page 720--721 on that subject: "The method employed by myself, with satisfaction, in a number of cases may be described as follows: The woman is etherized and placed in the dorsal position upon an operating table.

The vagina and vulva are disinfected by tincture of green soap and hot water and absorbent cotton, and by a douche of corrosive sublimate solution, 1:1000. The anterior lip of the cervix is fixed with a double tenaculum, and cervical canal is dilated to the size of the thumb with Hegar's dilators or cautiously with branched dilators. An Emmet's curetment forceps is inserted into the womb, opened and shut in several directions, so as to crush the ovum, and then withdrawn with whatever portion of the ovum or embryo that comes with it. It is impracticable to remove the whole ovum at once. An iodoform gauze tampon is then packed in the lower uterine segment and in the cervical canal, and a tampon of gauze or antiseptic wool is placed in the vagina. The tampons remain in place twenty-four hours. On their removal, if the remainder of the ovum is not yet discharged from the external os, the cervix, now much softened and easily stretched, is further dilated with larger bougies than were used before, or by the fingers, and the uterine cavity is emptied of all its contents, as after an ordinary abortion, by the curet, the finger and a placental forceps (Emmet's curetment forceps)." Do you recognize that authority, and agree with it?

A He is a good man.

Q Well, then, you say that bougies are a recognized means

of producing premature labor? A Yes, sir.

Q And Dr. Hirst says that that is at any time after the fourth month? A That is his own opinion. I admitted that it was to produce premature labor.

Q I read further: "Methods of Inducing Labor-- The following, founded upon Krause's method, is the best plan for use in the vast majority of cases. The parturient tract is made aseptic by tincture of green soap, hot water, and pledgets of cotton, and by an antiseptic douche. An aseptic, stiff, silk or linen bougie (No. 17 French), which has been soaked for at least a half hour in a cold corrosive sublimate solution 1:1000, is thoroughly anointed with carbolyzed vaselin (5 per cent). The patient is placed in the dorsal position across the bed, her feet resting on two chairs. The operator passes two fingers of his left hand into the vagina, inserting one, or, if possible, both finger tips into the cervical canal. The bougie is then passed along the groove between the two fingers until it enters the cervical canal, and passes into the lower uterine segment posteriorly." Now, I ask you, after hearing that read-- and it then proceeds to state how it is packed with iodoform gauze--

MR. LYNN: Read it completely.

MR. CLARKE: Very well.

BY MR. CLARKE:

Q (Continued) "An iodoform gauze tampon is then packed lightly in the vagina, to keep the bougie in place. Active and effective labor-pains begin in from thirty minutes to thirty-six hours. In the majority of cases labor begins within twelve hours". Now, after hearing me read that, I ask you if the insertion of bougies is not one of the recognized methods of causing a miscarriage, after the fourth month?

MR. LYNN: I object.

THE COURT: I sustain the objection. If you read from what purports to be an authority, the proper form is to ask the witness if he agrees with that, or disagrees with it.

BY MR. CLARKE:

Q Well, do you agree or disagree with that method, as stated by Hirst? A Not as it applies to premature labor.

Q Well, now, what do you mean by that, Doctor? A I mean that I am charged with producing an abortion.

Q Yes? A Not with producing an abortion, but with attempting to produce premature labor.

Q Now, Doctor, you are a doctor, not a lawyer, apparently? A I am a physician.

Q You are charged with producing a miscarriage, or attempting to, and I don't care at what stage. Didn't you know that it was unlawful to produce a miscarriage, at any stage? A That is a recognized, lawful method to produce premature labor, when it is required.

Q Now, abortion has a medical meaning.

BY THE COURT:

Q When you say "that", witness, do you refer to what the District Attorney has read from this authority? When you say "that", what do you mean? A That refers to the induction of labor, not an abortion, in its specific sense, but a premature labor.

Q (Question repeated.) A Yes, sir. What the District Attorney has read, your Honor.

BY MR. CLARKE:

Q Now, as I understand you, then, you say that you agree with this book, that the insertion of a bougie, as described here, is a proper method of producing a miscarriage, after four months? A After certain period of development.

Q Well, what period? A I am not acquainted with Hirst's practice. The recognized divisions, clinically, of interference with pregnancy are abortion, miscarriage and premature labor.

Q It is for the induction of premature labor, you say?

A Yes, sir.

Q At an advanced stage of pregnancy? A Yes, sir.

Q And then what did you mean, when I asked you if these articles were not used in producing miscarriages, when you said no? A You said abortion.

Q And you are using abortion, in the medical sense?

A Yes, sir.

Q Which means, how many months? A The first three months or three months and a half.

Q Now what word can we apply to any kind of a miscarriage?

A You might apply it in a general way.

Q Then the bougies that you had in your bag, on that day, are used in producing miscarriage? A After a certain period of development.

Q (Question repeated.) They are articles or instruments used to produce miscarriages?

MR. LYNN: Objected to.

THE COURT: Objection overruled.

MR. LYNN: Exception.

BY MR. CLARKE:

Q Yes or no? A Premature labor, I have to stick to.

Q Well, then, you would not apply the term miscarriage,

at any time? A Yes, perhaps so, in a general way.

Q Now, these articles, People's Exhibit 15, aren't they articles which are used, commonly used, to produce miscarriages? A By some authorities, I should say that they would be recognized as one of the methods.

Q Now, you have told us very glibly what all these instruments are used for. Now can't you tell us what these articles are used for?

MR. McMANUS: I object to the question, and the characterization of the witness's testimony.

THE COURT: The use of the words objected to is objectionable, and should be stricken out. objection sustained.

BY MR. CLARKE:

Q Well, then, you had no objection to telling us the use of all these other instruments; had you?

MR. McMANUS: Objected to.

THE COURT: Allowed.

MR. McMANUS: Exception.

A I have tried to be as clear and specific as to the use of bougies.

BY MR. CLARKE:

Q Then aren't they articles used, commonly used, to produce miscarriages? A Personally, I wouldn't use them.

Q But they are commonly used for that; aren't they?

A That I know nothing about.

Q And the fact that Dr. Hirst gives that as the recognized method, after four months, does not affect your judgment or statement? A I don't know what Dr. Hirst's practice is.

Q He is a recognized authority; isn't he? A Yes.

BY THE 11TH JUROR:

Q Doctor, you didn't have the bougies along, that day, for the 65th Street case, you say? A No, sir.

Q You had taken them along for another case? A Yes; for a dressing that I required to administer, before I returned to the office.

Q Was that the only instrument that you had along, that day, that was not for that case? A Oh, no. I required practically all the other instruments for the other case.

BY MR. CLARKE:

Q Did you pack your valise, just before you started?

A Yes, sir.

Q Don't you keep an outfit in your satchel, for a certain class of cases? A No. That is impossible, if you want to prepare your instruments specifically.

Q Well, you said that you sterilized all the instruments?

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A Yes.

Q Therefore, you intended to use all that you took; didn't you? A Yes.

Q Did you sterilize these bougies? A Yes.

Q Now, take a case of abortion before the fourth month. I read you from page 720 of Hirst's book: "The method employed by myself, with satisfaction, in a number of cases, may be described as follows: The woman is etherized and placed in the dorsal position upon an operating table. The vagina and vulva are disinfected by tincture of green soap and hot water and absorbent cotton, and by a douche of corrosive sublimate solution, 1:1000. The anterior lip of the cervix is fixed with the double tenaculum, and the cervical canal is dilated to the size of the thumb with Hegar's dilators or cautiously with branched dilators." Do you agree with that? A Well--

Q I will read the rest of it: "An Emmet's curetment forceps is inserted into the womb, opened and shut in several directions, so as to crush the ovum, and then withdrawn with whatever portion of the ovum or embryo that comes with it. It is impracticable to remove the whole ovum at once. An iodoform gauze tampon is then packed in the lower uterine segment and in the cervical canal, and a tampon of gauze or antiseptic wool is placed in the vagina. The tampons remain

in place twenty-four hours. On their removal, if the remainder of the ovum is not yet discharged from the external os, the cervix, now much softened and easily stretched, is further dilated with larger bougies than were used before, or by the fingers, and the uterine cavity is emptied of all its contents, as after an ordinary abortion, by the curet, the finger and a placental forceps (Emmet's curetment forceps)." Do you agree with that? A In what particular?

Q Before the fourth month? A In what particular one?

Q Well, that requires the use of the tenaculum; does it not? A A double tenaculum.

Q And what is this (indicating)? A A single tenaculum.

Q And wouldn't a single tenaculum do as well?

A No, sir.

Q You wouldn't have to etherize the woman; would you?

A Absolutely, for that sort of procedure.

Q After four months would you have to etherize her?

A Not necessarily. It depends upon what method is employed.

Q Well, have you employed Hirst's method, described here? A That same method, if I were called upon to pass my judgment, and select the procedure, I would employ, in part, to even the fifth month, and well into the sixth month.

Q You would etherize the patient? A Absolutely.

Q Well, if you put a bougie into the womb, after dilat-

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ing the neck of the womb-- A That wouldn't dilate the neck of the womb (indicating).

Q I say, after dilating it? A It would not require any dilation to introduce that into the neck of the womb.

Q Well, then, if you left it there in the neck of the womb for twenty-four hours, you wouldn't etherize the patient; would you? A No, sir; not necessarily.

Q And it would in all probability cause a miscarriage within twenty-four hours? A It might.

Q (Question repeated.) A It might probably disturb the contents.

Q Well, if it disturbed the contents, a miscarriage would follow; would it not? A Probably.

Q Well, wouldn't it, in all probability? A Yes.

Q Now this method, as described by Hirst, also requires the use of dilators? A Yes, sir.

Q And you had them in your bag? A I had a small dilator, entirely unsuited to that procedure.

Q This also requires the use of iodoform gauze?

A Yes, sir.

Q And you had some of that; didn't you? A Yes.

Q And forceps, did you not? It requires the use of forceps? A Placental forceps.

Q And you had forceps, did you not? A Dressing forceps.

Q Do you mean to say that your dressing forceps could not be used for the purposes described here? A Certainly not.

THE COURT: Described in the book, do you mean, Mr. Clarke?

MR. CLARKE: Yes, sir; in Hirst's book.

BY MR. CLARKE:

Q "An Emmet's curetment forceps is inserted into the womb, opened and shut in several directions". A That is an entirely different instrument.

Q Now, I ask you again, if the bougie is not a recognized instrument for producing a miscarriage, using the word in its broad sense?

MR. LYNN: That has been asked and answered several times.

THE COURT: I overrule the objection.

MR. LYNN: Exception.

A It is one of the methods employed by some physicians to induce a miscarriage, after a certain period in the development.

BY MR. CLARKE:

Q Now, the period differs with different physicians; is that it? A You mean as to the terminology?

Q No. As to when they use the bougies? A That may be

amatter of personal judgment.

Q What is the earliest stage at which the bougie is ever used? A To my mind, it should not be used until after the seventh month.

Q The seventh month? A Yes, sir.

Q Well, you wouldn't say that it is not commonly used before that? A That I know nothing about.

Q And you said yesterday, when I inserted a stilet in the bougie--is that the stilet (indicating)? A That is a wire, simply a wire.

Q Now, I inserted this in one of these bougies, and you said it could not be used in that way. Do you mean to say that still? A It couldn't be used in that way.

Q What is to prevent your placing the wire inside of this rubber article, of this bougie? Now, what is to prevent a physician from placing the wire inside of the bougie in that way (indicating)? A Oh, that could be done.

Q And insering it into the womb? A You didn't ask that.

Q And inserting it and leaving it there, And that would leave a soft body in there, that would set up a motion in the womb that would produce a miscarriage? A Probably.

Q And it would be eminently adapted for that purpose, wouldn't it? A Not to my mind.

Q It would be even better than a hard bougie, with a wire

in it, wouldn't it? It would be better to leave the soft bougie in, wouldn't it? A Are you trying to get some technical points from me?

MR LYNN: Oh, tell Mr Clarke how to perform this operation, because he may want to know.

THE COURT: No. This is improper, Mr Lynn.

MR LYNN: I was trying to assist the District Attorney, your Honor.

THE COURT: No. The District Attorney has the witness.

BY MR CLARKE:

Q Now, you said that that couldn't be used, before?

A I said that you couldn't use it before you cut off the end.

Q Well, it is an easy matter to cut off an end of this rubber with a scissors, is it not (illustrating)? A Well, I am trying to answer your questions, sir.

Q Well, it is one of the recognized means of producing a miscarriage? A A t a certain period.

Q At any period? Can't you answer the question?

MR LYNN: I object.

BY MR CLARKE: Q Isn't that what these are made for, and sold for

A No, sir.

Q What is the use of a bougie in gynecological cases?

A Do you ask me---

Q In women's diseases? What is the use of the bougie?

A They are used for the purpose of drainage tubes.

Q Well, there are such things as drainage tubes, and you can buy them in any store, can't you? A Yes; they are made by the thousands and thousands, that kind of instrument that you hold in your hand, and it is not reasonable to assume that they are made for illegitimate purposes.

Q Now, if you went into a surgical instrument place, and asked for a drainage tube, would they give you one of these (indicating the bougies)? A They would give you a soft rubber bougie. You would get that instrument.

Q If you asked for what? A A soft rubber bougie.

Q And, if you asked for a drainage tube, they would give you something else, wouldn't they? A Those are used, sir, by a great many physicians, in preference to the regular drainage tubes; and they even have drainage tubes---

Q A gain I ask you, if you went into a store and asked for a drainage tube, whether they would give you one like these, without any hole in the end? A One very similar to that.

Q Well, how could you drain, without a hole in it?

A You prepare them.

MR LYNN: Take the scissers and prepare them for him, Doctor.

MR CLARKE: Well, I will ask him how he could do it, but I didn't ask him that. There are your scissors, Doctor, go ahead.

THE WITNESS: That is the way they are prepared (illustrating), and they are considered much better and safer than the ordinary drainage tube, because this closed end will not do any injury to the wound into which this is introduced. And these are then cut off, or left at the regular length, in accordance with the position of the abcess, and its distance from the external parts of the woman.

Q Now, you can buy drainage tubes just like that which you have made, can't you? A You can, very similar.

Q Closed at the end? A Yes, sir. So I have been told.

Q You never buy any? A I prefer to prepare them myself.

Q You never bought any drainage tubes; did you? A I prefer these.

Q I say, you never buy the others? A No, sir; not any more; because my experience has taught me that those render better service.

Q What were you going to use the drainage tubes for, that day? A To dress an abcess case that had been operated upon, a few days before that, four or five days before.

Q Well, you had these tubes out on the chair at 14 West

65th Street, didn't you? A They were sterilized with the of the instruments.

Q (Question repeated)? A Yes.

Q Well, why were they out there? A Well, because they were all put in the towel and boiled together.

Q Where? A At my office.

Q But you didn't take everything out of the satchel, did you? A Well, everything that it was necessary for me to have; and, not wishing to handle these, I simply took them out with the rest of the instruments.

Q You took out everything that it was necessary for you to have? A In that case?

Q Yes. Why did you put them in with your other instruments, when you sterilized them, unless you intended to use them in that case? A Because I didn't have time to go back to my office to prepare them specially for that other case.

Q Well, couldn't you have sterilized them in a different cloth? A That's your own idea of how I should have done it.

Q Well, wasn't it wrong to expose them there at 65th Street, and have them infected? Didn't you take chances there? A No, sir; because I never intended to contaminate them.

Q Why, you laid them on the chair right alongside of the woman you were about to examine? A Yes, sir.

Q Who was suffering from a discharge? A Yes, sir.

Q And, if any of these tubes had touched it---

A It is a physician's duty to see that they are not infected.

Q Well, didn't you think it was necessary to take precautions to protect other patients? A I took every precaution. That is my duty.

Q And yet you laid them right open on that chair, where a ny number of germs could come in contact with them? A No, sir; not unless the germs came in direct contact with them, sir.

Q Now, after you got them out of your bag, why didn't you wrap them up, so as to prevent their getting infected from the air? A Because I had nothing sterile to wrap them up in.

Q They might be infected by the air? A Very improbably. That's theory is exploded, long since.

Q So that you had them laid out there with the other instruments? A Yes, sir.

Q And you intended to use all the others? A Not necessarily.

Q Well, the greater part of them? A The ones that were required for examination and preparation.

Q Could you use an article like these, or any instrument, that had been laid out for any length of time, in contact with the air? Would you use that in a surgical case?

A I never expected to have them exposed for any length of time.

Q Can you answer that question? You wouldn't, would you?

A Not for any length of time. I am not certain but what they were materially protected by an end of the towel. I am very careful about these things.

Q Then how long did you expect to be there, in that flat?

A Actually engaged with the patient?

Q Yes. A Perhaps fifteen or twenty minutes.

Q And you sent a nurse there an hour ahead to make preparations? A Well, it happened to be an hour because I was detained.

Q Is it customary, Doctor, to put these leg holders or straps on a patient, who is simply to be examined and treated?

A Yes, sir.

Q And not operated upon? A Yes, sir.

Q And that is your practice? A Everybody's practice.

Q That is the common practice? A The common practice.

No examination could be made satisfactorily without them.

Q Now, you recognize, don't you, Doctor, that it is impossible, sometimes, to tell from one instrument what operation a physician is going to perform, from any one instrument?

A What do you mean by that?

Q Well, supposing a physician is about to perform an operation, and you are shown the instrument he had, could you tell what operation he was going to perform? A If it had a specific

purpose and use, I could.

Q Well, could you tell it from one single instrument, or would you want to see all the instruments? A I would--there are instruments which might be used for several purposes.

Q Yes, that's just what I mean. So that, if you were to determine by looking at a physician's outfit, who was about to perform an operation, you would want to see them all, to decide what the operation was? A Yes, sir, the exact operation.

Q It is a recognized thing that the whole collection of instruments must be looked at to decide what an operation is, is it not? A If they are prepared specifically for one operation.

Q Is the operation for causing miscarriage, at any stage, a rare operation, or a common operation? A A rare operation.

MR McMANUS: We object to that, if your Honor please.

BY MR CLARKE:

Q It is a rare operation? A Yes, sir; comparatively.

Q And all physicians, who are expert in that line, are supposed to be prepared to perform that operation? A Yes, sir.

Q But the actual cases that arise for legitimate abortions are comparatively rare, are they not? A Yes, sir.

Q That is, it is the last resource to save the life of the mother, is it not? A Yes, sir.

Q Have you ever performed the operation? A Yes, sir.

Q Will you tell us how many times? A In my career?

Q Yes. A Perhaps forty-five or fifty times.

Q And here in New York? A In New York.

Q How long have you been practising here? A Fifteen years

Q Well, about three or four times a year? A About three times a year.

Q Well, you say that you have performed the operation forty odd times? A Yes, sir.

Q Since you have been in New York? A Yes, sir.

Q Well, did you have other physicians in consultation to decide whether it was necessary? A Yes, sir.

Q What? A Yes, sir.

Q Well, regular practitioners in New York? A Yes, sir.

Q Could you give me the names of any? A No, sir.

MR LYNN: I object to that, your Honor.

THE COURT: I overrule the objection.

MR LYNN: It is a personal communication between physicians, your Honor, and they are protected.

THE COURT: No. Between physicians and patients there is protection.

MR LYNN: We except.

THE COURT: Answer the question, witness.

(The question is repeated by the stenographer.)

THE WITNESS: Repeat the question.

(It is repeated by the stenographer.)

A Dr. Frank Miller has found it necessary to consult me.

BY MR CLARKE:

Q Where is his office? A On 31st Street.

Q Give us the number? A 22.

Q West or East? A West 31st.

Q Any other? A Dr. Cromley.

Q Where is his office? A At the corner of 56th Street and Broadway.

Q Any other? A Dr. Stevens.

Q Where is he? A That is a woman physician, on 42nd Street.

Q What number? A I don't recall the number. It is just east of Eighth Avenue.

Q Well, just give us all that you can remember, and save time? A That's all I recall at present, as, laterly, finding it necessary to consult me.

Q Well, do you mean by that that these are physicians who have sent you cases? A Who have consulted with me about cases where it was necessary.

Q To have an operation? A To induce an abortion, a miscarriage.

Q And you produced the abortion? A Yes, sir.

Q Well, what I meant is, cases where you yourself was the physician, and, in order to determine whether an abortion was necessary, and you say that it is the last resource of the medical science to save the life of the mother, and then medicine and the law permits the production of an abortion--that is true, is it not? A Yes, sir.

Q And I ask you, when you have a case in your own charge, and you are the physician, do you call in somebody to help you to determine whether it is a proper case to perform an abortion or not? A I have not had any cases in my own practice lately.

Q Well, at any time? A Not in the last few years.

Q Well, did you, when you had them? A Yes, sir.

Q You called somebody in to determine? A Yes, sir.

Q Can you give us the name of anybody that you called in?
A Dr. Lesser has consulted with me on one or two occasions

Q But I am talking about you consulting with somebody else? A You asked me to give you the names of my consultants, and I have done so.

Q Where is his office? A 19 East 61st Street.

Q And, that is to say that you had a case in which you wished a physician to aid you in determining this thing, as to committing an abortion and you called Dr. Lesser in?

A Yes sir.

Q And he agreed with you that it was necessary?

A Yes sir.

Q And is that the only case out of the forty-five that you can remember? A In several cases, I consulted with him. It has not been necessary in the last two or three years, in my own practice.

Q Why not? A That class of cases has not come my way.

Q Abortion cases? A Cases where abortion was necessary.

Q You haven't had many lately, then? A I say that I mean cases that came directly to me, for primary consultation. I haven't had any in the last few years.

Q That required an abortion? A That required an abortion.

Q How many did you call Dr. Lesser in on? A Two cases I think.

Q How long ago? A Two years ago.

Q Now you have a great many cases sent you, by other doctors; don't you? A Not a great many.

Q In which they ask you to perform an abortion? A Not a great many.

Q Well, some? A I told you that, perhaps, forty odd,

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in my experience.

Q And mostly from other physicians? A Yes; they must have been, necessarily.

Q And, in that case, who determines whether an abortion shall be performed? Who determined, in that case, whether an abortion shall be performed? A It is upon consultation with those physicians.

Q And the physician who sends the patient is the only consultant? A He usually sends them to me to get my opinion, after he has determined, to his own satisfaction, that it is necessary.

Q Well, have you ever had a case where a physician sent you a woman, to have an abortion performed, and you determined that it was not necessary? A Yes sir.

Q Have you had many of those? A A number.

Q What reasons do you recognize as allowing abortion, doctor, permitting abortion? A Very serious constitutional conditions, and a local insufficiency of development in the parts. That covers the ground.

Q Well, this woman -- now, before you were in New York, where did you come from, doctor? A I came direct from my home.

Q Where is that? A In Illinois.

Q Where in Illinois? A Quincy, Illinois.

Q Is that where this Schaghticoke college is? A No. Chaddock College.

Q That is where the Chaddock School of Medicine, from which you say you graduated, is? A It is at Quincy, Ill., yes.

Q And you lived there in the town? A Yes sir.

Q And attended the medical school there? A Yes sir.

Q When did you graduate? A '89; Spring of '89.

Q Where did you go then? A I came here to New York, to the New York Polyclinic, and took a year's course there, and then I opened my office in New York.

Q What year was that? A I began active practice in the latter part of '89.

Q Here in New York? A Yes sir.

Q Then you were not very long at the Polyclinic; were you? A I attended the Polyclinic for a year, and even after I opened my office; for six or seven months.

Q Did you take a special course in gynecology?

A Yes.

Q Where? A At the Polyclinic.

Q Well, did you ever live in Canada? A No; never.

Q Quincy, Illinois, and New York City, are your two places of residence? A Yes sir.

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Q You have had several offices in the City of New York? A No sir; no sir.

Q Just the one that you have got now? A Yes.

Q For the whole fifteen years? A No no. You mean that I have lived at different places, different addresses?

Q Yes? A Oh yes.

Q And, at one time you had some sort of a Maternity Hospital? A I conducted a lying-in hospital, on 34th Street.

Q What is a lying-in hospital? A In my early years, in this City.

Q (Repeated) -- a place for women to go and have children? A Yes sir.

Q Well how long did you have that? A Not very long.

Q It is usual to get a license for that, is it not? Is there not some law on that subject? A There was an ordinance created, just about that time, requiring an institution of that sort to be licensed, either by the Board of Health or chartered by the State.

Q Yes. And you omitted the formality of getting a license? A I was ignorant of the requirements.

Q Well you didn't have the license? A No sir.

Q And where were you tried for that? In the Special

Sessions? A Special Sessions.

Q And what was the punishment? A Five hundred dollars.

Q Fine? A Fine.

Q Well, now, you kept some sort of a sanitarium, at 127 West 47th Street; didn't you? A Yes.

Q How long have you had that? A I have it now, and have had it ever since I have had the house.

Q And how long is that? A Since the Spring of 1898 or 1899.

Q And what sort of a sanitarium is it? A It is a sanitarium for the treatment of diseases of women.

Q How many patients can you accommodate there?

A Twelve or thirteen.

Q Do you take abortion cases? A I told you just what I have done, in the way of --

Q Well, I ask you if that is part of the business of the sanitarium? A Do I take such cases into the sanitarium?

Q Yes? A I would take cases of that sort, if I thought it was legitimately required.

Q Have you taken any? A Yes. I have treated some cases of that character, in the sanitarium.

Q Well, what do you mean by treating? A I mean that I have done whatever was required for the case.

Q Well, you have had operations there; haven't you?

A Yes.

Q And I suppose some of the patients have died; haven't they? A Abortion cases? Died?

Q Yes? A No sir.

Q You never lost a patient from abortion? A No sir.

Q Are you sure of that, doctor? A Absolute.

Q You mean that they didn't die while they were in the sanitarium; is that it? A I mean that I have never lost a case, where I operated upon them for the purpose of cleaning out the uterus of a pregnancy.

Q You mean that they didn't die within a short time? A I mean that I have never lost a case of that character.

Q Well you wouldn't swear that no woman ever died of the effects of an operation for abortion performed by you; would you? A I would.

Q Well, now, is that sanitarium running now? A In part.

Q Isn't it a fact that you sent all your patients away, the day after the arrest in this case?

MR. LYNN: Objected to.

THE COURT: Objection overruled. It is on cross examination.

MR. LYNN: Exception.

BY MR. CLARKE:

Q You have assistants, haven't you doctor? A Yes.

Q How many? A One physician.

Q What is his name? A Dr. Weil.

Q Well how many other assistants? A I call them when necessary, for special cases.

Q Who do you have? A Dr. Hatch assists me.

Q Dr. Hatch? A Yes, sir.

A Give us his full name and address? A Dr. John L. Hatch -- Leffingwell J. Hatch.

Q Where does he live? A 123 West 47th Street.

Q You call him in to assist in cases? A Yes.

Q And who else? A That is all the medical assistance I usually require.

Q Well, have you lay assistants? A I have nurses.

Q Any male nurses? A Male nurses?

Q Well, any orderlies, or anybody connected with the place of that kind? A No, sir.

Q Then you have female nurses? A Yes, sir.

Q How long had Miss Jennie Brown been with you? A She has never been a house nurse.

Q Has she ever had cases for you before? A Yes, sir.

Q At houses? A Private houses.

Q Abortion cases? A No, sir.

Q Is her name Jennie Brown? A No; that is not her name.

Q Well, do all your nurses assume names? A I am not responsible for what my nurses do.

Q Well, do they? A No sir.

Q Is there any reason why a nurse, in a legitimate sanitarium, should give a wrong name?

MR. LYNN: Objected to, what the reasons are.

THE COURT: Objection sustained.

Q Well, your assistants don't take assumed names, do they?

MR. LYNN: I object to what his assistants might do.

THE COURT: Objection sustained.

Q Well you never take an assumed name; do you doctor?

A No sir.

Q And you have never taken an assumed name? A Never.

Q Edward E. Conrad is your own right name? A Absolute

Q Well, what other nurses have you? A You mean --

MR. LYNN: I object to that your Honor.

THE COURT: I do not think it is necessary to go into that. Objection sustained.

BY MR. CLARKE:

Q Well, you have a staff of nurses; haven't you? A Yes.

Q Now is it not a fact that, on the day that you were arrested in this case, you ordered your sanitarium dismantled, and sent all your patients away?

MR. LYNN: Objected to, as immaterial, irrelevant and incompetent.

THE COURT: Objection overruled.

MR. LYNN: Exception.

A No sir.

BY MR. CLARKE:

Q Well, you were out on bail; weren't you? A Yes.

Q Then you knew what took place at your sanitarium?

A The next day.

Q Oh, the next day? A Yes. Late that night, I was admitted to bail.

Q Well, now, after you were admitted to bail, did you go up to your sanitarium? A Yes sir.

Q And then you knew what took place there; didn't you?

A Yes.

Q Well, is it not a fact that all the patients were taken out? A No sir.

Q Were any of them taken out? A Several were dis-

missed, because they were ready to go.

Q And that is the only reason? A That is the only reason.

Q Weren't some taken out that were still very ill?

A No sir.

Q Positive of that? A Positive.

Q And weren't all the bed clothes taken off, and all the beds stripped?

MR. LYNN: I object to that, what may have been done in that way.

THE COURT: Objection sustained.

A If the case is dismissed, that is necessary.

BY MR. CLARKE:

Q Do you mean to say that your sanitarium has been going on just the same, since your arrest? A Practically, the same.

Q What do you mean by practically? A Practically the same. This trouble, of course, has, in a measure, limited my work. It has upset my staff, and, for that reason, in a measure, demoralized the workings of the institution, but only to a degree.

Q Have you received new patients right along? A Yes sir.

Q Now you say that, when you went to examine this we-

man, you didn't think you were going to operate? A I knew I wasn't going to operate.

Q Did you expect to operate, in the future? A If necessary.

Q Well, did you expect to? A If I found what I suspected she was suffering from, yes.

Q What did you suspect she was suffering from? A This catarrhal trouble of the uterus, and this abscess.

Q The first thing you looked at was the uterus; was it not? A No sir; the abscess.

Q There was an abscess there; then? A Yes sir.

Q A fully formed abscess? A A positive abscess. No question about that.

Q Well, after looking at it, you looked at the uterus; didn't you? A No sir.

Q Didn't you say that you observed some swelling?
A No; I felt some swelling.

Q Well, that would be one evidence of pregnancy; wouldn't it? A Yes; it might be due to pregnancy.

Q The uterus swells up, when a woman is pregnant?
A Yes sir.

Q And, the longer she is pregnant, the more it swells?
A Yes sir.

Q And, if she is pregnant four or five months, it swells up big; doesn't it? A There is quite a development.

Q Now if you saw that there was an abscess there -- and you anticipated finding that; didn't you? A I judged so, from her story.

Q Well, then, why didn't you take something along, to lance the abscess? A Because I didn't intend to operate, on that day.

Q Under no circumstances, did you intend to perform an operation, on that day? A Under no circumstances, on that day.

Q Do you mean to say that, under no circumstances, you intended to perform any operation? A Under no circumstances.

Q Well, why did you have all these instruments out? A They are necessary for examination and preparation. I have told you that repeatedly.

Q Well, you had them all sterilized, for the purpose of examination? A I always do.

Q And there is not an instrument there that is proper or useful for anything but examination or treatment, as you call it? A The specific use of these instruments, any one or collectively, is for the purpose of examination and

minor treatments, simply.

Q How long would it take for you to have examined this woman and ascertained that she had an abscess? A About a minute.

Q And it could be done by putting her on any ordinary table or couch; couldn't it? A As far as the abscess was concerned, yes. Still, not satisfactorily.

Q And you have examining tables there, at your office? A Yes sir.

Q But, if a woman is pregnant, and it is simply a question of performing or producing a miscarriage, no examination would be necessary, would it? A I beg your pardon?

Q If a woman were pregnant, and a miscarriage were to be produced, would any prior examination be necessary?

A To determine her condition, certainly.

Q No, if you knew it? A How would I know it, without examining her?

Q Well, if she told you so? A Well, you can't take women's word for that.

Q And you never do take their word for it? A I never do.

Q And yet you never made any examination, in this case,

to determine whether she was pregnant or not? A There was nothing said in this case about pregnancy.

MR. LYNN: Would your Honor allow Mr. McManus to question the witness? I feel somewhat depressed, this morning, on account of the death of a friend.

THE COURT: I will permit it, but I will not permit any reopening of the case. It must be on the lines of the cross examination.

MR. McMANUS: Yes, sir.

THE 11TH JUROR: May I be permitted to ask that question now?

THE COURT: No.

RE-DIRECT EXAMINATION BY MR. McMANUS:

Q We will turn now, Dr. Conrad to page 720 of Hirst's Text book on Obstetrics, from which Mr. Clarke read to you at length, and relating to the subject of an abortion, at the third or fourth month, wherein he says, "The method employed by myself, with satisfaction, in a number of cases, may be described as follows: The woman is etherized --" Did you have any ether there? A No, sir.

Q "and placed in the dorsal position on the operating

table." Now, the dorsal position is the usual one for making examinations; is it not? A Yes, sir.

MR: CLARKE: Now, don't lead him.

BY MR. McMANUS:

Q "The vagina and vulva are disinfected by tincture of green soap and hot water and absorbent cotton, and by a douche of corrosive sublimate solution, 1:1000." Which of those, if any, did you have with you? A I had the sublimate, but not the green soap.

Q "The anterior lip of the cervix is fixed with the double tenaculum." Did you have a double tenaculum with you? A No, sir.

Q "and the cervical canal " -- what is that? A The canal of the neck of the womb, proper.

Q And he says "and the cervical canal is dilated to the size of the thumb, with Hegar's dilators, or , cautiously, with branched dilators." Did you have such dilators with you? A No, sir.

Q "or, cautiously, with branched dilators." Are these dilators here branched dilators? A They might be termed branched dilators, but small branched ~~ix~~ dilators.

Q "An Emmet's curetment forceps is inserted into the womb." Did you have any such instrument with you? A No, sir.

Q "opened and shut in several directions, so as to crush the ovum." Now just describe what that means, so that the jury will understand it. A It means that the ovum, which might be a general term applied to the entire contents of the uterus, during pregnancy, is seized and crushed by this instrument, and extracted.

Q Did you have any instrument with you that could produce that result, by crushing the ovum? A No, sir.

Q "An iodoform gauze tampon is then packed in the lower uterine segment and in the cervical canal, and a tampon of gauze or antiseptic wool is placed in the vagina." Did you have any tampons there, prepared? A I had some iodoform gauze with me.

Q Was that prepared in tampon shape, when these people came in? A No, sir.

Q Was the gauze removed from the bottle at the time they came in? A No, sir.

Q Is it not a fact that gauze is carried for any form of use by a physician or surgeon? A It is necessary for packing and drainage purposes in any department of surgery.

Q What is corrosive sublimate used for? A For germicidal antiseptic purposes.

Q In other words -- A In general surgery.

Q Not only in gynecology? A Yes, in general gynecology,

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as well as for other branches of surgery.

Q Now, he says, "While the interruption of pregnancy before the ~~xxx~~ one hundred and eightieth day is called the induction of abortion, the method just described is only practicable up to the fourth month. After that time, abortion is induced in the same manner as premature labor." Do you agree with that? A The method of --

Q The method just described is only practicable up to the fourth month? A No, sir; and I only agree with that method, in part.

Q Well, in what respect do you disagree with it? A It would be my opinion that the entire case should be finished up, then and there.

Q Instead of waiting? A Instead of waiting for the placenta, which is allowed to remain, in that treatment, to set up dangerous symptoms, perhaps.

Q So you have differed from him in this, that you would have completed the operation, at that one time? A Yes, sir.

Q Or period? A Yes, sir.

Q By what method would you have completed it? A Besides the instruments named, or similar instruments for that purpose, it would have required the use of very large curets, or of different sizes, accommodated to the development.

Q Well, did you have any such instruments with you?

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A None.

Q Or any instruments that could have been used for curetting purposes? A No, sir.

Q Are any of the instruments that have been identified here such instruments? A No, sir.

Q For curetting purposes? A No, sir.

Q Now, we turn to the bottom of page 721, where the method of inducing labor is set out, and he says: "The following founded upon Krause's method, is the best plan for use, in the vast majority of cases." Now, in the first place, when is it proper to induce labor, at what stage, and under what circumstances? A If the diseased condition of the woman is such that, in order to preserve her life or health it becomes necessary to interrupt this pregnancy, then it is called for at any time during the pregnancy; but the induction of labor --

Q Now, under what circumstances and because of what conditions were these 45 or 50 abortions that you have testified to have performed, or assisted in performing, or taken part in performing, in your fifteen years of practice, performed? A Excessive ~~nausea~~ nausea, and, consequently faulty nourishment of the patient. Structural changes in the kidneys. Heart disease. Lack of proper development in the bony structure of the woman. Fibroid conditions.

Q Indicating what? Fibroid conditions? A That indicates a condition of fibroid degeneration, giving rise, usually, to tumors, which interfere with proper development and delivery by the woman, at the full term.

Q Were these operations performed under circumstances when, in your judgment, the woman's life was in danger?

A Yes, sir.

Q And ~~as~~ did you ever perform one of these operations under any other circumstances? A No, sir.

Q Now, these patients from Europe that Mr. Clarke referred to yesterday. Have you had any patients from Europe? A I may have had.

Q And what were those cases, if you recall? A General conditions, gynecological conditions. I don't remember exactly.

Q Well, is it not a fact that women need constant attention for various ailments, and that in their genital organs --

MR. CLARKE: All women, you mean?

MR. McMANUS: No.

BY MR. McMANUS:

Q But I mean that the practice is very extensive; is it not? A Yes, it is very extensive.

Q And how many doctors of medicine or surgeons do you know that are engaged in the practice of gynecology exclusively,

or almost exclusively in this city? A I should say at least two hundred and fifty.

Q About two hundred and fifty? A Yes, sir.

Q Engaged in the same line of practice that you are engaged in? A Yes, sir.

Q And how many physicians are engaged in practice in the city of New York; do you know? A About five thousand.

Q Five thousand? A Yes, sir.

Q Now, this method of inducing labor, mentioned at page 721, to what period does that refer, in the pregnancy? A I get that first part of the question.

Q He refers now to the method of inducing labor: "The following, founded upon Krause's method, is the best plan for use in the vast majority of cases"? A The seventh, eighth and ninth month.

Q Are you able to state, from your examination of this woman, and your examination of her genital organs, so far as it went, whether she was positively pregnant or not? A No, sir, I am not.

Q Now, doctor, is it your habit or custom to carry instruments for more than one case at a time, when you leave your office?

MR. CLARKE: I object.

MR. McMANUS: That was brought out on Mr.

Clarke's examination, your Honor.

THE COURT: I overrule the objection.

A That is very often necessary for any physician whose time is limited, and who cannot go back to his office.

BY THE COURT:

Q Is that your custom or practice? A Yes, sir.

BY MR. McMANUS:

Q And is it your common practice or not? A Yes, it is, when I am to see more than one case, before returning to the office.

Q And are those instruments sterilized and wrapped up in a towel, before you leaved your office, as a matter of custom? A Yes, sir.

RE-CROSS EXAMINATION BY MR. CLARKE:

Q Did you use a bougie in any of those forty-five cases?

A No, sir.

MR. McMANUS: I object to this, as already gone over.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

BY MR. CLARKE:

Q What is the answer? A No, sir.

Q Did you take a bougie along with you in the bag, in

all of those forty-five cases? A In those particular cases?

Q Yes. A Not for use in those particular cases.

Q Did you have it out, as you did in this case? A I may have had it for use in other cases.

Q But you never used it in your life, to cause an abortion? A No, sir.

Q Is that a fact, doctor? A Yes, sir.

Q Now you say that you took no curet along. That doesn't say that you were not going to perform an abortion, does it, doctor? A As I think it necessary to be performed.

Q Now I ask you as an expert whether the fact that you didn't take that along, is any proof that you were not going to perform an operation, is it? A As I would say it should be performed, yes.

Q But it is one of the recognized forms of procuring an abortion; is it not?

MR. McMANUS: Objected to.

BY MR. CLARKE:

Q Now, the fact that you didn't take a curet with you wouldn't prove that you were not going to perform an abortion on that first day, would it? Now be frank.

MR. McMANUS: Objected to as purely speculative.

THE COURT: Objection sustained.

BY MR. CLARKE:

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Q Do you mean to say that it is necessary, if you are going to perform an abortion, to have a curet there? A Absolutely; as I would perform an abortion.

Q Yes. That is one way? A Absolutely, as I would perform an operation.

Q Yes. That is the method by which you would clear out the womb, at once? A Yes, sir.

Q And you don't mean to say that that is the only way of performing the abortion? A That is the only way that I recognize. Perhaps your authorities authorize it.

Q (Question repeated) A Well, it might be performed by pushing this, or this, or this into the womb (taking up various instruments in evidence)

Q And it could be performed on one day and the physician could come back the next day and curet and clean out what was left in the uterus? A Yes, sir. It might be one way.

Q And then the fact that you didn't have a curet was not conclusive evidence that an abortion was not to be performed? A By me, yes.

Q Now, then, take a supposititious doctor. Take the case of a doctor who goes to a house, and has no curet.

Would you say it was impossible to perform an abortion?

A He could have this pencil with him and induce an abortion, in that way (illustrating).

Q And then you say it is more scientific to pull the fetus out, while it is still attached to the mother? A It is never attached to the mother.

Q Well, it is attached to the ~~xxx~~ tissues? A No, sir. It is floating in the waters, in the bag. And that is the only scientific way, sir.

Q The placenta is attached to the fetus; is it not? A No, sir.

Q And the fetus is attached to the mother? A No, sir.

Q Well, is the fetus attached to the placenta? A No, sir.

Q Then there is no attachment at all? A Not of the fetus.

Q Now, you say it is more scientific to put some instrument up there, and tear that whole thing away at once, than it is to put something up there -- A So your authority says.

Q One moment. Which will cause expulsion, and afterwards take away what is left, with the curet?

MR. McMANUS: I object to the form of the question.

THE COURT: Objection sustained, the question is ambiguous.

BY MR. CLARKE:

Q Now, do you say that it is more scientific to insert an instrument into the womb and empty the womb at once, of the entire foetus, placenta and all at one time, than it is to insert a bougie, or some soft article, and pack it in there, and leave it there for twenty-four hours, and then remove, with a curet, afterwards, what nature herself has not expelled?

MR. McMANUS: Objected to.

THE COURT: I am of the opinion that the examination and the cross examination of this witness upon the speculative questions has continued long enough, and had better be closed.

MR. CLARKE: Very well, sir.

BY MR. CLARKE:

Q Well, the curet is sometimes used, the second day; is it not?

MR. McMANUS: Objected to.

THE COURT: I think, Mr. District Attorney, you have exhausted that subject.

MR. CLARKE: But they make a great claim, from the fact that he didn't take a curet with him; and I want to show that it comes in, the second day.

THE COURT: No. You have gone far enough on this line, Mr. District Attorney.

BY MR. McMANUS:

Q You can perform an abortion --

THE COURT: No, Mr. McManus. I have stopped the District Attorney.

MR. McMANUS: Oh, very well, sir. That's all, doctor.

H E N R Y W E I L , a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McMANUS:

Q Dr. Weil, are you a physician engaged in the practice of medicine, in the city of New York? A Yes, sir.

Q Where is your office? A 252 West 91st.

Q What is that? A 252 West 91st.

Q 252 West 91st? A Yes, sir.

Q And when were you admitted to practice? A In this State or -- I was admitted in '97, in Pennsylvania.

Q And when were you admitted to practice in the city of New York? A Why, a little over two years ago.

Q And were you engaged in the practice of medicine any place else, before you came to New York? A No. Yes. In Philadelphia.

Q In Philadelphia? A Yes.

Q And your office is at 252 West 91st street in New York City? A 252.

Q Have you made any specialty in the practice of your profession? A Well, I practice general medicine but I am taking up surgery and gynecology as a specialty.

Q Gynecology, which is the science of women's diseases? A Yes.

Q Are you associated with Dr. Conrad, the defendant in this case, in any way? A Yes.

Q Did you see the complainant in this case at any time at the office of Dr. Conrad? A Yes.

Q And is she in court to-day? A I do not see her.

Q Well, you saw her the other day, on the stand? A Yes.

Q Did you see her at Dr. Conrad's office? A Yes.

Q If so, when? A I believe it was the early part of February. I don't recall the date, but I think that is approximately the time.

Q Where was this? A At 127 West 47th street.

Q At Dr. Conrad's office? A Yes, sir.

Q Now tell us the circumstances under which you saw her, and just what conversation you had with her, and that she had with you? A Well, at the time that this patient called at the doctor's, I was in the house, and sitting in the room next to the doctor's consulting room, that is, the

room that he consulted this patient in; and while I was sitting there, the doctor opened the door, and asked me to go in and take the history of that case, and take charge of it.

I went in and spoke to her; and asked her to give me the particulars of the case, saying that I would take charge instead of Dr. Conrad.

And she turned to me and she said, "Well, why can't Dr. Conrad come in?" and I said, "He will come in, if you want him, but I will take the facts of the case first. Perhaps his fees will be too high for you, and, if so, I will take charge of the case."

Q Well, what else did she say? A Well, I am afraid I can't give you the exact words, further.

Q Well, give us the best you can. A Well, she said that she was suffering with pain in the region of the vulva, the outer sexual organs of a woman; and that she had quite a swelling there, painful to the touch, and that there was a discharge.

And I said -- well, I said I guessed I could take charge of it, if she wanted me to, and she said, no, she said she wanted Dr. Conrad to take charge .

And so I walked out of the room, and I sent Dr. Conrad in.

Q Now, tell us where she said this swelling was?

A Why, right at the entrance of the vagina. The vagina is slit, similar to that (illustrating); and the abscess laid right at the junction of the skin of the vulva and the mucous membrane of the vagina. The gland lies right in there, and the swelling was there.

Q And she told you that she had the swelling at the outside of the --

THE COURT: No, Mr. McManus. There is no necessity of repeating his answers.

BY MR. McMANUS:

Q Did she say anything as to being pregnant?

THE COURT: No. What did she say? That is the plain question to put. The habit of counsel leading becomes so inveterate.

A Well, I told you practically everything that she said.

BY MR. McMANUS:

Q Was anything said by you or her as to the subject of pregnancy?

THE COURT: No. Now, you must pursue a proper line of examination.

BY MR. McMANUS:

Q Now, have you given us all the conversation that you had with her? A Yes, sir; all the facts.

Q And have you exhausted your memory on that subject?

A Yes, sir.

Q Now did she say anything to you or did you say anything to her on the subject of pregnancy? A Nothing at all.

Q Are you positive on that point? A Absolutely.

Q Did she tell you, or say anything to you, about wishing to be relieved of any pregnancy? A Nothing at all.

CROSS EXAMINATION BY MR. CLARKE:

Q What were you doing at Dr. Conrad's? A Sitting there, reading.

Q Are you an assistant of his? A I am.

Q And you have an office of your own, haven't you? A I have.

Q Well what is the relation? Explain it briefly?

A Well, I simply assist him. Administer anaesthetics for him, and remove dressings and that sort of thing.

Q When are you at his office? A When he sends for me.

Q And he sent for you that day? A I suppose so, or I wouldn't be there.

Q For some special case? A Yes;; I presume so.

Q Well, it wasn't this case? A No, sir.

Q Now, did the lady use the word "vulva"? A No, sir.

Q What did she say? A She said her private parts, and I located it for her.

Q Well, she said near the skin? A She simply said her private parts. She said that it was a swelling that she could feel from the outside, and I assumed it must be there, because that's the only place where an abscess develops in that region.

Q Did you say "vulva" to her? A No, sir.

Q And she didn't say whether there were any others, any other abscesses or swellings further inside, did she? A No, sir, she didn't; and I didn't ask her.

Q She had her baby with her, didn't she? A Yes.

Q Was this other lady with her? A No.

Q Did you see Mrs. Blecher, at any time? A Never; n until in court here.

Q And so that all you know is what took place, the first time Mrs. Levine came? A Yes.

Q Now, doctor, have you been in court while Dr. Conrod has been testifying? A No.

Q You have been out in the hall? A Yes.

Q Now, do you perform abortions? A No.

Q Have you ever performed an abortions? A Well, under proper circumstances I might, I suppose.

Q Well, have you? A Yes.

Q Didn't you perform an abortion on a young girl, fourteen years old, named May Kenney?

MR. McMANUS: That is objected to as immaterial, irrelevant and incompetent; and, further, as being a violation of Section 831 of the Code of Civil Procedure.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

MR. CLARKE: Bring her in.

BY MR. CLARKE:

Q ~~HE~~ Did you or did you not? A Is that the party you mean (indicating a young girl in the court room)?

MR. McMANUS: The same objection and exception, if the Court please.

THE COURT: There is a question asked by the witness.

MR. CLARKE: Yes, sir. He asks if that is the lady, and I said it is.

BY MR. CLARKE:

Q Now answer my question? A No.

Q You never saw her before? A I did.

Q What did you do to her? A I treated her.

MR. McMANUS: I object to this, on the same

grounds.

BY MR. CLARKE: Do you mean to say that you didn't produce a miscarriage on that young girl?

MR. McMANUS: Objected to.

THE COURT: He has already said that he did not.

BY MR. CLARKE:

Q Did you produce any form of abortion, miscarriage or premature delivery? A No, sir.

Q Was she with child? A No, sir.

Q Will you swear to that? A I will.

Q Who brought her to you? A I don't know the party's name. But I believe I got her through Dr. Conrad; that is, he referred her to me.

Q Well, that is, a woman brought her to his house, and returned her over to you; is that it?

MR. McMANUS: Objected to.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

A I don't know who brought her to Dr. Conrad. I have no knowledge of that at all.

BY MR. CLARKE:

Q You simply know that Dr. Conrad turned her over to you? A I didn't see her until I got the address from

Dr. Conrad, and called at her house.

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Q Where was that? A 43rd street.

THE COURT: I think that is sufficient, Mr. District Attorney.

BY MR. CLARKE:

Q Now, I want to know what operations you performed on that girl? A

THE COURT: No. I exclude it.

BY MR. CARKE:

Q Have you been in court at all during this case?

A Yes.

Q Have you been in court while testimony as to these instruments have been given? A Yes.

Q Do you ever use these bougies? A Yes.

Q What do you use them for? A Different purposes.

Let me see them and I will tell you. They might be used as --

MR. McMANUS: I object to this as not being in the line of the direct examination.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Do you know Jennie Brown, the nurse? A Yes.

Q How long have you known her?

MR. McMANUS: Objected to, as not within the scope of the direct examination.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

A Why, possibly, a year or a year and a half.

Q Is she a regular nurse for Dr. Conrad? A No.

Q What? A No.

Q Well, what is she? A Well, she nurses for him occasionally, in cases when he has them and wants her. She is not regularly in his employ.

Q Well, what nurses are regularly in his employ?

MR. McMANUS: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q What method do you use for performing abortions?

MR. McMANUS: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, you are an expert on abortions; aren't you?

MR. McMANUS: Objected to.

THE COURT: He may answer the question.

A I am not. At least, I would like to have experts defined, possibly.

BY MR. CLARKE:

Q Well, you have performed the operation, and know how to perform it? A Well, I suppose every physician knows

how, and has done it.

Q Well, what method would you use? A Well, in the cases where I have acted, the uterus has been emptied, and it was impossible to preserve the contents of the uterus, and the life of the woman was at stake, and, in that case, I simply dilated and cureted.

Q And was that the Kenney girl? A No; that wasn't the Kenney girl.

Q Well, do you not approve of the system of putting a Bougie in and leaving it there for twenty-four hours, and cureting twenty-four hours afterwards? A Well, that is one, possibly, of several recognized methods.

Q Well, if you put in the bougie, how long afterwards would the miscarriage take place?

MR. McMANUS: Objected to.

THE COURT: Allowed.

MR. McMANUS: Exception.

A Well, my experience is not large enough to estimate it.

BY MR. CLARKE:

Q About twenty-four hours, is it not? A I don't know. I haven't had enough experience in that matter.

Q What? A I say, I don't know; that I haven't had enough experience in that matter.

Q Now, did you make any record of this case? A What

case?

Q Of Mrs. Levine's case. A Did I? No.

Q Do you keep any records there, in Dr. Conrad's sanitarium? A No, no permanent records.

Q When a woman comes there, and gives you symptoms like these, don't you write them down?

MR. McMANUS: Objected to, as immaterial, irrelevant and incompetent.

THE COURT: Allowed.

MR. McMANUS: Exception.

A No.

BY MR. CLARKE:

Q In no case? A No.

Q Does Dr. Conrad write them down? A I don't know.

Q You don't know whether he keeps books or not? A No; I have no knowledge of his affairs.

Q So you are able, unassisted by any memorandum to give just what symptoms a woman told you she had, in a private house, on the 3rd of February, or 2nd of February last, just from memory? A Well, memory, together with the fact that the woman's condition didn't seem to warrant the price she intended paying. That impressed itself on my memory; and, for that reason, because the woman came in, and looked as though she

were the wife, possibly, of some poor laborer.

THE COURT: No, never mind that, doctor.

BY MR. CLARKE:

Q Well, because she said that she couldn't pay very much, that impressed itself on you? A No, sir. She didn't say that. I said, it looked to me that she was not able to pay that fee.

Q And that impressed her symptoms upon your mind?

A Very forcibly.

Q And, now, are you sure what her symptoms were? A Yes.

I say she said that she suffered from the pain, swelling and discharge.

Q Is that all? A Yes.

Q A discharge and a swelling; and the pain.

THE COURT: Did this witness physically examine the woman?

BY MR. CLARKE:

Q Did you make any examination of the woman at all?

A No, sir.

Q You just asked her ~~XXXX~~ these questions? A Yes.

I brought it out in some way.

Q Did you diagnose the case? A Well, I made an attempt.

Q And what did you diagnose it as? A A vulve-vaginal abscess, primarily. And the discharge would have to be

subjected to a microscopical examination, to determine the exact nature of the discharge .

Q Well, you made a price on it; didn't you? A To her?

Q Yes. A No.

Q Wasn't something said about your doing it for \$75, and that she would rather have Dr. Conrad? A No.

Q That is a mistake, is it? A Yes.

Q Well, now, the fact that the woman was pregnant was not a matter of any importance, in regard to this abscess, was it; whether she was pregnant or not would not figure in the treatment of this abscess, would it?

MR. McMANUS: Objected to.

MR. CLARKE: Why, if your Honor please, Mr.

McManus asked him if he asked her if she was pregnant.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

BY MR. CLARKE:

Q Now I say, in treating the abscess, or inflamed condition of the parts, whether the woman was pregnant or not, would not affect the treatment? A That would depend on the treatment.

Q Well, in making your diagnosis, and preparing to treat her? A Well, no one would treat without examination. That

would depend on the treatment resorted to.

Q Then why didn't you ask her whether she was pregnant or not?

MR. McMANUS: Objected to.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

A Well, I didn't determine the diagnosis or the line of treatment. I had simply formed an opinion from what she told me.

Q Well, but you say that, if she was pregnant, it would have affected the treatment? A I said nothing of the kind. You asked me, and I said it would depend upon the treatment.

Q Well, but you say, if she was pregnant, it would affect the treatment, don't you? A I didn't determine upon any treatment.

RE-DIRECT EXAMINATION BY MR. McMANUS:

Q Can you tell us what you treated that young girl, May Kenney, for? A Why, for gonorrhoea.

Q In what form? A Well, gonorrhoea at the end of the matrium.

MR. McMANUS: That is the case for the defense, your Honor.

THE COURT: The defense rests. Any testimony,

in rebuttal?

MR. CLARKE: Just one or two questions of
Dr. West, your Honor.

REBUTTAL.

JAMES N. WEST, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. CLARKE:

Q Now, doctor, I omitted, on my last examination, to ask you what your position is. Will you state, briefly, what your position is, with reference to the study of medicine and surgery and gynecology?

MR. McMANUS: Objected to.

THE COURT: Objection overruled, to this question.

MR. McMANUS: Exception.

A What my experience has been?

BY MR. CLARKE:

Q Yes. And where. **A** I graduated in 1891, at Bellevue Hospital Medical College; and then served one year as an interne, in St. Catherine's General Hospital, in Brooklyn; and then served eighteen months as an interne in the Women's Hospital in the City of New York. Within a short time, I was appointed an assistant surgeon to the Women's Hospital

in the City of New York, where I had complete charge of the institution during three months in the summer, that is, acting as chief surgeon in my department, during that time.

I was then appointed to the Post Graduate Medical School and Hospital, where I served in various capacities, until about one year ago, when I became Professor of Diseases of Women in the Post Graduate Medical School and Hospital. That has been my experience in that line.

Q Now, what is this? A The Post Graduate Medical School and Hospital?

Q No. The Hospital for Women? A The Woman's Hospital in the State of New York?

Q Yes. Is that a large hospital? A Yes, sir.

Q Where women's diseases are treated? A The largest in this country, and, probably in the world; entirely devoted to gynecology.

BY THE COURT:

Q And where is that located, doctor? A Formerly located at 49th street, between Lexington and Park avenues.

BY MR. CLARKE:

Q Well, you have had some experience in the diseases of women, and operations on women; have you not? A Yes.

Q During all this time? A Yes. I have been devoting almost all my time to that work.

Q Now, in the first place, doctor, you have examined these different instruments, which the defendant has identified here; haven't you? A Yes, sir; this morning; those identified this morning?

Q No. Those on the stenographer's table, and marked in evidence in this case? A Yes.

Q Now, the defendant has stated that these are not operative instruments. I ask you, in your opinion, whether they are not operative instruments?

MR. McMANUS: Objected to, as immaterial, irrelevant and incompetent and improper, as rebuttal.

THE COURT: I overrule the objection.

MR. McMANUS: Exception.

A These instruments are suited for operations.

BY MR. CLARKE:

Q State whether or not they are limited in their use to examination and treatment.

MR. McMANUS: Objected to as before.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

A I don't consider them to be an ordinary outfit for treatment.

THE COURT: Strike out the answer.

BY MR. CLARKE:

Q Well, I ask you if their use is limited to treatment and examination alone? A It is not.

Q Now, the defendant has testified that, in order to tell what operation a surgeon is about to perform, it would be necessary to examine all of his instruments, that is, his outfit. Is that so? A It is.

Q That is recognized to be so, is it not? A Yes.

Q Now, I ask you, after examining this outfit, to tell whether it is -- I will take out the word outfit, and say collection of instruments here -- and ask you whether it is a collection of instruments suited for the performing of the operation known as abortion?

MR. McMANUS: Objected to, upon the ground that the witness has already stated, on his first examination, that he never performed an abortion.

THE COURT: I overrule your objection, on that ground.

MR. McMANUS: Exception.

A It is a suitable outfit for that purpose, according to the most accepted methods.

BY THE COURT:

Q When you say outfit, doctor, is that -- A A collec-

tion of instruments, I should say.

Q Do you mean all the instruments and articles that have been put in evidence here? and on which the defendant has been questioned? A Yes, sir; those instruments which I examined, and that outfit which was contained in that bag.

Q And which are before the jury now? A Yes, sir.

BY MR. CLARKE:

Q Now this strap, which has been put in evidence here, and testified to by the defendant, I ask you if the usual and common purpose of such a strap would be for the examination of the patient, or whether that strap is used commonly for operations?

MR. McMANUS: Objected to.

MR. CLARKE: The defendant testified that it was used only for operations.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is it true that that strap, as the defendant testified, is only properly used for examinations?

MR. McMANUS: Objected to. The defendant did not so testify.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, for examination and treatment.

MR. McMANUS: Objected to as before.

THE COURT: Allowed.

MR. McMANUS: Exception.

A It is more frequently used for operations than for examination and treatment. That would be an unusual use, I should think.

THE COURT: Strike out the latter part of the doctor's answer, "That would be an unusual use, I should think."

BY MR. CLARKE:

Q Now, what is the usual and common use of bougies, such as have been put in evidence here, in relation to performing an abortion?

MR. McMANUS: Objected to, as immaterial, irrelevant and incompetent.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, I ask you if those are drainage pipes (indicating People's Exhibit 15)?

MR. McMANUS: I object to that; on the ground that it is immaterial, irrelevant and incompetent.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Is "Hirst on Obstetrics" a recognized authority, doctor? A Yes.

Q I ask you whether the insertion of a bougie into the uterus, either with or without a stilet, is a recognized method of causing an abortion?

MR. McMANUS: Objected to, as not based on the evidence, and not proper rebuttal, and incompetent, immaterial and irrelevant.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

A It is.

BY MR. CLARKE:

Q I ask you whether People's Exhibit 15 is such a bougie?

MR. McMANUS: I make the same objection.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

A The exhibit is not marked.

MR. CLARKE: No, but it was marked. That is it (indicating).

A These are such instruments as are used for that purpose.

Q Are bougies used in making examinations?

MR. McMANUS: Objected to on the same ground, as not based on the evidence.

THE COURT: I sustain the objection, on general grounds.

BY MR. CLARKE:

Q Now would the fact, doctor, that there is no curet in this collection, would that show that -- would that prevent the collection from being used for abortion?

MR. McMANUS: Objected to.

THE COURT: The question is ambiguous.

BY MR. CLARKE:

Q Is it necessary to have a curet, in order to perform an abortion? A No.

MR. McMANUS: Objected to as not based on the evidence, and as improper rebuttal.

THE COURT: The question is ambiguous and artificial. I sustain the objection. Strike out the answer.

BY MR. CLARKE:

Q A curet is a surgical instrument? A Yes, sir.

Q Now is it a necessary instrument for a surgeon to have?

MR. McMANUS: Objected to.

BY MR. CLARKE:

Q For the purpose of performing the operation known as abortion?

MR. McMANUS: I objected, on the ground that it was incompetent, immaterial and irrelevant, and not based on the evidence.

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THE COURT: Objection sustained.

BY MR. CLARKE:

Q Taking Hirst's method, as given in the book, where a bougie is inserted, and left there for twenty-four hours, and then, after the foetus is expelled, the operation is performed of removing the contents, would a curet be necessary, on the first day of such an operation?

MR. McMANUS: Objected to as not being within the limits of the evidence, and as immaterial, irrelevant and incompetent.

THE COURT: Allowed.

MR. McMANUS: Exception.

A No,

BY MR. CLARKE: Q It would not? A No.,

Q When would the curet be used?

MR. McMANUS: Objected to.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

A After the contractions had been stopped, and at least a part of the ovum expelled.

Q And that would be in about what time? A Well, it might be anywhere from a few hours to twenty-four hours. The time would vary with the woman.

Q And what is the curet? A A curet is a little spoon-like instrument, fenestrated, that is, with an opening in it, with a handle to it, that is used for the purpose of cleaning out cavities, which contain material which should come away, that is, abnormal tissue. A uterine curet, however --

Q That is what I meant. A It is one that is used to clean out the uterus of such material, unnatural tissues, which may be pathological.

Q Now, doctor, if a woman were suffering from an inflammation of the vulva, with a discharge, leucorrhoeal discharge, what of these instruments would be necessary, in order to treat her?

MR. McMANUS: Objected to, as immaterial, irrelevant and incompetent.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, suffering from the symptoms that the defendant testifies Mrs. Levine says she was suffering from?

MR. McMANUS: Objected to.

THE COURT: Objection sustained. The indication of your question is, that it is based upon a hypothesis. If that is so, it should be properly framed, and all the facts assumed in the hypothetical

presentation to the doctor.

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BY MR. CLARKE:

Q Assuming that the woman was suffering from a painful swelling, on the outer part of her privates, and that was accompanied by a discharge, and that was all the information that the physician had, would you consider this the proper outfit to treat such a case?

MR. McMANUS: Objected to, as not fully stating the evidence.

THE COURT: Objection sustained.

MR. CLARKE: Well, on the ground that I haven't covered the evidence?

MR. McMANUS: Yes.

MR. CLARKE: Then I think he should point out in what respect I have not.

BY MR. CLARKE:

Q Well, I ask you if this speculum, People's Exhibit 3, is used in abortion cases? That sort of a speculum (indicating).

MR. McMANUS: I objected, on the ground that the witness has testified --

THE COURT: Objection sustained.

MR. CLARKE: Mr. Contad said that it couldn't be used; that he would want a depressor.

BY MR. CLARKE:

Q Is it true that, if an abortion was to be performed, such a speculum, People's Exhibit 3, would not be used, or could not be used?

MR. McMANUS: Objected to, as not in accordance with the evidence.

MR. CLARKE: That is substantially the evidence.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Isn't it true, as testified to by this defendant, that this speculum is not fitted for examination or any other purpose, in a case where the physician intends to operate, and cause an abortion?

MR. McMANUS: I object to that, as not being based on the evidence.

MR. CLARKE: He says that this was not fitted for the purpose.

THE COURT: The prefixing to the question, "Is it true, as the defendant has testified", is improper. Ask the witness the direct question.

I sustain the objection.

BY MR. CLARKE:

Q I show you People's Exhibit 3, which is a speculum, and ask you if that could be used, and whether it would be a

proper instrument to use, for distending the vagina, in the case of an operation to produce an abortion?

MR. McMANUS: Objected to.

THE COURT: Mr. District Attorney, you ask if it could be used. An instrument might be used, and it might be used improperly and unprofessionally and unscientifically. The qualification is not broad enough.

BY MR. CLARKE:

Q The proper and usual instrument for that purpose?

THE COURT: Usual, is not broad enough.

BY THE COURT:

Q Professor, from your experience in the profession, and from your examination of that instrument, can you say whether or not it is a suitable and proper instrument to use --

THE COURT: Now, follow up the question..

BY MR. CLARKE:

Q In distending the vagina, previous to performing the operation of abortion?

MR. McMANUS: Objected to.

THE COURT: Allowed.

MR. McMANUS: Exception.

A I would say that it is a suitable instrument for such a purpose.

BY MR. CLARKE:

Q Now, do you know what a depressor is? A Yes.

Q What is it? A It is instrument with a handle and a blade to it, curved somewhat to suit the parts into which it is to be introduced.

Q Is it used for a similar purpose to this? A Yes.

Q Either one can be used? A Yes.

Q Now, as to the dilator, People's Exhibit 8. If an operation for abortion were to be performed, and the neck of the womb dilated, I ask you whether this is a suitable and proper instrument for that purpose?

MR. McMANUS: I object to that, as not being within the evidence.

THE COURT: Objection overruled.

MR. McMANUS: Exception.

A It is.

BY MR. CLARKE:

Q And would it be necessary to have a dilator, that dilated in several directions? A It would not.

Q I show you the tenaculum, Exhibit , and I ask you what part that would play in an operation for abortion?

MR. McMANUS: I object to this, on the same ground.

BY MR. CLARKE:

Q I ask you if that is a suitable and proper instrument for steadying the womb, while a bougie is being inserted, in the operation for abortion?

MR. McMANUS: I object to that, on the ground that it is not within the evidence, and is purely speculative, and is not a proper subject of expert opinion in this case.

THE COURT: Objection overruled.

MR. McMANUS: ~~Pl. error.~~ Exception.

A It is a suitable instrument,

BY MR. CLARKE:

Q Now, doctor, how long did you say you had been engaged in gynecology? I just want to get the number of years. I forget it. A Since 1894; ten years in that specialty.

Q And in that time have you found it necessary to perform the operation of abortion?

MR. McMANUS: Objected to, as seeking to contradict his own witness.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q Well, I ask you whether this is a common operation, or a rare one?

MR. McMANUS: Objected to.

THE COURT: Objection sustained.

BY MR. CLARKE:

Q I ask you whether forty-five case in fifteen years wouldn't be a remarkable number of abortions to be performed by one physician?

MR. McMANUS: Objected to.

THE COURT: Objection sustained.

THE 11TH JUROR: Your Honor, may I please ask this witness a question that I sent up to you, before. It is very strongly in my mind, and I would like to ascertain.

THE COURT: Have you that memorandum, Mr. Juror?

THE 11TH JUROR: Yes.

THE COURT: Would you let me have it again?

THE 11TH JUROR: Yes, sir.

THE COURT: I was not able to decipher the whole of it, and I did not understand it. I cannot permit it, Mr. Juror, because it is not evidence, it would not be evidence. You may, Mr. Juror, if you think proper, word the question a differently, and I will permit the defendant to be recalled, and you may ask him that question, if it be worded a little differently.

THE 11TH JUROR: Well, I would like to ascertain if it be the common custom among physicians --

THE COURT: No, you see there is the ~~vicious~~ vicious part of the question. What is the common custom among physicians, is not evidence.

THE JUROR: Well, does a patient ever go to a doctor or specialist, and, without being examined, get a rate, unless that specialist investigates what is the matter with him, where he has a fixed scale of charges, according to the evidence?

THE COURT: I cannot permit the question, sir.

CROSS EXAMINATION BY MR. McMANUS:

Q You testified the other day, as I recall, that you had never performed an abortion? A That is correct, sir.

Q Did you ever induce a miscarriage? A No, sir.

Q You produced this book, I believe, here, this morning, did you not? A Yes, sir.

Q This text book of obstetrics, by Hirst? A Yes, sir.

Q And do you accept this as an authority? A Yes.

Q In the performance of necessary abortions? A Yes.

Q Then, it says here, "The woman is etherized." Do you accept that as proper? A As proper, yes, but not necessary.

Q Well, you testified that you accepted this as being the correct method? A As an authority.

Q So that you would not etherize, in performing an

abortion? A. If I were to perform an abortion, would I etherize, to begin with?

Q. Yes. A. No, sir.

Q. At that stage? A. No, sir.

Q. And then you differ from this authority that you have produced here? A. Yes.

Q. Is that a painful or not painful operation, at this stage, up to four months? A. Not very painful, I should think.

Q. Not very painful? A. No, sir; I should think not. Pardon me. I don't know that I fully comprehended your question. Perhaps, it was not stated fully enough. Do you mean the beginning of the induction of abortion? Is that painful?

Q. I mean the method of inducing abortion, mentioned here, at page 720 of Hirst, in his text book of Obstetrics, where he says, "The method employed by myself, with satisfaction, in a number of cases, may be described as follows: The woman is etherized, and placed in the dorsal position upon an operating table." A. Well, that is the method, up to four months?

Q. Yes. A. Well, that would be painful. I thought you referred to the other method, after that time.

Q. No, I am referring to the four months period. A. Yes.

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Q And then you would bring with you, and would use it?

A Yes, for the four months, if I were going to dilate.

Q Now, adopting the methods indicated here --

THE COURT: Mr. McManus, permit me to suggest to you that, in order to have your question properly framed on the record, you should predicate it as being read from this authority, because it may appear as being your own question.

MR. McMANUS: Yes, sir. I thank your Honor for the suggestion.

BY MR. McMANUS:

Q I am reading now from page 720 of Hirst's Text Book on Obstetrics: "The anterior lip of the cervix is fixed with an double tenaculum." Is this a double tenaculum this is here (indicating)? A No.

Q Would you use this tenaculum under the circumstances narrated here? A I might.

Q Is that the regular tenaculum to be used for the purpose? A That tenaculum is for fixing the uterus. There is no regular tenaculum made for that purpose.

Q Is that a double tenaculum? A No.

Q Then you disagree again with your authority, Hirst's Text Book of Obstetrics? A I do not disagree with him, sir.

Q Then you would use a double tenaculum? A I don't

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consider that essential. It doesn't seem so to me.

Q Then you differ with him? A I consider that a non-essential detail. Or, as to whether it is a double or a single tenaculum. I could steady the cervix with either.

Q Can you grasp the anterior lip of the cervix with this tenaculum? A Yes. You can seize and fix it. You can't grasp it, in the sense of having two surfaces opposed, but you can seize ~~it~~ with that hook.

Q Then that presents a different condition from that which obtains here? A I don't think it does.

Q Then absolutely the same? A Well, not absolutely the same, but it is a question of grasping or hooking the cervix, as I see.

Q Would it hold the cervix firmly while you were operating? A I think so.

Q Would it hold the cervix while dilating it, under these circumstances here, for procuring an abortion? A For curing for an abortion, I have done it.

Q Well, now, my question is simple enough, and won't you answer it? Have you used for the purpose of aiding you in securing an abortion? A No, sir.

Q Could you use that speculum to carry out the treatment named here, page 620 of Hirst's Text Book of Obstetrics?

A You couldn't use it.

Q Is it the proper

Q Is it the proper speculum to use for that purpose?

A No, I wouldn't say that it is.

Q Can any operation be performed properly through that speculum? A Yes.

Q What operation? A Dilation of the cervix, and the introduction of one of those bougies, for the production of abortion.

Q Have you ever done it, under those circumstances?

A No, sir.

Q You are merely giving your opinion? A I am.

Q And not from experience? A No, sir.

Q Is this a Hegar's dilator that we see here (indicating)?

A No.

Q Would you, at the period of pregnancy mentioned in this book, use "Hegar's dilators, or, cautiously with branched dilators"? A No, sir.

Q "An Emmet's curetment forceps is inserted into the womb, opened and shut in several directions, so as as to crush the ovum, and then wothdrawn, with whatever portion of the ovum or embryo that comes with it." Would you use an Emmet's curetment forceps, under the circumstances I have just stated? A No.

Q Again you differ from the authority that you have produced? A Yes.

Q Is there any Emmet's curetment forceps here? A No, sir.

Q Doctor, did you ever carry any instruments in your bag, intended for more than one case, when you left your office?

MR. CLARKE: Objected to.

THE COURT: Objection overruled.

A Yes.

BY MR. McMANUS:

Q Haven't you all these instruments in your own office, or instruments similar to them? A I have instruments -- no, I have not; no, sir.

Q Well, which have you not? A I have none of the bougies, which I take up here (indicating).

Q Now, the bougies are articles that can be obtained at any physicians supply house, aren't they? A Yes; I think so.

Q And are used for many purposes? A No, I think the use is quite limited.

Q Why, they are used as drainage tubes, sometimes; are they not? A I haven't seen them used in that way, sir.

Q But they can be used for that purpose; can't they? A They can be used for that purpose.

Q And the bougies are also used for insertion into the male genital organs, aren't they? A Not this kind of

bougies.

Q Didn't you admit so, sir, the other day? A No, sir; I don't think I did.

Q Well, didn't you say, in the first instance, the other day, that they were catheters, and, later on, change your testimony and say they were bougies? A Yes.

Q And so you were mistaken, when you testified as to those articles? A Yes; that's right.

Q Now, think, doctor. Don't you recall that you said the other day that those instruments could be inserted into the male genital organ? A I don't recall having said so. I am not sure that I did not say so, but I do not recall having said so.

Q Now, in the performance of the operation described by Dr. Hirst at page 720 of his work, for the removal of a foetus, would you use the speculum, the tenaculum and the dilator here present in evidence?

MR. CLARKE: Before the four months?

BY MR. McMANUS:

Q At that period? A The first period, you speak of?

Q Yes, up to four months? A No; I would not use that.