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#1496
COURT OF GENERAL SESSIONS OF THE PEACE.

IN AND FOR THE COUNTY OF NEW YORK.

PART II.

-----X-X
THE PEOPLE OF THE STATE OF NEW YORK ;

-against- ;

JOHN DOBIAS, ;

Before :-

HON. THOMAS C. O'SULLIVAN, J

and a jury.
-----X

New York, Wednesday, April 19th, 1911.

THE DEFENDANT IS INDICTED FOR RAPE IN THE SECOND DEGREE,

ASSAULT IN THE SECOND DEGREE AND ABDUCTION.

INDICTMENT FILED FEBRUARY 16TH, 1911.

A p p e a r a n c e s :-

T. Channon Press, Esq., Assistant District Attorney,
for the People.

HON. Otto, H. Droege,
for the defendant.

(A jury is duly empanelled and sworn)

Amos G. Russell,
Official Stenographer.

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(The Court then admonished the jury, in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until 2:10 P. M.)

A F T E R R E C E S S .

T H E P E O P L E ' S C A S E .

(Mr. Press opens the case to the jury on behalf of the people)

M A R Y K R U L I S C H, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. PRESS:

Q What is your full name? A Mary Krulisch.

Q Where do you live? A 412 East Seventy-third Street.

MR. PRESS: If your Honor please, in this case, a Bohemian interpreter is necessary, for the purpose of examining certain of the witnesses. It seems there is considerable difficulty in interpreting in this case, because of certain accents, and that there is one man who is capable of doing that, officer Blaha, a member of the police force, who is here in another case.

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Unfortunately, he has got to go on night duty immediately after having stayed here all day.

THE COURT: And he is not here now?

MR. PRESS: He is here now, and he will be asked to interpret; and defendant's counsel has agreed to him, but the trouble is he has to stay here, and then go on duty this evening.

THE COURT: Why not try to have him here during the trial?

MR. PRESS: I wish I could, but there is a rule of the Police Department, it seems, that the District Attorney can not get over. Probably your Honor has some means of overcoming the difficulty.

THE COURT: I will sign any order or request in the matter.

MR. PRESS: Then we will endeavor to do something of that kind.

Q Mary, where did you live on the 25th of December, 1910?

MR. DROEGE: Before proceeding with the examination of this witness, your Honor, I think she should be examined as to whether she understands the solemnity of this proceeding, and appreciates--

BY THE COURT:

Q How old are you? A I am fourteen.

MR. DROEGE: There is no presumption, even at the

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age of fourteen.

THE COURT: In this case, the defendant is charged with rape in the second degree.

MR. PRESS: Yes, your Honor.

THE COURT: And, who is the complaining witness?

MR. DROEGE: She is, I understand. She is one of the complaining witnesses.

MR. PRESS: Well, according to the complaint, John J. Jennings, of the Society for the Prevention of Cruelty to Children--

THE COURT: Who is the person alleged to have been outraged?

MR. PRESS: This girl here on the stand.

THE COURT: And what relationship is there between her and the defendant?

MR. PRESS: She is a niece of the defendant, by marriage.

BY THE COURT:

Q Now, you understand all that has been said? A Yes.

Q It is understood that the charge is that this defendant, who is your aunt's husband, is that so? He married your aunt? A Yes, sir.

Q They charge that he had unlawful connection with you. Do you understand that? A Yes, sir.

Q Now, then, if that be true, and it is proved against

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this man, he will be convicted of a crime which will send him to State Prison. Now, you understand that is important?

A Yes, sir.

Q Now, no matter what happens to him, or what happens to any other body, you know you are here to do what? To tell the truth? A Yes, sir.

Q Do you ever go to Church? A Yes, sir.

Q What Church? A Our Lady of Perpetual Help.

Q So you are a Catholic girl? A Yes, sir.

Q Do you pray at night? A Yes, sir.

Q To whom do you pray? A To our Lord.

Q Is it wrong to tell a lie, a falsehood? A Yes, sir.

Q Why is it wrong? What is there wrong about it? What will happen to you if you do tell a falsehood, under oath? What do you believe that your religion teaches about that? Would anything happen to you? A Yes, sir.

Q What? A If I die, I would have to suffer for it.

Q If you died, you would suffer for it, is that it?

A Yes, sir.

Q And, besides suffering for it, you believe that it is wrong, anyway, to tell a lie? A Yes, sir.

Q The fearful effect of telling a lie in this case might not only be on you, but it would be on this man; and now, when you lift up your hand and take an oath, what do you

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believe you are doing? A That I should tell the truth,

Q That you are promising to tell the truth, and nothing but the truth, and that, if you do not tell the truth, it will be not only a wrong in itself, but you might be punished for it in this world, and in the next. Is that what you believe? A Yes.

THE COURT: This girl is quite capable of taking the oath.

MR. DROEGE: May I ask her a question?

THE COURT: Yes.

BY MR. DROEGE:

Q Mary, have you had any opportunity or any occasion to speak to any of your own family about the gravity of this charge that you are making?

MR. PRESS: I object to that.

THE COURT: I will sustain the objection to that. If you wish on cross examination, to ask a question of that character, you may. I think that the preliminary examination is about ~~in~~ all that is necessary.

MR. PRESS: Absolutely ample, your Honor.

THE COURT: Proceed.

DIRECT EXAMINATION (CONTINUED) BY MR. PRESS:

Q Mary, where did you live on the 25th of December, 1910? A 405 East Seventieth Street.

Q 405 East Seventieth Street? A Yes, sir.

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Q I want you to talk loud enough so the last juror can hear you. Talk to him. Don't talk to me. Talk so he will hear you and won't have to strain. With whom did you live there? A With my uncle.

Q When did you go to live-- you will have to talk louder.

THE COURT: Talk very much louder; talk so the last gentleman over there can hear what you say.

Q When did you go to live with your uncle?

A (No answer)

Q When did you first go to live with your uncle?

A (No answer)

Q About how long ago is it that you went to live with your uncle and aunt? A (No answer)

BY THE COURT:

Q Do you understand that? A No, sir.

Q How long since you went to live with your uncle? You went to live with him, didn't you? A Yes, sir.

Q How long ago, about? A month, or a year, or what? A About two years.

BY MR. PRESS:

Q And at the time you went to live with your uncle and aunt, was your aunt alive at that time? A Yes, sir.

Q Now, when you went to live with your uncle and aunt, was your mother alive? A No, sir.

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Q And where was your father at that time? A In Central Islip.

Q How long had he been there, Mary? A Eleven years.

Q Eleven years? A Yes, sir.

Q And before going to live with your uncle and aunt,--

THE COURT: Does she know where he was at Central Islip?

Q Do you know where he is at Central Islip, Mary?

A Yes, sir.

BY THE COURT:

Q Where does he live there? Is he in an asylum there?

A Yes, sir.

BY MR. PRESS:

Q He is in the asylum, at Central Islip? A Yes, sir.

Q Now, before you went to live with your uncle and aunt, you lived with your mother, did you not? A Yes, sir.

Q With whom did you live? A My aunt and uncle.

Q With whom? A My aunt and uncle.

BY THE COURT:

Q But before you went to live with your aunt and uncle?

A I was in a poor home.

Q You were where? A In a poor home, St. Joseph's Orphan Asylum.

Q And who took you out of St. Joseph's Orphan Asylum?

A My uncle.

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Q Your uncle? A Yes, sir.

Q When you say your uncle, do you refer to the defendant? A Yes, sir.

MR. DROEGE: We should be able to hear the witness, ourselves, and not the repetition of the District Attorney.

MR. PRESS: I am sorry, but I am trying to help you out. I know it objectionable.

THE COURT: What is the objection?

MR. PRESS: The objection is that I am repeating, your Honor, the answers of the defendant. I repeated them, I admit that.

THE COURT: While it is strictly objectionable, it seems to be necessary here, for the convenience of the jury. If they are improperly repeated, I think then, Judge, you may object.

MR. DROEGE: It is not on account of counsel's repetition, but on account of the effect of it. We should be able to hear the witness's voice, as well as to see her.

MR. PRESS: A good deal of it is caused, if your Honor pleases, by reason of the fact that we have got to get air.

THE COURT: Close the window, officer, and try to let this girl's voice reach the jury.

Q Now, do I understand you, Mary, that your uncle, the

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defendant, took you out of St. Joseph's Home, about two years ago? A Yes, sir.

Q And at that time, your aunt, his wife, was alive?

A Yes, sir.

Q How was his wife related to your mother, or father?

A I don't know, sir.

Q Was your aunt your mother's sister?

THE COURT: well, she might know that by reputation.

Q Was your mother a sister of the defendant's wife?

A (No answer)

BY THE COURT:

Q Do you know what "Defendant " means?

A (No answer)

Q This man? (Indicating the defendant)

A Yes, sir.

Q Was the woman who was this man's wife your mother's sister? A (No answer)

Q Did your mother have a sister? A I don't know, sir.

Q But you know you had an aunt? A Yes, sir.

Q And that aunt was this man's wife? A Yes, sir.

BY MR. PRESS:

Q Now, when did your aunt die? A November 16th.

Q November 16th, what year? A 1910.

Q After she died, did you move from the house that you

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were living in?

MR. DROEGE: Objected to as leading.

THE COURT: You might ask her where she went?

Q Where did you go after your aunt died? A I stayed in 405 East Seventieth Street.

Q And who stayed there with you, Mary? A My uncle, my brother and me.

Q What age is your brother? A Twelve.

Q How many beds were in the house at the time your aunt died?

MR. DROEGE: Objected to as leading.

A Two beds.

MR. PRESS: I am not leading. I am asking her how many beds there were.

THE COURT: Yes, that is quite the proper thing.

MR. DROEGE: I take an exception.

Q How many beds were in the house at the time your aunt died? A Two beds.

Q How many rooms were in the apartment? A Three.

Q And what are those rooms? What kind of rooms are they? A Bed room, kitchen and front room.

Q Where were the beds? A One was in the bed room, and one was in the front room.

Q Where did your uncle and aunt sleep?

A My uncle and aunt slept in the front room, and my brother

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and I in the bed room.

Q Now, when your aunt died, or after your aunt died, did you still have two beds in that apartment?

MR. DROEGE: Objected to as leading.

MR. PRESS: Question withdrawn.

Q After your aunt died, how many beds were in the apartment?

MR. DROEGE: Objected to.

A One.

MR. DROEGE: I move to strike out the answer.

THE COURT: Objection overruled; motion denied.

MR. DROEGE: Exception.

Q How long after your aunt died was it that there was only one bed?

THE COURT: Or better, how long were there two beds. She says there were two when she died.

MR. PRESS: She said there were two when she died.

THE COURT: How long did the two remain there?

Q How long did the two beds remain there?

A After she died?

BY THE COURT:

Q How long were there two beds after your aunt's death? Days, or weeks, or months, or how long?

A Only one day.

BY MR. PRESS:

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Q About? A Only one.

Q What? A Only one day.

Q And then--

BY THE COURT:

Q Then what happened? Did he take one Bed out?

A Yes, sir .

MR. DROEGE: Objected to.

THE COURT: Objection overruled.

MR. DROEGE: Exception.

BY MR. PRESS:

Q Now, after your aunt died, then, and until you left your uncle, or your uncle left you, how many beds remained there? A One.

Q Now, after your aunt died, where did you and your brother and your uncle sleep? A In the same bed, in the bed room.

Q How did you sleep? What positions did you occupy in the bed? A My brother was by the wall, and I next, and then my uncle.

Q And did you sleep in that one bed and in that way--

THE COURT: You might ask how long.

Q How long did you sleep in that bed and in that way with your brother and your uncle? Until when?

A (No answer)

BY THE COURT:

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Q Do you know how long a time, months, or days or weeks, or how long? A About two weeks.

Q About how long? A About two weeks.

BY MR. PRESS:

Q When did you say your aunt died, Mary?

A November 16th.

Q And did your uncle get married? A Yes, sir.

Q When did he get married? A A week after New Years.

Q A week after New Years? A Yes, sir.

Q Up to the time your uncle got married, did you, or did you not, sleep with your brother and your uncle in that bed?

A Yes, sir.

Q Now, during the time that you were sleeping with your uncle, did he do anything to you?

MR. DROEGE: I object to that question as leading.

THE COURT: Objection overruled.

MR. DROEGE: I take an exception.

A Yes, sir.

Q When? A December 25th.

Q What? A December 25th.

Q December 25th? A Yes, sir.

Q Before December 25th, had he done anything to you?

A No, sir.

Q Had he interfered with you in any way before December 25th? A Yes, sir.

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Q What did he do? How did he interfere with you, and when?

THE COURT: Now, don't be afraid. Tell it right out.

MR. DROEGE: Now, I object to any evidence at this time of this crime.

THE COURT: Objection overruled.

MR. DROEGE: As an attempt to establish another offense.

MR. PRESS: It is not for the purpose --

MR. DROEGE: It is not admissible in evidence.

THE COURT: It is establishing the relations and the conduct of that man. Proceed.

MR. DROEGE: Exception.

Q When did he first interfere with you, Mary?

A December 25th.

Q But before that, you say that he had done something to you?

MR. DROEGE: Now, I object to that question.

MR. PRESS: She answered that question, your Honor.

THE COURT: Yes, that question is answered.

MR. DROEGE: She already said December 25th was the first time.

THE COURT: You may turn that into a question, instead of making a statement.

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Q Before the 25th of December, 1910, did your uncle in any way interfere with you? A Yes, sir.

Q Well, now, how? A (No answer)

BY THE COURT:

Q What did he do? A He was feeling of me.

BY MR. PRESS:

Q Where, Mary? Where was he feeling of you?

A In every place.

Q What? A Every place.

Q And when? What hour of the day or night was it that he did that? A You mean December 25th?

Q Before December 25th? A It was nearly every night.

Q Nearly every night? And where was it, was it in the bed? A Yes, sir.

Q Now, you say he did something to you on the 25th of December. Do you know what day that was? A Yes, sir.

Q What day? A Christmas day.

Q Now, what hour of the day was it? A About half past twelve.

Q About half past twelve? A Yes, sir.

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

THE COURT: In the night, or in the day time?

Q At twelve o'clock, in the day? A Yes, sir.

Q And your brother was not there? A No, sir.

Q Now, tell his Honor and the jurors here just what he

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did and said to you at that time, and speak loud, like a good girl. Nobody will hurt you? A It was on December 25th, about half past twelve, he says to me--

THE COURT: A little louder. Those men cannot hear what you say, and this man, the stenographer has to write it down.

THE WITNESS: It was on the 25th of December, about half past twelve, he says to me, "come, Mary"?

THE COURT: Go ahead.

THE WITNESS: "Come, Mary, to bed".

THE COURT: Come in what?

THE WITNESS: "Come, Mary, to bed", and so he took me in the bed room, and he threw me on the bed.

BY THE COURT:

Q And what else did he do then, if anything? Don't be afraid, Mary? A He had a connection with me.

BY MR. PRESS:

Q Did he put his private parts into your private parts?

A Yes, sir.

Q Now, after that, did he say anything to you, Mary?

A No, sir.

Q Well, did he at any time say anything to you?

A No, sir.

BY THE COURT:

Q Did he talk to you about what he had done to you?

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A No, sir.

BY MR. PRESS:

Q After that, did he ever do anything to you?

A Twice then, after that.

Q Twice after that? A Yes.

Q Now, did he at any time whisper anything to you?

A Yes, sir.

Q What did he whisper to you? A I don't know, sir.

Q What? A I don't know.

Q Ypu don't know? A (No answer)

Q Did he tell you to tell your aunt, or any other person?

MR. DROEGE: Objected to as leading, and improper.

THE COURT: Objection overruled.

MR. DROEGE: Exception.

BY THE COURT:

Q Did he say anything about telling anybody about it?

A He told his wife.

BY MR. PRESS:

Q Were you there at the time?

MR. DROEGE: I object to that, and move to strike out the answer.

THE COURT: Motion granted.

BY THE COURT:

Q Did he ever say anything to you about your telling

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anybody or saying anything about it? A No, sir.

Q Or where you would go, or anything like that?

A He says he will put us in a Home.

Q Why? Did he say why he would put you in a home?

A If I tell anybody.

Q If you would tell anybody what? A About this.

Q About what? A (No answer)

Q He said he would put you in a home if you told anybody about what? A What he did to me.

Q About what he did to you when? A The 25th of December.

THE COURT: I understand, of course, that this is, technically, objectionable, but this child seems to be not only very timid, but of such a weak voice, that it is almost impossible to hear her when she does talk, and she seems to be very reluctant and timid about it, and, while the Court does not want to do anything that will be prejudicial to the defendant, at the same time, I think you yourself will see the necessity of doing at least as much as I have done. Now, proceed.

MR. DROEGE: I take an exception to the examination, and ask that all the answers be stricken out.

THE COURT: Motion denied; objection overruled.

MR. DROEGE: Exception. And I also ask to strike out the testimony.

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THE COURT: A little louder.

MR. DROEGE: I also ask that the testimony in reference to subsequent acts be stricken from the record. I don't know what her answers were, because I could not hear them, but I ask that all the testimony be stricken out.

THE COURT: Well, we had better proceed in an orderly manner as possible and in as regular order as possible.

MR. DROEGE: Then your Honor overrules my objection?

THE COURT: You may have all the time you desire on cross examination, Judge. Now, proceed.

MR. PRESS: I would like, if your Honor pleases, as some of the jurors have not heard the last questions put by your Honor, that the questions and answers be read by the stenographer.

THE COURT: Very well.

(The stenographer reads testimony)

BY MR. PRESS:

Q Mary, what age are you? A Fourteen.

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

MR. PRESS: Counsel objects to my asking the complaining witness here her age, and it has been held by the Court of Appeals, as your Honor well knows--

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THE COURT: Objection overruled.

Q What age are you, Mary? A Fourteen years.

Q When were you born? A 1896, July 5th.

Q And on the 5th of July, 1911, you will be fifteen?

A Yes, sir.

Q What was your father's name, Mary? A Anthony.

Q Anthony what? A Anthony Krulisch.

Q What was your mother's name? A Agnes.

Q Agnes Krulisch? A Agnes.

Q Where were you baptized? A In the Church of
Our Lady of Perpetual Help.

Q And that is where? A Sixty-first Street.

Q Do you know what number? A No, sir.

Q Is it east, or west? A East.

MR. PRESS: Has counsel any objection to the certificate of baptism going in of this child, from the Church?

MR. DROEGE: I don't know whether it is a record or not.

MR. PRESS: I offer it in evidence.

THE COURT: What is it?

MR. PRESS: The baptism certificate, from the Church.

MR. DROEGE: Objected to as not the best evidence.

THE COURT: Well, perhaps you had better put it

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in regularly.

Q Do you know who your god-father and god-mother were?

A No, sir.

MR. DROEGE: Objected to as irrelevant and immaterial.

THE COURT: She does not know, she says.

MR. PRESS: For the purpose of identifying the certificate, your Honor; that is all.

THE COURT: But she says she does not know.

BY THE COURT:

Q Did you ever call anybody god-father and god-mother?

A No, sir.

Q Never knew any such persons? A No, sir.

BY MR. PRESS:

Q Mary, have you ever been married to your uncle?

A No, sir.

Q And this house No. 405 East Seventieth Street, that is in the Borough of Manhattan and County of New York, is it? A Yes, sir.

MR. PRESS: You may examine.

CROSS EXAMINATION BY MR. DROEGE:

Q Mary, how long were you in the Home, St. Joseph's Home, was it? A Three and one half years.

Q And you were there with your little brother?

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A Yes, sir.

Q And you were very anxious to get away from there, to leave there? A Yes, sir.

Q Did you see your uncle while you were down there at any time, did he visit you? A Yes, sir.

Q How is that? A Yes, sir.

Q And you asked him to take you out? A Yes, sir.

Q Both you and your brother were very anxious to have him take you out? A Yes, sir.

Q Now, you have stated, on direct examination, that your uncle's wife, who was living at that time, was your aunt?

A Yes, sir.

Q Isn't it a fact that she was no relation -- the wife who was living at that time was no relation of yours? Do you know that? A (No answer)

Q You can say "yes" or "no", whether you know it or not; that is all I want to know? A Yes, sir.

Q What is that? A Yes, sir.

Q Yes. Wasn't it a former wife of his, who is dead, who was your mother's sister? A I don't know, sir.

Q How is that? A I don't know.

Q You don't know whether it was the wife living at that time, or the former wife? A No, sir.

Q But it was your uncle who took the interest in you, wasn't it? A Yes, sir.

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Q He was the one that visited you at the home?

A Yes, sir.

Q Your uncle was particularly interested in your little brother, wasn't he? A Yes, sir.

Q Your little brother was his favorite of the two children; isn't that right? A Yes, sir.

Q When you went to live with him, he was more fond of your little brother than he was of you? A Yes, sir.

Q Paid more attention to your little brother?

A (No answer)

Q You know that your uncle is a hard working, or was a hard working man, wasn't he? A Yes, sir.

Q And provided for his family and for you, didn't he?

A Yes, sir.

Q And took good care of you, as little children, didn't he? A Yes, sir.

Q You were fond of his wife? Yes? A Yes, sir.

Q And he bought you clothes and shoes, and supported you, didn't he? A Yes, sir.

Q And tried to do the best he could to make a home for you and his family; isn't that right? A Yes, sir.

Q Do you know whether your uncle was working at the time you first went home? A Yes, sir.

Q He was working then, and supported his family and you? A Yes, sir.

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Q Always been a good and kind uncle to you, hasn't he?

A Yes, sir.

Q How is that? A Yes, sir.

Q He was like a father to you, wasn't he?

MR. PRESS: Oh, I object, if your Honor pleases.

THE COURT: Oh, well, proceed.

Q He was like a kind father to you two children,
wasn't he? A Yes, sir.

THE COURT: I don't think we ought to proceed very
far in that direction, Judge.

MR. DROEGE: Well, perhaps, your Honor, just to
show the family circumstances and surroundings. I see
the possibilities of it.

Q Now, you remember when your aunt died? A Yes,
sir.

Q You have stated that the next day after your aunt
died the bed was taken out of the house? A Yes, sir.

Q Aren't you mistaken about the bed having been taken
away? Just try and think about that. Are you sure about
that? A Yes, sir.

Q Wasn't the bed left in the front room until your uncle
got married the second time? A No, sir.

Q And the furniture taken out at that time?

A (No answer)

Q Try and refresh your memory.

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MR. PRESS: The child has said no, sir. Counsel insists in putting in the furniture, then, after he has gotten over the bed.

THE COURT: I will allow the question.

BY THE COURT:

Q He means to say, try to remember whether or not you are right, or wrong, about that. What do you think about it? A After the death of my aunt, my uncle took the mattress out, threw the mattress and the spring out.

Q After the death of your aunt, your uncle took the mattress out? A Yes, threw it out.

Q And that left how many beds in the house?

A One.

THE COURT: She says one. She repeats that. She repeats that, after the death of the aunt, the uncle took the mattress out, and that left but one bed in the house.

BY MR. DROEGE:

Q Was there a standing bed in the front room?

A In the front room.

Q I mean the bed where your uncle and aunt had formerly slept. Was that a standing bed, or a folding bed?

A A standing bed.

Q And what was the bed in which you children slept?

A A standing one too.

Q And you say the standing bed was taken out of the

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front room? A Yes, sir.

Q After your aunt died, weren't you very much frightened, you and your little brother? A Yes, sir.

Q And weren't you afraid to sleep alone in that house on account of the death that had taken place there?

A Yes, sir.

Q And wasn't that the reason that you asked your uncle to sleep in the same -- or asked your uncle to let you sleep in the same bed with him? A Yes, sir.

BY THE COURT:

Q In the first place, did you ask your uncle to take you into his bed? A He took us himself.

Q What is that? A We all slept together in that one bed.

Q Did you ask to go into his bed with your little brother? Did you ask your uncle to take you in?

A No, sir.

BY MR. DROEGE:

Q Didn't you say to your uncle that you were afraid to sleep alone? A No, sir.

Q How is that? A No.

Q You don't --

MR. PRESS: She says no.

THE WITNESS: No, sir.

Q Weren't you afraid to sleep alone, on account of

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the death that occurred in that apartment? A Yes, sir.

Q What? A Yes, sir.

Q Yes? Do you remember when your uncle was married again? A Yes, sir.

Q That was just after Christmas, was it not?

A It was after New Years.

Q Just after New Years; and not long after that time, you went to live with your aunt, another aunt?

A Yes, sir.

Q That was Mrs. Paliska? A (No answer)

Q After your uncle got married, and after he left his wife, you went to live with another aunt, didn't you?

A Yes, sir.

Q Mrs. -- A Paliska.

Q And shortly after that time you were arrested?

A Yes, sir.

Q And brought down to the Gerry Society?

A Yes, sir.

Q How is that? A Yes, sir.

Q And then you were taken into the Police Court?

A (No answer)

Q Do you remember being taken to the Police Court?

A The Children's Court.

Q And after that you were taken into the Police Court and asked to testify against your uncle; do you remember

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that? A We didn't go to no Police Court.

Q Do you remember going into any Court? A Yes, sir.

Q And being asked to testify against your uncle?

A Yes, sir.

Q And do you remember refusing to say anything against him there? A No, sir.

Q How is that? A No, sir.

Q You did not refuse to testify against him?

A No, sir.

Q How often were you taken up to that Court?

A Once.

Q Once? A Yes, sir.

Q Weren't you there two or three times? A I don't remember.

Q Do you know how many times you have been in this Court?

A Yes, sir.

Q Now, has any one spoken to you before you were brought in here about what you should testify to?

A No, sir.

Q How is that? A No, sir.

Q Did any one go over this story with you?

A (No answer)

Q Did you ever tell anybody what you are testifying to here to-day before you came here? A In the Fifty-seventh Street Court, the Gerry Society, the Grand Jury, and

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the District Attorney.

Q Now, Mary, who told you to say that, when you were questioned about how many times you had repeated this story?

MR. PRESS: I submit, if your Honor pleases, that the form of the question is objectionable. Counsel should ask was she ever told.

MR. DROEGE: I will change the form of my question.

Q Did any one ever tell you to make that statement in the way you have just made it, Fifty-seventh Street Court, the Grand Jury, and Gerry Society and the District Attorney's office, if you were asked how often you had told this story?

A No, sir.

Q No one told you that? A The District Attorney told me.

Q What? A The District Attorney told me.

Q To state that you had been in those different Courts, and made that statement that number of times?

A Nobody told me.

Q Do you know where the Fifty-seventh Street Court is?

A Yes, sir.

Q How is that? A Yes, sir.

Q Do you know what the name of the Court was that you appeared before in this building? A Before I came here?

Q Yes. A Fifty-seventh Street Court.

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Q Do you know the name of the Court in this building that you appeared before? A The Tombs.

Q How many times-- who has had charge of you up at the Gerry Society? A In our rooms, do you mean?

Q In your room? A Mrs. Dancola.

Q And who has had charge of you going into Court, taking you to these courts, these various times?

A I don't know.

Q Well, you have spoken to some officer up at the Gerry Society about this case? A Mr. Jennings.

Q How many times have you spoken to Mr. Jennings about it? A (No answer)

Q Every day? A No, sir.

Q Every few days? A Yes, sir.

Q How is that? A Yes, sir.

Q How often did you repeat this story, or this statement, about what happened on the 25th of December?

A How many times have I spoken about it?

Q Yes. A I don't know.

Q You went over it a great number of times, didn't you?

A Yes, sir.

Q And did you, the first time when you spoke to these officers, or the people at the Gerry Society, tell them, or use the words that your uncle had connection with you?

A Yes, sir.

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Q Yes. A Yes, sir.

Q Did you ever hear that word used before some one spoke to you about this case? A No, sir.

Q How. A No.

Q You yourself never have used the word "connection", to describe what you state your uncle did to you?

MR. PRESS: I object to the form of the question, if your Honor pleases; it is purely argumentative.

THE COURT: He may ask it. Answer that question.

BY THE COURT:

Q You never used that word before, the word, "Connection"? A No, sir.

Q Do you know what it means now? A Yes, sir.

BY MR. DROEGE:

Q You know what it means now, since it has been explained to you? A Yes, sir.

Q But you never knew before this time? A No, sir.

Q Now, Mary, you are very anxious to leave the Society where you are now kept, aren't you? A Yes, sir.

Q And you are very anxious to get out and be free again? A Yes, sir.

Q You don't like this idea of being penned up, and not able to go where you please, where you wish?

MR. PRESS: Objected to.

THE COURT: Objection sustained.

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Q Mary, you are not allowed to visit your relatives at the present time? A No, sir.

Q You have not seen a single relation of yours since this case began? A No, sir.

Q You have not had an opportunity of speaking to any of your women relatives? A No, sir.

Q About the seriousness and the gravity of this charge that you are making against your uncle?

MR. PRESS: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Objection sustained.

MR. DROGE: Exception.

Q Have your relations been allowed to see you, or visit you, since this action commenced?

MR. PRESS: Objected to.

THE COURT: Objection sustained.

MR. DROGE: Exception.

THE COURT: You might ask her if she knows whether they have, or not.

Q Do you know whether your relatives have been allowed to visit you since this proceeding commenced?

A (No answer)

BY THE COURT:

Q Do you know? "Yes" or "No"? A Yes, sir.

Q Have they been allowed to see you? Have you talked

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with any of your relatives? A No, sir.

BY MR. DROEGE:

Q So, you have several women relatives that you are fond of, have you not? A Yes, sir.

Q And Mrs. Paliska? A Yes, sir.

Q Mrs. Andreas? A Yes, sir.

Q And they have not been allowed to come and --

MR. PRESS: Objected to.

THE COURT: Objection sustained.

Q You have confidence in them, have you? A Yes, sir.

Q But you have not been allowed to see or speak to them in reference to your case and this charge since this proceeding commenced?

MR. PRESS: Objected to.

THE COURT: Objection sustained.

MR. DROEGE: Exdeption.

Q Have you wished or tried to see or speak to them since this action or proceeding commenced?

MR. PRESS: I object to what her wishes are.

BY THE COURT:

Q Have you asked to see those people? A Yes, sir.

Q And have you seen any of them? A No, sir.

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BY MR. DROEGE:

Q You have been brought down here to testify, without having had an opportunity to consult or speak with a single woman relative in whom you had confidence?

MR. PRESS: Objected to.

THE COURT: Objection sustained.

MR. DROEGE: Exception.

Q But you know Mrs. Paliska? A Yes, sir.

Q You know that she appeared as a witness against your uncle? A Yes, sir.

Q Yes? A Yes, sir.

Q You have been allowed to see her, have you not?

A No, sir.

Q Haven't you spoken to her here in the court room-- in the court house? A Yes, sir.

Q And she sent you fruit and made you little presents, since you were here? A Yes, sir.

Q She has been allowed to do that? A Yes, sir.

Q And that is the woman who married your uncle, after New Year's? A Yes, sir.

Q Now, Mary, did any one tell you that, unless you came down here and testified-- I withdraw that question. Didn't you refuse to come here and testify against your uncle?

A No, sir.

Q How is that? A No, sir.

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Q When this case first came up didn't you tell them that you didn't want to go into court and testify against your uncle? A (No answer)

Q How is that? A No, sir, no, sir.

Q Were you anxious to come down here and testify against him?

MR. PRESS: I object to the form of the question.

Objection sustained.

MR. DRIEGE: Exception.

Q Were you willing to come down here to make this serious charge against your uncle?

MR. PRESS: Objected to.

THE COURT: Objection sustained.

MR. DROEGE: Exception.

Q Mary, isn't it a fact that you were persuaded or coaxed to come here to court, and make this charge?

MR. PRESS: Objected to.

THE COURT: I will let her answer that question "Yes" or "No."

A Yes, sir.

Q You were anxious to get away from the Gerry Society?

A Yes, sir.

Q You are not allowed to leave there alone at any time at present? A No, sir.

Q You are practically in prison? A Yes, sir.

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Q Yes? A Yes, sir.

Q And you are very anxious to get away from there?

A Yes, sir.

Q Yes? A Yes, sir.

Q And you know that, if you don't come down here and testify against your uncle you will not be allowed to leave there? A Yes, sir.

Q How is that? A Yes, sir.

Q That has been told you, hasn't it? A Yes, sir.

Q That, unless you come down here and testify against your uncle you will have to remain in that society?

MR. PRESS: I object to that, if your Honor pleases.

This is the third time the question has been asked.

THE COURT: Yes. Objection sustained.

MR. DROEGE: Exception.

Q You were once before in a home, for several years?

A Yes, sir.

Q And you are very much afraid of going back again to some similar place, isn't that it; is that right? A (No answer).

Q I say, you are very much afraid of going back to some similar place? A Yes, sir.

Q And that is the reason you came down here and made this statement against your uncle?

MR. PRESS: Now, I object, if your Honor pleases, as a

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deduction.

THE COURT: Yes, objection sustained.

MR. DROEGE: Exception.

Q You wouldn't come down here and testify against your uncle if you were not afraid?

MR. PRESS: Objected to.

THE COURT: We have had quite enough of that. It is quite natural to suppose, from this girl's attitude and conduct on the witness stand, that she does not want to testify.

MR. DROEGE: If your Honor will assume that no woman under similar circumstances does--

THE COURT: It has been apparently with great reluctance that she has testified.

MR. DROEGE: We have a right to look into the motives which governed her mind, and which impelled her to come here. We have a right to find out whether this is a story which she is telling from her heart, or whether it is something which was instilled in her mind. She is only a child.

THE COURT: Proceed.

Q Have you been attending church since you left home?

A Yes, sir.

Q Since you have been in this Gerry Society? A Yes, sir.

Q Before that you had been attending church? A Yes, sir.

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Q But since you have been in this Gerry Society place, you have not had an opportunity to go to church? A No, sir.

Q Anywhere? A No, sir.

Q Now, Mary, you want to be fair to your uncle, do you not?

MR. PRESS: I object to that, if your Honor pleases.

THE COURT: Yes, objection sustained.

MR. DROEGE: Exception.

Q When you first went into court, when you were first taken to these numerous courts, did any one tell you that this charge that you were making against your uncle, if true, would subject him to imprisonment for not over ten years?

MR. PRESS: Objected to.

THE COURT: Objection sustained. There is no necessity for that. The Court went all over that before.

Q Did anybody advise you as to the seriousness of this charge the first time that you made it against your uncle?

MR. PRESS: I object to that, if your Honor pleases.

THE COURT: Objection sustained.

MR. DROEGE: Exception.

Q Mary, you have been asked about this bed which you slept in with your uncle and your brother? A Yes, sir.

Q You remember that? A Yes, sir.

Q Didn't your brother very frequently sleep in between you and your uncle? A I slept in the middle.

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Q Didn't your brother sometimes sleep in the middle?

A No, sir.

Q He never slept in the middle? A No, sir.

Q Mary, you are very sure of that? A Yes, sir.

Q Did any one tell you to say that before you went on the stand here to-day?

MR. PRESS: Objected to.

THE COURT: Let her answer.

BY THE COURT:

Q Did anybody ever tell you to say that, or do you say it because it is true? Now, which? A I say it because it is true.

Q Did anybody ever tell you to say that same thing? A No, sir.

BY MR. DEORGE:

Q Wasn't your brother awake during the night, sometimes? A No, sir.

Q He never woke up? A No, sir.

Q Were you awake frequently? A Sometimes.

Q After your aunt died, who kept house? A My uncle did.

Q How is that? A My uncle.

Q He worked? A Yes, sir.

Q Do you know where he worked? A One Hundred and Thirty eighth Street.

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Q In some factory? A Yes, sir.

Q Worked every day? A Yes, sir.

Q And when he came home at night cooked dinner for the family? A Yes, sir.

Q For you, too? A Yes, sir.

Q And bought your clothes for you, after your aunt's death? A Yes, sir.

Q And looked out for your brother? A Yes, sir.

Q Did he send your brother to school? A Yes, sir.

Q What school did he go to? A Sixty-second Street.

Q How is that? A Sixty-second Street.

Q This continued down to Christmas Day, he kept house for you? A Yes, sir.

Q And did the cooking? A (No answer)

Q Who did the washing? A I did.

Q What? A I did.

Q Do you remember what happened the day-- what you did the day after Christmas? A No, sir.

Q How is that? A No, sir.

Q Do you remember what day of the week Christmas came on? A Sunday.

Q It was on Sunday? A Yes, sir.

Q Well, did your uncle stay home on Monday? A (No answer).

Q Wasn't Christmas Day Monday? A No, sir.

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Q How is that? A No, sir.

Q Did your uncle stay home from work two days?

MR. PRESS: Do you know?

MR. DROEGE: Now, counselor, let her answer, please. I will put you on the stand later on.

MR. PRESS: Oh, you will have that pleasure, sure.

A I don't know.

Q How is that? A I don't know.

Q You don't really remember what day of the week this was when your uncle remained at home?

MR. PRESS:" Objected to: The child has stated it was the 25th of December. Notwithstanding the fact the child has testified it was Christmas Day and a Sunday, he puts that question.

THE COURT: Well, she may answer the question. Do you really remember what day this was that he stayed at home?

THE WITNESS: Sunday.

THE COURT: What is that?

THE WITNESS: Sunday.

Q Did your uncle stay home from work the day following?

A No, sir.

Q He only stayed home one day that week? A Yes, sir.

Q And worked the next day? A Yes, sir.

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

Q Do you remember what day Christmas Eve came on?

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A Saturday.

Q Do you remember Christmas Eve? A Yes, sir.

Q How is that, you do? A Yes, sir.

THE COURT: January 1st, 1911 was on Sunday. You hardly need a calendar for 1910.

Q Wasn't Christmas Day on Monday?

MR. PRESS: Now, I object, if your Honor pleases.

THE COURT: Objection sustained.

Q Do you know what day Christmas was celebrated?

MR. PRESS: Objected to.

THE COURT: Objection sustained.

BY THE COURT:

Q Do you know of what day Christmas fell, whether it was Saturday, Sunday, Monday or what day of the week? A Sunday.

MR. PRESS: She has said that half a dozen times, your Honor.

BY MR. DROEGE:

Q Do you remember, Mary, it was on Sunday, or is it because you have been told so many times that it was on Sunday that you state it was?

MR. PRESS: Objected to.

THE COURT: Oh, dear me, I think we have gone too far in that direction already.

MR. PRESS: I think counsel has gone the limit.

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THE COURT: I will sustain the objection.

MR. DROEGE: It is a very important part of the case.

Q Mary, do you remember the Monday following Christmas Eve?

MR. PRESS: If your Honor pleases, I object to the question, as it is ~~isxxx~~ so framed as to perplex the witness.

THE COURT: I will allow it.

MR. DROEGE: It is a very serious part of the case, your Honor.

THE COURT: Answer the question. Do you remember the Monday following Christmas?

THE WITNESS: Yes, sir.

Q You know up in the neighborhood in which you live Christmas is quite extensively celebrated?

MR. PRESS: Objected to.

THE COURT: Objection sustained.

MR. DROEGE: Exception.

Q Do you know whether or not last year the neighborhood where you live, Christmas was celebrated on Sunday or Monday?

MR. PRESS: I object to that, if your Honor pleases.

THE COURT: Objection sustained.

MR. DROEGE: Exception.

Q You have spoken of Christmas Day in your direct examination? A Yes, sir.

Q Now remember that? A Yes, sir.

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Q Is the day that you spoke of fixed in your memory because Christmas was celebrated on that day?

MR. PRESS: I object to that, if your Honor pleases.

BY THE COURT:

Q Do you know whether Christmas was celebrated on a Sunday or Monday; that is, whether they kept the feast. You say Christmas fell on Sunday. Now, what the lawyer wants to ~~know~~ know is whether they kept Christmas on that day, or the next day? What do you think about it, or do you know?

A On Monday.

Q What is that? A Monday.

BY MR. DROEGE:

Q Mary, your uncle stayed home from work the day that Christmas was kept, did he not? A Yes, sir.

Q And that was Monday? A Yes, sir.

Q And that was the second day after Christmas Eve?

A Yes, sir.

Q Did you get any presents that day?

MR. PRESS: I object to that.

THE COURT: Objection sustained.

MR. DROEGE: I want to test her memory.

THE COURT: I think that the Court has allowed you, judge, a sufficient latitude in this sort of examination.

Q Now, the day that you speak of, that you have testified about, on which you claim the uncle did something to

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you was Christmas Day, was it not? A Yes, sir.

Q And that was Monday, December 26th?

MR. PRESS: Now, I object, if your Honor please, The witness has stated that it was Sunday, the 25th, and counsel insists, in my judgment, very unfairly, in trying to have this child say it was a Monday. I object.

MR. DROEGE: I object to Mr. Press' characterization.

THE COURT: Well, it is cross examination. You may answer.

A The 25th of December was Sunday.

Q But the day that you speak of, when you claim your uncle did something to you was on Christmas Day? A Yes, sir.

Q And that was on Monday, was it not?

MR. PRESS: I object. Christmas Day was not Monday.

THE COURT: Let her answer.

A Sunday.

Q But the day when Christmas was celebrated was Monday. A (No answer)

Q The day that Christmas was kept, you say, was Monday?

A Yes, sir.

Q But this connection that was had between you and your uncle was on the 25th, on Sunday? A Yes, sir.

THE COURT: Now, I think we have had enough of that.

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MR. DROEGE: I take an exception to your Honor's question.

BY MR. DROEGE:

Q. Mary, you claim that your uncle stayed home the day that Christmas was celebrated, do you not?

MR. PRESS: I object to this continuous cross examination on a line that has been already exhausted.

THE COURT: Objection sustained.

MR. DROEGE: I haven't had an opportunity to ask her any questions.

MR. PRESS: That question has been asked and answered a about fifty times, to my knowledge.

MR. DROEGE: I haven't had an opportunity. Whenever I come up to that point, I am interrupted, and I have to begin over again.

THE COURT: The objection is sustained, and the Court suggests the propriety of discontinuing that line of examination.

MR. DROEGE: Your Honor, I don't want to appear to be obstreperous, but I insist, on my client's behalf, to have that question answered.

Q. Your uncle remained home from work the day that Christmas was kept.

MR. PRESS: Objected to.

THE COURT: I will allow her to answer that.

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A Yes, sir.

Q And that was Monday? A Yes, sir.

MR. PRESS: Objected to.

THE COURT: Objection sustained. You have had that now at least half a dozen times.

MR. DROEGE: Then it is conceded it was Monday?

THE COURT: I don't care to prejudice your case, but I warn you against this repetition. ~~Repetition~~ Repetition to a reasonable extent is allowed, but a repetition of that character is certainly objectionable. You may have your exception.

Q You have spoken of certain acts of your Uncle's--

THE COURT: The Court asks you again to discontinue that line of examination. You have more than exhausted it.

MR. DOREGE: I have not had an opportunity to ask that question yet. Every time I come to it I am shut off.

THE COURT: Proceed.

Q Your recollection of all these events that you testified to as having happened to you are based on being Christmas Day, are they not? A Yes, sir.

Q You recollect these things because it happened on the day that Christmas was celebrated; is that right -- or was kept? A Yes, sir.

Q That is how you have so firmly fixed in your mind the day when you claim your uncle mistreated you?

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MR. PRESS: I object to that. It is an ingenious method--

THE COURT: I will allow her to answer.

A Yes, sir.

BY THE COURT:

Q And what day do you say that was? A The 25th of december.

BY MR. DROEGE:

Q And that day when your uncle mistreated you was the day that Christmas was kept?

THE COURT: She says no; that it was kept on Monday; and I direct you again to discontinue the repetitions of that question. The little girl has, with great ~~tenacity~~ tenacity, clung to the statement that it was Sunday, on which it was done, not Monday.

MR. DROEGE: But she also says that it was the day on which Christmas was kept.

THE COURT: No, she has never said it.

MR PRESS: And, furthermore, I object, on this ground, that even assuming that it was Monday, that would not change the circumstances.

THE COURT: I expect that the recommendations and directions of the Court are going to be obeyed. There was one Court quite recently complimented upon suppressing its ill feeling at this sort of examination. I don't care for

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compliments of that kind, and I am not going to deserve them.

MR. DROEGE: Your Honor, I take an exception to that statement.

Q Do you remember who was in your home on the day when you claim this mistreatment of you occurred? A Only my uncle and I.

Q Did you have any visitors on that day? A No, sir; no, sir.

Q Did you have any visitors on Christmas Day? A No, sir.

Q How is that? A No, sir.

Q Now, do you understand the difference between Sunday and Christmas Day? A Yes, sir.

Q Or the day you understand-- you understand the difference between Sunday, Christmas Day and the day of which Christmas was kept? A Yes, sir.

Q How is that? A Yes, sir.

Q Did you have any visitors in your house on Sunday? A No, sir.

Q Did your aunt, Mrs. Paliska, come there on Christmas Day? A No, sir.

Q How is that? A No, sir.

Q Did anybody-- did you have any visitors on Monday? A No, sir.

Q No one came there on Monday? A No, sir.

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Q Where did your little brother go on the morning of Christmas Day, Sunday?

THE COURT: If you know.

A To church.

Q He went to church, and you remained at home? A Yes, sir.

Q And cooked dinner? A Yes, sir.

Q What was your uncle doing about twelve o'clock?

A (No answer).

Q Was he cooking dinner? A Yes, sir.

Q Did your uncle go out in the afternoon? A I don't remember.

Q Didn't you and your uncle and your little brother go to the house of Miss Andreas in the afternoon of Monday, the day Christmas was kept? A No, sir.

Q Did you go on Sunday to visit any of your relatives?

A No, sir.

Q Did your uncle go out to visit any of his relatives that day? A No.

Q Your uncle remained in the house on Sunday from early in the morning until he went to bed that night? A Yes, sir.

Q Were there any children visiting your house that day? A No, sir.

Q And no one went out to visit on Sunday from early morning until late at night? A No, sir.

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Q Did you go out on the street at all that day?

A I don't think I did.

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

Q Were you working at that time? A Yes, sir.

Q And where were you working? A Fifty seventh Street.

Q For whom? A For Mrs. Griggs.

Q Did you stay home from work Monday, the day Christmas was kept, A I don't remember.

Q Do you remember what time your little brother went to church on Sunday morning? A Yes.

Q What time? A Half past eight.

Q Half past eight? A Yes, sir.

Q Half past eight o'clock mass? A Yes, sir.

Q What church did he go to? A Sixty-first Street church.

Q What time did he come home? A Half past nine.

Q Half past nine in the morning? A Yes.

Q Did he stay home after that? A No, sir; no, sir.

Q Did he go out again? A Right after he came from church.

Q Where did he go then if you know? A On the street.

Q What time did he come in? A About one o'clock.

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Q What time did you have dinner that day? A About one o'clock.

Q Did you say anything to your little brother about what had happened that day? A No, sir.
Were you.

Q ~~Was~~ dressed? A Yes, sir.

Q Is this house in which you lived a tenement house?

A (No answer)

BY THE COURT:

Q Do you know what that means?

BY MR. DROEGE:

Q Is this a house in which a large number of families live? A Not very many.

Q How many stories is it? A Three.

Q What floor did you live on? A Third floor.

Q Who lived next door to you? A Mrs. Machen.

Q Was your apartment a separate apartment, or did it have doors leading into the other apartments? A Doors?

Q Could you hear the people in the other rooms talk?

A No, sir.

Q Was there a partition in between, or were they just doors, closed, do you know? (No answer)

Q Were there any doors between your apartment and the other apartment? A Only ours, and next doors; it was only our door and the next doors.

Q You are quite a large girl for your age, are you not?

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A Yes, sir.

MR. PRESS: Objected to.

THE COURT: Objection sustained.

Q Your uncle, as you state, took you to the room, was that the room adjoining the kitchen? A Yes, sir.

Q How is that? A Yes, sir.

Q The room adjoining the kitchen, where you slept with your little brother? A It was in the bedroom.

Q That is, adjoining the kitchen, next to the kitchen?

A Yes.

Q Was the door locked in that apartment at that time?

A Yes, sir.

Q The door was locked? A Yes, sir.

Q Or just a catch. Did your brother and you have keys to the apartment? A No, sir.

BY THE COURT:

Q How old is your little brother? A Twelve.

Q Twelve years old? A Yes, sir.

Q Is he here in court? A Yes, sir.

THE COURT: Have the little brother stand up.

(The brother of the witness stands up in the court room.)

Q Is that your little brother? A Yes, sir.

BY MR. DRONGE:

Q Did you have a key? A No, sir.

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Q Your brother had a key? A Yes, sir.

Q You say your uncle threw you on the bed? A Yes, sir.

Q Did you make any outcry at that time? A (No answer)

BY MR. PRESS:

Q Did you cry out? A Yes, sir.

BY MR. DROEGE:

Q Did you make any attempt to prevent him from doing anything to you? A (No answer)

BY THE COURT:

Q Did you try to stop him? A Yes, sir.

Q What did you do to try to stop him? A Pushed him away.

Q What is that? A I pushed him away.

BY MR. DROEGE:

Q Your uncle is a very old man, is he not? A Yes, sir.

MR. PRESS: Objected to.

THE COURT: Objection sustained.

Q Your uncle is not strong?

MR. PRESS: I object, if your Honor pleases.

THE COURT: Objection sustained.

MR. DROEGE: Exception.

Q Your uncle was a sickly man at that time.

MR. PRESS: I object, if your Honor pleases.

THE COURT: You may answer whether you knew whether your

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uncle was sick or well then. A He was well.

Q He was well at that time? A Yes, sir.

Q Do you remember the day your uncle was married?

A It was on a Wednesday.

Q Where did you go to live after he was married?

A 429 East Seventy-third Street.

Q That is where his wife lived? A Yes, sir.

Q And that was shortly after this thing which you claim happened? A Yes, sir.

Q How many rooms were in that apartment? A Three.

Q And how many people in that family? A Three.

Q Who were they? A Mrs. Ruzicka and her two sons.

Q How old are the sons? A One is twenty one and one is eighteen.

Q Where did you sleep in that house? How did the family sleep?

MR. PRESS: Objected to as immaterial. This is after the marriage, if your Honor pleases,

THE COURT: She may answer the question. Make it more definite though. When?

Q After your uncle's marriage? A My brother and I slept in the room together, and then two boys together and my uncle and his wife in the bedroom.

Q You and your brother and the two boys slept in one room? A Yes, sir.

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Q Do you remember a time of the day when the police came in that apartment? A I was not home that day; I was not home.

Q Were you in bed at the time they came in there, at night? A Who?

Q The detectives? A I don't know anything about that.

Q You remember when your uncle left this house? A I just don't remember the day.

Q How is that? A I don't remember the day.

Q Shortly after he was married he left? A Yes, sir.

Q Had you complained to him about these boys at that time? A No, sir.

Q Do you remember your little brother coming to you one time and telling you these boys wanted to see you? A No, sir.

Q You don't remember that occasion? A No, sir.

Q After your uncle left there did any of your aunts come around to see you, Mrs. Ruzicke or Mrs. Andreas? A Yes, sir.

Q They wanted to take you away? A Yes, sir.

Q And Mrs. Ruzicka would not allow you to go with them?

A No, sir.

Q Did Mrs. Ruzicka's boys say anything at that time?

A No, sir.

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Q How is that? A No, sir.

Q Did you ever speak to Mrs. Ruzicka about this matter?

MR. PRESS: About what matter? I object.

THE COURT: Yes; objection sustained. Make it direct.

Q Did you ever speak to Mrs. Ruzicka and complain about your uncle? A No, sir.

Q Did you ever tell her anything about the uncle having done anything to you? A No, sir.

Q You know that your ^{uncle} ~~father~~ and Mrs. Ruzicka didn't live happily? A Yes, sir.

BY THE COURT:

Q Did you know that? A Yes, sir.

BY MR. DROEGE:

Q There was trouble between them on account of the boys? A (No answer)

BY THE COURT:

Q What was the trouble, do you know? A ^{He} ~~She~~ was always quarreling with her, nearly every night.

Q Do you know about what? A About this.

Q About what? A About the 25th of December.

Q About this matter here? A Yes, sir.

BY MR. DROEGE:

Q You had never said anything to Mrs. Ruzicka about that matter? A No, sir.

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Q At no time? A No, sir.

BY THE COURT:

Q Do you understand that last question? A No, sir.

(Question read by stenographer as follows: "You had never said anything to Mrs. Ruzicka about that matter? A No, sir. Q At no time? A No, sir.")

THE WITNESS: No, sir.

BY MR. DROEGE:

Q When did you leave Mrs. Ruzicka's house? A On a Monday; it was on a Monday.

Q And where did you go to live? A To my cousin's, Mrs. Paliska.

Q Mary, I asked you a while ago about the police court, and you could not remember; do you remember the Fifty seventh Street court? A Yes, sir.

Q How many times did you go to that court? A About three or four times.

Q Three or four times? A Yes, sir.

Q And you were examined as a witness three or four times? A No, sir.

Q How many times were you there before the court? A Once, I guess.

Q Weren't you there twice before the court? A Twice or three times.

Q And the first time you went there, didn't you tell

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them your uncle had never mistreated you? A No, sir.

Q Did you, the second time you went there, did you tell them your uncle, when they asked you, that your uncle had not done anything to you? A Yes, I told them.

BY THE COURT:

Q Did you say that he had not touched you? Did you say he had not done anything to you, the second time you went there? A Yes, sir.

BY MR. DROEGE:

Q And then somebody spoke to you and said you must-- did anybody after that speak to you and tell you that you must say that your uncle had mistreated you?

THE COURT: Answer the question. "Yes" or "No."

A No, sir.

Q Was anything told-- did anybody speak to you and tell you that you must state something against your uncle?

MR. PRESS: Objected to.

THE COURT: Answer that question.

BY THE COURT:

Q Did anybody say that you must say something against him? A No, sir.

Q Did anybody ever tell you to tell the truth about him? A No, sir.

Q What? A No, sir.

THE COURT: Continue.

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BY MR. DROEGE:

Q Wasn't something said to you about your not getting out of the place where you were then kept unless you would make a charge against your uncle?

MR. PRESS: Now, I object. This whole matter has been gone over.

THE COURT: You may say yes or no. Were you told if you did not make a charge against your uncle you would never get out of this place? "Yes" or "no". Tell the truth about that.

(No response.)

THE COURT: What place do you mean?

MR. DROEGE: I mean the Society's rooms.

BY THE COURT:

Q Did some one say to you in the Fifty-seventh court, if you did not make a charge against your uncle you would never get out of there? *the society's rooms* A No, sir.

Q Was anything of that kind ever said to you? A No, sir.

BY MR. DROEGE:

Q Was anything of that sort ever said to you? A No, sir.

MR. PRESS: Objected to.

THE COURT: Objection sustained.

MR. DROEGE: That is all.

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THE COURT: Have you finished the cross examination?

MR. DROEGE: The cross examination is finished.

RE DIRECT EXAMINATION BY MR. PRESS:

Q Mary, did either Mr. Jennings, or any one connected with the Society, or the District Attorney or any other person ever tell you to lie in this matter? A No, sir.

Q Isn't it a fact, Mary, that you were asked to tell the truth? A Yes, sir.

Q Both by the Society's people and by the District Attorney? A Yes, sir.

Q And isn't it a fact, Mary, that no one asked you to prefer a charge against your uncle other than what was true? A Yes, sir.

THE COURT: You may find out about her attitude towards coming down here, whether she liked to come, or whether she came reluctantly or how.

BY THE COURT:

Q You didn't want to come down here, did you?
A I didn't know I was coming down her.

Q You didn't want to come? A No, sir.

Q You don't want now to sit there and talk about this matter do you? A No, sir.

Q Why don't you? Why don't you want to talk about this matter, will you tell me? Tell the jury? Are you ashamed to

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talk about it; is that it? A Yes, sir.

BY MR. PRESS:

Q Counsel asked you this question, Mary: Weren't you afraid to go to the poorhouse, or to an institution?

A Yes, sir.

Q And you said yes.

MR. DROEGE: Objected to.

Q And wasn't it that fear that kept you from talking about what your uncle did? A Yes, sir.

MR. DROEGE: I object to that because it is not a proper statement of the question that I asked.

MR. PRESS: That is all.

THE COURT: Now, you have finished the cross examination of this witness?

MR. DROEGE: I have.

THE COURT: I would like to have that determined, because the Court will not allow this witness to be subjected to more cross examination to-morrow morning. It is understood that the cross examination is closed.

MR. DROEGE: I would like to ask your Honor to direct the little girl's brother be brought here to-morrow.

THE COURT: I told you I would ~~set her~~ until midnight to complete the cross examination of this witness. I am not going to have her brought to the stand to-morrow, and put under the same ordeal.

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MR. PRESS: Counsel asks that your Honor direct that the brother be here. I can assure him, without any direction of your Honor, that the brother will be here to-morrow.

BY MR. PRESS:

Q Weill you stand up, Mary, if you please. What age did you say you were?

MR. DROEGE: Objected to.

THE COURT: Objection sustained. The brother of the witness will be directed by the Court to be here to-morrow morning, and you will produce him.

MR. PRESS: Yes, your Honor.

THE COURT: Now, is there any other witness you want or desire to have produced here to-morrow, judge? Is there any other witness that you desire here to-morrow? If the District Attorney's office or the court can be of any accommodation to you, it will be glad to do that.

MR. DROEGE: No, that is all.

THE COURT: gentlemen of the jury, you are admonished that you are not to discuss any matter connected with this case, nor to permit any one to speak to you about it, until it is finally submitted to you. We will take a recess until to-morrow morning, at ten thirty.

The Court accordingly took a recess until to-morrow, Thursday, April 20th, 1911, at 10:30 A. M.

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THE PEOPLE vs. JOHN DOBIAS.

New York, April 20th, 1911.

TRIAL CONTINUED.

Present :

HON. OTTO A. ROSALSKY, J.

Appearances :

Same as before.

The defendant is arraigned at the bar.

THE COURT: Gentlemen of the Jury, do not discuss this case among yourselves, not permit any person to talk with you about it, not form nor express any opinion as to the guilt or innocence of the defendant, until the case is finally submitted to you.

Adjourn Court until two o'clock.

(The Court accordingly took a recess until two P. M.)

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AFTER RECESS.

Present :

HON. THOMAS C. O'SULLIVAN, J.

and a Jury.

Appearances :

Same as before.

3 THE DEFENDANT IS ARRAIGNED AT THE BAR.

JAMES J. LYNCH, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PRESS:

Q What is your full name? A James J. Lynch.

Q Where do you reside? A 323 East Sixty-first Street.

Q You are one of the clergy connected with the Church of Our Lady of Perpetual Help, at 323 East Sixty-first Street, in the County of New York? A Yes, sir.

Q Do you keep a book showing the baptisms in that church? A Yes, sir.

Q Have you with you the record of baptisms in the year 1896? A Yes, sir.

Q Will you kindly open that book, if you will, and see if there is any record on the fifth day of July,

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MR. PRESS: I now offer this certificate in evidence, if your Honor pleases.

MR. DROEGE: I object to the certificate. The record may be offered in evidence. The record may be proper evidence, but this certificate certainly is not.

THE COURT: Do you object?

MR. DROEGE: I do.

MR. PRESS: I don't want to offer the register in evidence, because it will be needed at the church.

THE COURT: But if the attorney insists on it, it is the better evidence, but the priest here under oath has said that that is a correct reproduction or copy of the other. If you want to be technical enough, of course, to insist upon your objection, the court will sustain it.

MR. DROEGE: If your Honor will remember, I made no objection to the father reading the contents of that book, and the contents are in evidence. Now, it is not necessary to have this certificate in.

THE COURT: But you do object to this copy?

MR. DROEGE: I object to it.

THE COURT: Then I am afraid we will have to leave the other here, if the prosecution insists on it, just during the trial and it will be returned to you. The Court admits the record in evidence.

THE COURT: Your Honor, I made no objection to the

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the contents of that record, and it is in evidence. I don't care to keep the certificate.

MR. PRESS: I think, in view of the fact that it has been read in evidence from the record that that will be sufficient for all purposes.

THE COURT: And he does not object to that as the original evidence.

MR. PRESS: He does not, your Honor.

THE COURT: And does not take any exception at all to the testimony now in evidence as of the original record?

MR. DROEGE: I don't want to put the father to the trouble of leaving the book here. That is why I made no objection to the contents.

THE COURT: Of course, it is your privilege, but I don't see why you insist upon a technical objection to the record which the father says is a true record.

MR. DROEGE: I will withdraw the objection.

MR. PRESS: I offer in evidence the certificate.

(Received in evidence and marked Plaintiff's Exhibit No. 1 of this date.)

MR. PRESS: That is all.

CROSS EXAMINATION BY MR. DROEGE:

Q Do you know these children Mary and Johnnie Krulisch?

A No, sir.

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Q What was your church? A Our Lady of Perpetual Help, 323 East Sixty-first Street.

Q That is the church they attend, is it not? A I do not know whether they attend there or not. They were baptized there. That is all.

JOHN KRULISCH, called as a witness on behalf of the People, being examined by the Court as to his qualifications to be sworn as a witness, testified as follows:

BY THE COURT:

Q What is your name? A John Krulisch.

Q How old are you, boy? A Twelve years old.

Q Do you go to church? A Yes, sir.

Q Where? A Sixty-first Street, Our Lady of Perpetual Help.

Q Do you say your prayers night and morning? A Yes, sir, your Honor.

Q To whom do you pray? A To God.

Q Now, do you know what it is to take an oath here, when you lift up your hand and say, "So help me God, I shall tell the truth?" A Yes, your Honor.

Q Do you think it is wrong to tell a lie? A Yes, sir.

Q Who said that it was wrong to tell a lie? A I know it is wrong.

Q You know it is wrong? A Yes.

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Q Why do you believe it is wrong? A From the church.

Q What? A From the Catholic Church.

Q Louder? A From the Catholic Church.

Q Your church teaches you, and you know it yourself, that it is wrong? A Yes.

Q What would happen to you, do you believe, would you suffer any punishment in this world or in the next for telling a lie under oath? A I would get punished.

Q What? A I would get punished.

Q You would get punished? A Yes, sir.

Q Where? A Purgatory.

Q In Purgatory, did you say? A Yes, sir.

Q That means what? What does that mean? A I would suffer there.

Q Suffer where? In this world, or in the next?

A In the next.

Q And besides the suffering which you believe you would endure for telling a lie in the next world, you say yourself you believe that it is wrong? A Yes, sir.

Q And if there was no suffering for it in this world or in the next, it would, nevertheless, in your opinion, be wrong to tell a lie, would it? A Yes, your Honor.

Q Do you go to catechism class? A Yes, sir.

Q Do you go to Sunday School? A I go to church.

Q Who was it said, "Thou shalt not bear false witness against thy neighbor? Who said that? A God.

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Q Where is that said? What are the list of things?
 There are several things, "Thou shalt not take the name of
 the Lord thy God in vain", and several others like that.
 What do you call these things? A The commandments.

Q Who handed these Commandments, according to your
 religion, down to the people? A Moses.

Q And where did Moses get them? A From God.

Q And you believe in that? A Yes, sir, your Honor.

THE COURT: I guess this boy may be sworn.

(The witness is duly sworn.)

DIRECT EXAMINATION BY MR. PRESS:

Q What is your full name? A John Krulisch.

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Q Where do you live? A ~~1212~~ East Seventy-third
 Street.

Q John, do you remember when you went to live with your
 uncle, at 405 East Seventieth Street? A 13th of December,
 1908.

Q 1908? A Yes, sir.

Q Do you remember when your aunt died? A 16th of Novem-
 ber.

Q When? A 16th of November.

Q 16th of November of what year? A 1910.

Q Now, after your aunt died, how many beds were
 in the flat? A One.

Q Before your aunt died, how many beds were in that
 flat? A Two.

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Q After your aunt died, who slept together in that one bed? A All of us slept together.

Q When you say "all of us", John, who do you mean?

A Me, my sister and my uncle.

Q Your sister's name is what? A Mary.

Q Mary? A Yes.

Q And she was the first witness here? She was a witness here, do you know that? A Yes, sir.

Q How did you sleep in that bed? Tell his Honor and the jury your positions in the bed? A I slept against the wall, my sister in the middle, and my uncle at the end.

Q If you will, John, a little louder. The last juror has to hear you? A I slept against the wall, my sister in the middle and my uncle at the end.

Q And did you continue sleeping in that bed and in that way? A Yes, sir.

Q Until when? A Until we moved.

Q Until you moved? A Yes, sir.

Q And was that the time that your uncle got married?

A Yes, sir.

Q Did your uncle during the time that you were sleeping together, ever say anything to you about you not living with him? A He always said he would put us in a home.

Q He said what? A He would put us in a home.

Q Did he say that often to you, John? A No, sir.

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MR. DROEGE: I object to that.

Q What? A No, sir.

MR. DROEGE: One moment.

THE COURT: Yes, perhaps it may not be necessary, outside of the preliminary questions, to lead.

Q Do you know when he said that to you, John?

MR. DROEGE: I object to that again.

MR. PRESS: I am asking when he said it.

THE COURT: No, that is quite a proper question.

Objection overruled.

MR. DROEGE: Exception.

Q Will you answer, John? A (No answer)

BY THE COURT:

Q Do you know when he said that to you? A No, sir.

BY MR. PRESS:

Q Well, was it during the times that you were sleeping together, John? A Yes, sir.

MR. PRESS: That is all.

CROSS EXAMINATION BY MR. DROEGE:

Q John, how old are you? A Twelve years old.

Q Do you remember how long you were in the home?

A Three years and a half.

Q How is that? A Three years and a half.

Q Will you speak so I can hear you? You were very

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anxious to leave there, weren't you?

MR. PRESS: I object, if your Honor pleases.

THE COURT: No, I will allow it.

A Yes, sir.

Q Yes. A Yes, sir.

Q Both you and your sister were very anxious to leave there? A (No answer)

BY THE COURT:

Q You wanted to leave him, did you? A Yes, sir.

MR. DROEGE: Leave the home, your Honor, St. Joseph's Home, not the uncle.

THE COURT: Yes, that is what I meant.

BY MR. DROEGE:

Q Do you remember how many years you were in the home? A Three years and a half.

Q And did your uncle visit you there? A Yes, sir.

Q Every week? A Every month.

Q Every month? A Yes, sir.

Q And sometimes brought you presents and things there? A Yes, sir.

Q He was particularly fond of you, was he not? A Yes, the both of us.

Q Weren't you his favorite of the two children? A (No answer).

MR. PRESS: I don't see how that is material.

MR. DROEGE: Perhaps counsel may see it later.

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THE COURT: If we don't have too much of it we will allow that.

Q You were the favorite of the two children, weren't you? A Yes, sir.

Q After you left there, you asked him to take you and your sister-- You asked your uncle to take you out of there? A Yes, sir.

Q And then he took you to his home? A Yes, sir.

Q His wife was living at that time? A Yes, sir.

Q And his wife was no relation of yours; is that right? His wife is not related to you? I withdraw that question. Did he send you to school? A Yes, sir.

Q Bought your clothes? A Yes, sir.

Q You were going to school up to the time that your uncle got married, weren't you? A I always went.

Q How is that? A I always went to school.

Q What school did you go to? A Sixty second Street.

Q Public school? A Catholic school.

Q And he sent you to that school? A Yes, sir.

Q And bought your clothes and your sister's clothes? A Yes, sir.

Q Now, Johnny, you have been asked about where you slept in this bed with your uncle and sister. You have been asked that question by the counsel? A Yes, sir.

Q That question has been asked you a great number of times, hasn't it? Since your uncle was arrested? A (No

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answer).

Q Can you answer? A (No answer)

BY THE COURT:

Q You may answer that, John, "Yes" or "No". Has that been asked you a great number of times? "Yes" or "no"?

A (No answer).

Q What do you say to that, John? A I don't know.

Q What is that? A I don't know.

BY MR. DROEGE:

Q Since you have been taken-- do you remember when your aunt died, A Yes, sir.

Q And isn't it a fact that you and your sister were afraid to sleep alone, on account of your aunt's death?

A we were not afraid.

Q What? A we were not afraid.

Q Weren't you afraid to sleep alone in the room where she died? A No, sir.

Q Your sister was afraid?

MR. PRESS: No; he doesn't say anything of the kind, if y your Honor pleases.

THE COURT: Objection sustained.

Q Was your sister afraid?

MR. PRESS: I object. The sister answered for herself.

THE COURT: Yes, objection sustained.

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Q Johnny, didn't you sometimes sleep in the middle of that bed? A No, sir.

Q Never? A No, sir.

Q Under no circumstances? A No, sir.

Q How many times have you been asked about that particular thing, about where you slept in the bed? A (No answer).

BY THE COURT:

Q Do you remember, John? A No, sir.

BY MR. DROEGE:

Q That was one of the first things you were asked when you went to the Gerry Society, wasn't it? A Yes, sir.

Q What? A Yes, sir.

Q And ~~that~~ ^{very} often since that time? A (No answer).

Q "Yes" or "no"? A (No answer.)

BY THE COURT:

Q Did they ask you that very often, Johnny? Try and remember how many times they asked you that; one, two or three, or four, or five or how many? A A few times.

Q What is that? A A few times.

Q How many do you mean by a few, Johnny? Just say how many you think? A About three or four times.

Q About three or four times? A Yes, sir.

Q Johnny, do you remember Christmas Day? A Yes, sir.

Q Do you remember what you had for dinner that day?

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MRL PRESS: I submit that is not proper cross examination, if your Honor pleases.

THE COURT: Yes, I sustain that objection.

MR. PRESS: It was not brought out on direct examination.

THE COURT: I understand what it is, of course, but it is such an ordinary thing that probably you would not remember what you had for dinner on that day, and you would not want that failure established as a test of your memory, and I don't think we will ask Johnny.

MR. DROEGE: Perhaps not among the people that he lives with.

THE COURT: I sustain the objection.

MR. DROEGE: I will ask another question, then.

THE COURT: Yes.

Q Isn't the usual Christmas dinner among your people roast goose?

MR. PRESS: Objected to.

THE COURT: I will sustain the objection. John is not a culinary expert even among the people of his own nation at this age, I think.

Q You do remember Christmas Day? A Yes, sir.

Q Do you know your aunt, Mrs. Paliska? A Yes, sir.

Q Was she there Christmas Day? A No.

Q Do you remember where you went Christmas morning?

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MR. PRESS: Now, if your Honor pleases, I object to that, as this was not brought out on the direct examination, and is not proper cross examination.

THE COURT: Well, I think I will allow it.

To church.

Q What time did you get home? A Half past nine.

Q Where did you go after that? A Out in the street.

Q What time did you come home again? A About one or half past one o'clock.

Q About half past one.

MR. PRESS: He says one or half past.

Q One or half past one? A Yes.

Q Who was in the house when you came there? A My uncle and my sister.

Q Do you remember Mr. Paliska coming there that day?

A No, sir.

Q Do you remember what you did the afternoon of that day? A Stayed home.

Q Who else stayed home? A All of us stayed home.

Q Never went out of the house from that time on? A No, sir.

Q Do you remember when you went to live with Mrs. Ruzicka? A Yes, sir.

Q How long after that was it? ~~After what?~~

MR. PRESS: After what?

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MR. DROEGE: After Christmas Day.

A (No answer).

Q If you don't know, say so? A I don't know.

Q You don't know how long? A No.

Q Do you remember what you did Monday, the day that Christmas was kept, last year?

MR. PRESS: Objected to.

THE COURT: I will allow that.

Q Do you know, Johnny? A Christmas was on the 25th of December.

Q How is that? A Christmas was on the 25th of December, Sunday.

Q That was Christmas Day. Do you remember that Christmas was celebrated on Monday? Do you remember that? A It was on Sunday.

Q But do you remember what you did on the Monday following Christmas Day? A Stayed home.

Q All day? A Yes, sir.

Q Didn't go out of the house at all? A No, sir.

Q The whole morning, the whole day? A Yes, sir.

Q Did your uncle go out? A No, sir.

Q Did your sister go out? A No, sir.

Q What happened outside? A My uncle went to work.

Q How? A He went to work.

Q Who did? A My uncle.

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Q What time? A Half past six.

Q Have you seen any of your relatives since you have been in the Gerry Society?

MR. PRESS: I object to that, if your Honor pleases.
How is that material to the issues here?

THE COURT: I will allow it.

A (No answer).

BY THE COURT:

Q What is your answer, John? A I don't know what he said.

Q Have you seen any of your relatives since you were in the Gerry Society? A That is people related to you, your aunts or cousins or uncles or anybody like that? A Have they come to see me?

Q Yes, did they come to see you? A No, sir.

BY MR. DROEGE:

Q Have you seen Mrs. Ruzicka? A Yes, sir.

Q Did she come to visit you? A No, sir.

Q You saw her here in court? A Yes, sir.

Q You remember when you went to live with Mrs. Ruzicka? A The first week after New Year's.

Q How many rooms did she occupy? A Three rooms.
you and

Q Where did your sister sleep? A Together.

Q And who else slept in that same room? A Two boys.

Q How old are they? A One is eighteen and one twenty-one.

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Q Did all four of you sleep in one bed? A No, sir.

Q The two beds adjoined alongside of each other?

A Yes, sir.

Q Do you remember going to see-- or do you remember the Ruzicka boys sending you for your sister?

MR. PRESS: If your Honor please, I object to that, as not being brought out on the direct.

THE COURT: I will sustain the objection.

Q Did the Ruzicka boy-- did Joe Ruzicka ever say anything to you? A No, sir.

Q You say no? A Which boy?

Q Joe Ruzicka. Did Joe Ruzicka ever say anything to you about having your sister Mary come into the room where he was, or some place where he was, so he could have something to do with her?

MR. PRESS: I object to that on the ground it is incompetent, irrelevant and immaterial; that even if such were the case, which is not true, but if such were the case, it would have no materiality on the case at bar. The crime here is charged on the 25th of December, 1910.

THE COURT: Objection sustained.

MR. DROEGE: Exception.

Q When did you leave Mrs. Ruzicka's house? A I don't know.

Q Where did you go after you left there? A To Mrs.

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Paliska.

Q Who took you there? A I went there.

Q With whom? A With my uncle.

Q And who else? A Nobody else.

Q Was your uncle alone when you went there with him?

Were you with your uncle alone when you went there? A (No answer).

Q Wasn't there another man along with you? A No, sir.

Q What? A No, sir.

Q And you were living there with Mrs. Paliska? A Yes, sir.

Q For how long after you left Mrs. Ruzicka's house before you were taken down to the Gerry Society? A (No answer)

BY THE COURT:

Q Do you remember? Try to recall that? Days, or a week or weeks or a month, or how long? A About a week.

BY MR. DROEGE:

Q And were you going to school at that time? A Yes, sir.

Q You were being taken care of by your uncle? A Yes, sir.

Q And then you were taken away from there, and taken to the Gerry Society? A Yes, sir.

Q And have been locked up there ever since?

MR. PRESS: I object. He was taken to the Gerry

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Society. I object to the subsequent question.

THE COURT: Oh, well, let it stand.

MR. PRESS: All right.

Q Yes. A Yes, sir.

Q And you were very anxious to get away from there?

MR. PRESS: I object, if your Honor pleases, as to

his anxiety.

THE COURT: Objection sustained.

MR. DROEGE: Exception.

Q Johnny, your memory is very clear as to what occurred on Christmas Day? A I don't know what you say.

Q (Question read by stenographer)? A (No answer).

Q Have you talked over what happened on Christmas Day many times with people at the Gerry Society? A (No answer)

Q Johnny, you said something, when counsel asked you about your uncle telling you that he was going to send you back to the home. Do you remember that? A Yes, sir.

Q That was when you didn't behave yourself? A Yes, sir.

Q Is that right? A Yes, sir.

Q And sometimes when your sister didn't obey your uncle or aunt, they threatened to send her back to the home, did they not? A Yes, sir.

MR. DROEGE: That is all.

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JOHN J. JENNINGS, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PRESS:

Q What is your full name? A John J. Jennings.

Q Where do you live? A 297 Fourth Avenue.

Q What is your business, Mr. Jennings? A Special officer New York Society For the Prevention of Cruelty to Children.

Q Did you make the arrest in this case? A Yes, sir.

Q When? A On February 4th, 1911.

Q Where? A At the Children's Court, Eleventh Street and Third Avenue.

Q Did the defendant make any statement to you at that time? A He couldn't speak any English, but through an interpreter he admitted that he slept with the children.

MR. DROEGE: I ask that that be stricken out.

MR. PRESS: I consent that it be stricken out.

MR. DROEGE: And that the jury be instructed to disregard it.

THE COURT: Objection sustained.

MR. PRESS: I have consented that it be stricken out.

THE COURT: And the motion to strike out is granted. Strike it out and the jury will disregard it.

Q Did you take the two children, the complaining wit-

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ness and the boy down to the Society? A Yes, sir.

Q And they have been there ever since? A Yes, sir.

MR. PRESS: You may examine.

CROSS EXAMINATION BY MR. DROEGE:

Q Mr. Jennings, on what charge is Johnny Krulisch locked up by your Society? A Charged with violating 486-- Section 486 of the Penal Law, no proper guardianship.

Q Wasn't he at the time you locked him up, living with his aunt, Mrs. Ruzicka? A No, sir.

Q Wasn't he in the house where she was living at that time? A He was there, at that time, yes, sir.

Q And wasn't he going to school, to the Catholic parochial school in that district? A That I do not know.

Q Did you make any inquiries about that? A No.

MR. DROEGE: That is all.

of 4611 Park Avenue,
(Joseph A. Zikmund is sworn to act as interpreter
in this case.)

BARBARA RUZICKA, called as a witness on behalf of the People, being first duly sworn and examined through Joseph A. Zikmund, as interpreter, testified as follows:

DIRECT EXAMINATION BY MR. PRESS:

Q What is your full name? A Barbara Ruzicka.

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Q Where do you live? A 439 East Seventy-third Street.

Q Do you know the defendant, John Dobias? A I do.

Q How long have you known him? A Several years. I don't know how many.

Q Were you ever married to him? A Yes, sir.

Q When? A 4th of January, 1911.

Q Where did you live with him? A 429 Seventy-third Street, east.

Q Was that where you lived before your marriage? A Yes, sir.

Q After being married to him, and he came to live with you, did any one come to live with him? A He came with his children.

Q Name the children, please. A Mary and Johnny.

Q And how long did you live with him? A Eight days, and on the 9th day he went away. I made a mistake before when I said seven days. It is eight days.

Q When did he come to live with you? What day?
A 17th of January.

Q On that day did you have any conversation with him, and if so, what?

MR. DROEGE: One moment, your Honor. I don't object to the question whether she had any conversation with him on that day.

THE COURT: Well, that is the question.

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MR. DROEGE: But first she should answer whether there was any conversation.

THE COURT: Yes.

Q Did you have a conversation with him on that day?

A Yes, sir.

Q State the conversation you had with him, what you said to him, and what he said to you.

MR. DROEGE: I object to any conversation between husband and wife.

THE COURT: About this matter. If it is about any other matter, she is not to state it.

MR. DROEGE: About what matter, your Honor?

THE COURT: About the matter in issue here.

MR. DROEGE: But any conversation between a husband and wife is privileged communication, and is not admissible.

MR. PRESS: As to the commission of a crime, your Honor, I have never heard it.

MR. DROEGE: If a man had committed a crime, and went to his wife and confessed, that communication between husband and wife would be a confidential one and would be privileged.

THE COURT: Objection overruled.

MR. DROEGE: Exception.

THE COURT: And the question is modified to the question of what, if anything, did he say concerning Mary Krulisch.

Q What did you say to him, and what did he say to you

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concerning Mary Krulisch.

THE COURT: If anything.

MR. PRESS: If anything.

MR. DROEGE: I renew the objection, on the same grounds.

THE COURT: First you might find if he said anything to her about Mary Krulisch, or the case in issue here. She has not said that he said anything about her at all. Did he say anything to her about this matter in issue?

MR. PRESS: Then it will be objected to as a leading question, your Honor, but I will put it that way.

Q Did you say anything to this defendant, and did this defendant say anything to you, on the 17th day of January, 1911, about having had connection with Mary Krulisch?

MR. DROEGE: Objected to as leading.

MR. PRESS: Exactly.

THE COURT: I will sustain the objection to that.

MR. DROEGE: I believe that this witness speaks a little English, your Honor, and I would like to ask her how many years she has been in this country.

THE COURT: It won't be necessary. You can have that on cross.

MR. DROEGE: I would like to ask him whether she speaks English or not.

THE COURT: Proceed.

Q Did you, on the 27th day of January, 1911--

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THE COURT: Objection to that will be sustained.

Q Did you at any time have any conversation with the defendant regarding Mary Krulisch?

THE COURT: Objected to as being leading.

THE COURT: Objection overruled.

MR. DROEGE: Exception.

A Yes.

Q I talked with him the second day. Monday he came, and Tuesday I talked with him.

Q What did you say--

THE COURT: Better get the date if you can.

Q What date was that, if you recollect? A The 17th day, he came to us, no, it was the 18th.

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

MR. DROEGE: Your Honor, I don't want to take--

THE COURT: On this subject.

MR. PRESS: On this subject, regarding Mary Krulisch.

THE COURT: Objection overruled.

MR. DROEGE: Your Honor, to all this examination, my objection stands that it is privileged and confidential communication between husband and wife?

THE COURT: Yes.

MR. PRESS: Proceed.

MR. DROEGE: Your Honor, the interpreter takes part of it, and then argues with the witness, and then tells

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something more. He should repeat exactly her statement, so we will be in the same position as if she were a witness who spoke English.

THE COURT: Yes, don't put any question except that put by counsel.

MR. PRESS: It does not appear that the attorney understands Bohemian, and as the gentleman who is interpreting for us is doing it as a compliment, I think we should have some solicitude for him.

THE INTERPRETER: I simply do it to make the question more clear.

THE COURT: Do not make it any more clear than the attorney makes it.

THE WITNESS: I did talk to him about it.

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

A I came home and asked Mary what he had with her.

Q Was that in his presence?

MR. DROEGE: I object to that question, your Honor. She just stated he came home, and she asked him what he had with the girl.

MR. PRESS: That is not so, your Honor. Counsel should pay attention.

THE COURT: I heard what she said. Proceed.

MR. PRESS: What she said was concerning Mary.

THE COURT: Yes.

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Q Was that in that in the presence of this defendant?

MR. DROEGE: Then I move to strike it out, because it is not responsive.

THE COURT: We will find out now.

Q Was that in the presence of this defendant? A It w s, but he was not in the kitchen.

MR. PRESS: Then I will consent to strike it out.

THE COURT: Strike it out, and the jury are directed to disregard any statement made by this person out of the presence and hearing of the defendant.

Q Now, madam, what did you say to this defendant, and what did he say to you, about Mary Krulisch? A He said to me I should put the chairs behind the bed, and Mary must sleep with us.

Q Did you say anything else to him? A I asked him if he did not sleep enough with her.

Q And what did he say to you? A He laughed and said, "No".

Q Did you have any further conversation with him? A Afterwards my children came, and I didn't talk with him until the evening.

Q Then what did you say to him and what did he say to you in the evening?

MR. DROEGE: Objected to.

THE COURT: On this subject.

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Q On this subject, on the subject of Mary Krulisch.

A I asked him if he was not ashamed he had relations with the girl.

Q And what did he say to that? A He said, "No, she wanted it?"

Q Did you have any further conversation with him in relation to Mary Krulisch, and if so, when? A Oh, in the evening, so my sons would not hear it.

Q Did you say anything further to him on the subject of Mary Krulisch. A I said to him if he would be that way, I would have him punished.

Q And what did he say to you? A He is not afraid, she wanted it.

Q Was that the only conversation you had with him about Mary Krulisch?

MR. DROEGE: I ask that the answer to that be "Yes" or "No".

MR. PRESS: You apparently know what it is.

Q Did you have any further conversation with him regarding Mary Krulisch?

MR. DROEGE: I ask that the witness be instructed to answer that "Yes" or "No".

THE COURT: Allowed.

A We had many an argument about it. I asked him why he done it.

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Q And what did he say? A He got ugly and he scowled, and he wouldn't talk, and I don't remember what he said.

Q Did he say anything to you about how he did it?

MR. DROEGE: Objected to as leading.

THE COURT: Objection overruled.

MR. DROEGE: Exception.

A Yes.

Q How?

THE COURT : What did he say?

Q What did he say? A He said that on Christmas he first needed the girl.

Q Did he say anything further to you as to how he did it with the girl, Mary Krulisch?

MR. DROEGE: Objected to.

THE COURT: Same ruling.

MR. DROEGE: Exception.

A He did. I asked him what he thought, that girl must have bled.

Q Did the defendant say how or in what way he did it with the defendant, Mary Krulisch? A He said the first time she always screamed, but after that she did not, and then he gave it to her in the back.

Q When do you say he left you? A The 26th.

Q Did you inform any one concerning this matter?

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MR. DROEGE: Objected to.

MR. PRESS: Question withdrawn. You may examine.

CROSS EXAMINATION BY MR. DROEGE:

Q Mrs. Ruzicka, haven't you known Mr. Dobias for twenty-seven years? A I have known him a long time, but I don't know if it was so many years.

Q You knew him in Bohemia? A Yes.

Q And you have been married how many times? A Three times.

Q This is your third venture?

MR. PRESS: I object to the form of the question, if your Honor please.

THE COURT: Yes, objection sustained.

MR. DROEGE: It is always a venture.

MR. PRESS: I object, if your Honor please.

Q This is your third marriage? A Yes, sir.

Q During those twenty seven years you have seen a good deal of Mr. Dobias? A No, he is here only four years, and very rarely have I seen him.

Q You know that he has always been a hardworking man, of good reputation and good character? A That I don't know.

Q You married him without knowing whether he was a hardworking man, a man of good reputation? A I don't know that, but I know he worked, and I took him, but what he done I don't know.

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Q Since Mr. Dobias was arrested you have talked to various people about this case? A No.

Q You have never mentioned it to any one? A Yes, to Mr. Schock.

Q Is that the only person you have spoken to about this case since Mr. Dobias' arrest? A Yes.

Q Not to a single other person? A I don't remember if anybody asked me if he was home, I don't know.

Q I ask you if you have spoken to any one other than Mr. Schock about this case since the arrest of Mr. Dobias? A No; I don't know of any.

Q To the officers of the Gerry Society? A I don't know English; and it was my son. We went there at ten o'clock in the evening.

Q One time only? A Two times.

Q Haven't you told various people since his arrest that you were anxious to see him come out of prison, that you wanted him to live with you again? A Mr. Schock asked me about that, and I said, if he would be good I would, but I can say what I want outside.

Q So, if Mr. Dobias would be good, you would take him back to live with you? A No, never.

Q Didn't you just say that, if he was good that you told Mr. Schock, that if he were good you would take him back to live with you? A I only said that by him, but here I say

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no, never.

Q You remember when Mr. Dobias left your house? Now, please answer these questions, "Yes" or "no". You don't need to make a speech. A Yes.

Q He left because of trouble with your children, your boys? A No.

Q Wasn 't there some trouble with your boys, before he left there? A He made him so himself; he made him himself.

Q He made the trouble himself? A Yes, sir.

Q You remember one time when the detectives came to your house looking for stolen goods?

MR. PRESS: I object to that as incompetent, irrelevant and immaterial. What has that got to do with the issues your Honor?

THE COURT: It may have something to do with it; I don't know yet.

A I do.

Q And these goods had been brought there by some friends of your sons?

MR. PRESS: I object to that, if your Honor pleases. It has not been shown that any goods were brought there up to date, and it is suggesting an answer.

THE COURT: Yes, objection sustained.

Q There were some goods brought there by some friends of your sons? A Yes, but I don't know what it was.

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Q And at that time your husband said he was going-- I withdraw that question. Didn't your husband at that time say he was going away because he was afraid of the boy? A No, sir.

Q He did go away, though, the next morning, after these detectives came there? A No.

Q How long afterwards? A I think it was the fourth or fifth day.

Q When did you become engaged to marry Mr. Dobias?
A Before Christmas.

Q Did he call at your house on Christmas Day? A He was there, but he went away right away.

Q What time of day was it when he called there? A I don't know. I know it was in the forenoon.

Q I mean Sunday, December 25th?

MR. PRESS: Well, that is Christmas Day?

A He came there every day, but went away right away.

Q What time of day did he come there Christmas Day, Sunday? A I don't know.

Q Was it in the forenoon? A I don't remember.

Q Was it in the afternoon? A I don't know.

Q A while ago, you said it was in the forenoon?

A I mean he came there when he was engaged to me.

Q When did you become engaged to him? A It was after the holidays, after the Christmas.

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Q After the holidays that you became engaged to him?

MR. PRESS: She says after Christmas.

A The day after the holidays.

Q How many days before you were married to him were you engaged to him? A The number of days from the 1st is fourth.

Q Did you know Mrs. Andreas? A Yes.

Q Does she work in the same place that you do? A Yes, sir.

Q Did you ever talk to her about Mr. Dobias? A I told her everything he did with the girl.

MR. DROEGE: I move to strike out the answer.

MR. PRESS: That is responsive.

MR. DROEGE: I asked her whether she had a conversation with Mrs. Andreas.

MR. PRESS: And she said she told her everything.

THE COURT: She had better answer the questions "Yes" or "No."

Q (The question is repeated by the interpreter) A Yes, sir.

Q Did you tell her, in words or substance, that Mr. Dobias was a good man? "Yes" or "no"? A No.

Q Did you tell her that you wanted to get a lawyer to get him out so that he could come back and live with you?

A No.

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Q Did you tell her that you only made this charge for the purpose of frightening him so that he would come back and live with you? A No.

Q Do you know Mrs. Volda? A No.

Q Do you know Mrs. Paliska? A Yes.

Q Did you talk to her several times? A Yes, sir, when they came after me every day.

Q Did you tell her that unless Mr. Dobias came back to live with you, you would make a charge against him? A No, sir.

MR. DROEGE: That is all.

RE DIRECT EXAMINATION BY MR. PRESS:

Q You say Mrs. Paliska came after you every day? A Yes, troubling me.

Q Was that after the arrest of the defendant? A No.

Q When was it? A When he left me to go to them.

Q And what did Mrs. Paliska say to you?

MR. DROEGE: Objected to.

MR. PRESS: Counsel has opened the door. Counsel has asked if she had a conversation with Mrs. paliska, and if Mrs. Paliska said anything, and she said, "No."

THE COURT: I will sustain the objection.

Q But she did come after you several days?

MR. DROEGE: She has already answered that, your Honor.

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A from Tuesday to Sunday she troubled me.

MR. PRESS: That is all.

MR. PRESS: If your Honor pleases, I have only got one other witness, the doctor; he is not here; but I expect to have him here in the morning, the first thing, and, subject to that--

THE COURT: Gentlemen of the Jury, you are admonished that you are not to discuss any matter connected with this trial, or to form or express any opinion upon it, until it finally submitted to you.

Are there any requests concerning witnesses, for tomorrow, Mr. Droege?

MR. DROEGE: I have none, your Honor.

(The Court accordingly took a recess until to-morrow, Friday, April 21st, 1910, at 10:30 A. M.)

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THE PEOPLE, Etc. vs. JOHN DOBIAS.

New York, Friday, April 21st, 1911.

TRIAL CONTINUED

P r e s e n t :

HON. THOMAS C. O'SULLIVAN, J.,

And a Jury.

A p p e a r a n c e s :

T. CHANNON PRESS, Esq., Assistant District Attorney,

For The People.

OTTO H. DROEGE, Esq.,

For the Defendant.

THE DEFENDANT IS ARRAIGNED AT THE BAR.

W I L L I A M T R A V I S G I B B, called as a

witness on behalf of The People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. PRESS.

Q What is your full name ? A William Travis Gibb.

Q Where do you reside ? A 42 West Seventy-fifth
Street.

Q You are a duly licensed medical practitioner in
the State of New York ? A Yes, sir.

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Q And a graduate of where ? A University Medical College, of this City, in 1886.

Q And connected with what hospitals, if any, doctor ?
A I am visiting surgeon at the Workhouse, Alms House, and at St. Elizabeth Hospital, in this City, and I am Examining Physician for the New York Society for the Prevention of Cruelty to Children.

Q Did you examine one Mary Krulisch ? A Yes, sir.

Q When ? A On the 4th of March of this year, at the building of the Society for the Prevention of Cruelty to Children, 297 Fourth Avenue.

Q The 4th of March, Doctor, or February, which ?
A I will have to consult my records.

Q Look and refresh your recollection ? A 4th of February.

Q I beg pardon ? A 4th of February.

Q At whose instance, Doctor, did you examine her ?
A The custom is that I examine them upon an order issued by a sitting Magistrate.

MR. DROEGE: I object to that, and ask it be stricken out.

THE COURT: Objection sustained. Strike out the answer.

Q How many cases have you examined ?

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MR. DROEGE: I object to that also.

THE COURT: Objection overruled.

MR. DROEGE: Exception.

A I have examined cases of this character, over thirteen hundred, in the last twenty years, for the Society.

MR. DROEGE: I ask that the answer be stricken out.

THE COURT: Motion denied.

MR. DROEGE: Because it is prejudicial to the rights of this defendant.

THE COURT: Proceed.

MR. DROEGE: Exception.

Q What condition did you find Mary Krulisch in when you examined her ?

MR. DROEGE: I object to that, upon the ground it does not in any wise -

THE COURT: Objection overruled.

MR. DROEGE: Exception.

THE COURT: Have you got the Doctor down to date ?

MR. PRESS: The 4th of February, yes, your Honor; that was the day he examined her.

Q And on that day, when you examined Mary Krulisch, what was her condition, Doctor ?

MR. DROEGE: Same objection.

THE COURT: 4th of February ?

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MR. PRESS: 4th of February, your Honor.

MR. DROEGE: On the further ground it is too remote from the time ~~xxx~~ of the alleged assault, and anything that the Doctor may have discovered at that time does not tend to prove an assault committed on the 25th day of December, 1910.

MR. PRESS: Assuming, if you will, that we concede that -

THE COURT: What is that?

MR. PRESS: Assuming, if you will, that we concede that, which we don't, but assuming that we concede it, he could show that the condition of the girl was such that she had been penetrated at sometime prior to that.

THE COURT: Yes, you may show that, but it is not proof that this man did it at all.

MR. PRESS: No, I will concede that.

THE COURT: And I shall so instruct the Jury.

MR. DROEGE: Then that is no proof that this man committed any offense. There can be no proof -

THE COURT: It is one of the circumstances of this case the Jury have a right to be informed of. The Jury have a right to know all the circumstances.

MR. PRESS: In corroboration of the girl's statement.

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THE COURT: Yes, proceed.

MR. DROEGE: On those grounds, I take an exception.

THE COURT: That would be nearly six weeks later.

MR. PRESS: The 25th of December, 1910, and the 4th of February is the date, 1911, about five weeks.

THE COURT: I will allow it in.

MR. DROEGE: Exception.

A I examined her genital organs, and found her hymen ruptured, indicating the penetration of her genital organs by some blunt object.

MR. PRESS: You may examine.

BY THE COURT.

Q Doctor, could you give an opinion, based upon your observation and examination, as to how long before that had happened? A No, sir.

Q You could not? A No, sir.

Q Whether it was a year, or two years, or two weeks, you could not say? A Well, after the parts had healed up, and they heal up between - anywhere from three to ten days, we can't tell when the original rupture took place.

MR. DROEGE: Then I move this witness's testimony be stricken from the record as not tending in any wise to corroborate the testimony of the complaining witness, and that is the only ground upon which it is admissible.

MR. PRESS: As to the condition of the girl and

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her ability only.

THE COURT: As to the condition when ?

MR. PRESS: She said she had been raped; she gave that testimony on the witness stand; and her examination disclosed the fact that she has been at some time, and that is the only corroboration, and that is the only thing I ask the testimony admitted for.

THE COURT: Motion denied for the present, with permission to renew.

MR. PRESS: That is all, Doctor.

MR. DROEGE: That is all.

THE PEOPLE REST

MR. DROEGE: Your Honor, I move that all the testimony of the witness Mary Krulisch relating or in any wise connected with any assault committed subsequent to the 25th day of December, 1910, be stricken from the record.

THE COURT: Where have you proved the girl's age ? By herself and by her baptismal record ?

MR. PRESS: Yes.

THE COURT: Who identifies her as the person named in the baptismal record ?

MR. PRESS: I have no means, except this: that she gives her father's name.

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THE COURT: All you have of identification is that a person of that name was baptised at that time.

MR. PRESS: I have got this, if your Honor pleases: that her name was Mary Annie Krulisch.

THE COURT: And there might be five or six others of the same name.

MR. PRESS: True; and that Anthony Krulisch was her father's name, and Agnes Paliska was her mother's name; that she was born on the 5th day of July, 1896, and that she was baptised at the Church of Our Lady of Perpetual Help, 323 East Sixty-first Street.

THE COURT: That is not enough.

MR. PRESS: And the record was brought here.

THE COURT: The record is here, and all that statement is here, but there is nothing in evidence to show that this person here is the same person that was baptised on that day.

MR. PRESS: Assume that, your Honor, then the other step is this: The girl testifies she is fourteen years of age. It is for the Jury to determine whether she is under the age of eighteen years, from her appearance.

THE COURT: Yes, that is one weak spot in it, and the other is the examination by the Doctor, after a term when it was impossible to say when this penetra-

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tion took place, within what period of time.

I will entertain a motion to acquit.

MR. DROEGE: I make a motion to acquit the defendant.

THE COURT: The Jury is directed to acquit this man.

THE CLERK OF THE COURT: Gentlemen of the Jury, have you agreed upon a verdict ?

THE FOREMAN OF THE JURY: Yes, sir.

THE CLERK OF THE COURT: How say you ? Do you find the defendant guilty, or not guilty ?

THE FOREMAN OF THE JURY: Not guilty.

THE CLERK OF THE COURT: Harken unto your verdict as it stands recorded. You say you find the defendant not guilty, and so say you all.

THE COURT: Any other charge ?

MR. PRESS: No other charge.

MR. DROEGE: I move that the prisoner be discharged.

THE COURT: He is discharged.

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