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1952

New York, March 11, 1914.

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I N D E X.

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COURT OF GENERAL SESSIONS OF THE PEACE,  
City and County of New York, Part III.

Mich 19/14  
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THE PEOPLE OF THE STATE OF NEW YORK,  
-against-  
CHARLES WEINTRAUB.

Before:  
HON. CHARLES C. NOTT, J.,  
And a jury.

New York, March 11, 1914.

Indicted for seduction under promise of marriage.

Indictment filed February 3rd, 1914.

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

For People: MILLARD H. ELLISON, ESQ., Deputy Assistant  
District Attorney.

For Defendant: BERNARD SANDLER, ESQ.

A jury is duly impaneled and sworn.

Mr. Ellison proceeds to open to the jury in behalf of  
the People.

During his opening address Mr. Ellison says, speaking  
of the defendant; "He told her he wanted her to go on the  
streets ----"

MR. SANDLER: Objected to. He is being tried for  
seduction, not for white slavery.

THE COURT: I will reserve my decision on that. It  
may be admissible on the question of his motive.

MR. ELLISON: That is just what I want to show.

MR. SANDLER: Exception.

THE COURT: Well, wait until that proof is offered;

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do not refer to it now. The Jury are instructed for the present to disregard any statement made as to what the defendant wished the complaining witness to do. No such statement can be considered by you unless the evidence is admitted subsequently by the Court.

(Mr. Ellison concludes opening address to the Jury.)

MR. ELLISON: At this stage of the case I ask that the witnesses on both sides be excluded from the Court room, my witnesses as well as the defendant's witnesses.

MR. SANDLER: Also some of the witnesses who may not be witnesses but agents of the complainant.

MR. ELLISON: There is no agent. Miss Perlman of the United Hebrew Charities, if you want her to leave, I am satisfied.

THE COURT: I will only exclude the witnesses.

FRIEDA MILOVITZ, called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q Where do you live? A I live at 260 West 143rd St., with my sister.

Q How long have you been living in this country? A Three and a half years.

Q When did you come over here? A 1910; August 16th, the steamer came; on the 17th my sister took me off the steamer, Paula Nussbaum.

Q Where did you come from? A From Hungary.

Q Since you have been in this country for three and a half

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years, what have you been doing for a living? A Well, I have been doing living out work in a place.

Q You mean working as a servant? A As a servant girl; and I worked in a factory too a couple of months.

Q You have supported yourself by hard labor, you mean? A Yes, sir.

Q Do you know this defendant, Charles Weintraub? A Yes, sir

Q When and where did you meet him for the first time? A This summer I met him in Classon Point.

Q Do you remember what month it was, whether July or August?

A It was August, the 24th, on a Sunday.

Q And with whom were you at Classon Point? A I have been with my sister and brother in law and some more friends.

Q A family outing party, is that it? A Yes, sir, we went all bathing.

Q And while you were there you met the defendant? A Yes, sir.

Q Had you ever seen him before that day? A Yes, sir, I had seen him two years ago around my house.

Q Did he join the party then with your brother in law and your sister? A Yes, sir.

Q Did he remain with you? A Well that night he took me home, over he took me to a party in 122nd St. and that party told me that I should go and stay with her over night because she was all alone.

Q Well, anyway, he took you over some place? A Yes, sir, he took me home.

Q From that time in August did you continue to see him? A

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Very often.

Q And at that time where were you living? A Well, I have been living at that time -- I suppose it was 119 or 219 - 130th St.; my sister was living there.

BY THE COURT:

Q You were living with your sister, is that it? A Yes, sir, that time I was out of work when I met him.

Q And your sister's name is what? A Mrs. Gussie Weiner.

BY MR. ELLISON:

Q And you were living with your sister and he called there to see you, is that so? A Yes, sir, very often.

Q Where did you go to work after living with your sister, Mrs. Gussie Weiner? A I went to work, 850 East 161st St., by Mrs. Cosby..

Q Were you working for Mrs. Cosby as a servant? A A servant girl, yes, sir.

Q While you were living at Mrs. Cosby's did this defendant call on you, or call you up or anything? A He called me up sometimes, twice a day; very often.

Q Now I want you to tell the jury about how frequently from the time that you met him on August 24th until the time you left Cosby's? A August the 24th?

Q I say from August the 24th until the time that you left Cosby's, how often did you see the defendant, or did he call you up? A Very often. He used to call me up sometimes during the week,

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and in the evening I used to meet him, and every week I have been out, but sometimes he used to -- I used to meet him in 122nd St., or he used to make a date with me on the corner sometimes and I used to meet him and once he called me up I should meet him at 124th St. and Third Ave. near his house, so I met him.

Q You used to see him very frequently, is that right? A Yes.

Q And you used to go out with him too? A Yes, sir.

Q Did you go out to theatres with him, or moving pictures? A No.

Q Did you go out walking with him? A Yes, sometimes, but once he took me out to the College Inn, to a cabaret show, with another very good friend of his, and after we came out from that cabaret show.

Q Do you remember the time that you left Cosby's, what date that was? A That was October the 27th.

Q Can you tell this jury when, if at all, he ever spoke to you about the subject of marriage? A Well, the first day he met me in Classon Point he says to me "I think you will be just the right girl for me and I will marry" -- "Would you marry me?" I said "I don't know, I don't know you so very well, I couldn't promise you." And then he made a date with me for Wednesday night.

Q The following Wednesday, after August 24th? A After August 24th he made a date with me to meet him by the theatre in 125th St., by Proctor's Theatre, and I was supposed to go the 27th, but that Monday when I met him I went to Miss Cosby's to work, so I

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couldn't meet him on Wednesday, because Wednesday was the 27th.

Q What did he say to you on that occasion at Classon Point?

MR. SANDLER: Objected to.

Q What if anything did he say to you?

MR. SANDLER: In view of the fact that she has left Classon Point some time ago and we are now over to October 27th, he takes us back there and asks her what he said.

THE COURT: He has now gone back to the subject of the proposition of marriage, I will allow it.

MR. SANDLER: Exception.

MR. ELLISON: I want to show the relations of the parties.

THE COURT: You can bring out by the witness what was said first as to the marriage between these two people.

Q What was said the first time at Classon Point? Just tell us what you said and what he said. A He said to my sister "Why don't you introduce me to your sister?" He don't remember me from two years ago, and my sister didn't want to introduce me because she seen he was a kind --

MR. SANDLER: I move to strike that out.

THE COURT: Yes. Just put your mind on the question and answer only that question.

Q What did he say to you? A Well, he told me, I should go out with him and then he says "I think you are just the right girl for me; would you marry me?" I says "I don't know; I don't know you so very well, I couldn't promise you."

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Q And was that about all that took place the first time? A I couldn't remember any more.

Q When did he talk to you again about the subject of marriage, after the first time? A Well, every time he seen me he always spoke about it.

Q He always told you he wanted to marry you?

MR. SANDLER: I object to the recapitulation of the testimony by the District Attorney.

THE COURT: I will allow it to stand.

MR. SANDLER: I move to strike it from the record.

Motion denied; exception.

Q Did he say anything to you definitely on or about the 27th or 28th day of October, 1913? Did he say anything at that time about marriage? A Yes, sir.

Q What did he say? A Always spoke about marriage.

Q What did he say that time? A He --

BY THE COURT:

Q That is the time you left your place? A The 27th?

Q After Mrs. Cosby's. What did he tell you then about getting married? A That time he says to me "Now, I think we are going to get married tomorrow." So we were sitting on the carriage when he took me away, -- "But I don't want you to work hard, don't work hard; I will take you to my friends and you stay with my friends don't until I marry you." And then he says "We will go out West and I will make very good business out there, I will be very successful out there, and I will marry you." Then first he said he marry me out

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West; I said "The nerve you got to talk this way !" Then he said "We will get married tomorrow; do not worry."

BY MR. ELLISON:

Q He said "We will get married tomorrow"? A Yes, sir.

Q Did you have a talk with Miss Cosby then? A Well --

Q After the defendant told you this did you talk with Miss Cosby? A Well, I told her very often.

Q Did you? A I did; yes, surely.

Q Did you then leave the Cosby's house after he had this talk with you about promising to marry you -- did you leave the Cosby's? A yes, sir.

Q What day? A Well, the 26th, he told me he wants to marry, I should leave the 27th.

Q And did you leave? A I did leave, and Miss Cosby took me out to the carriage.

Q Did the defendant come up there with the carriage to take you away? A Yes, sir.

Q Just tell the jury where he took you? A He took me to 71 West 100th St., to Corson's, his very best friend.

Q To whom? A Phillip Corson.

Q What happened? A And then I slept there one night and then he told me I should stay there till he don't marry me, and I said "All right." I begged him he should let me go and tell my sisters about it and he objected and said "No, I don't want you to tell your sisters, I don't want your sisters to know I am going to marry; they should

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not know about it before we get married, because I know your sisters don't like me and I know they will object." The next day he was supposed to come and marry me and he didn't show up at all -- he came very late.

Q Do you remember what day that was? A That was the 28th of October; that was on a Tuesday.

Q Then what happened? A And then some of his friends came, Phillip, Abe and Fanny Dickman -- Abe Dickman and Fanny Tabbat -- or whatever her name is, his friend, the 28th of October, and we all ate supper in that restaurant of Phillip Corson, all four of us.

Q You all had dinner in Phillip Corson's restaurant? A Supper, at night.

Q Was the defendant there? A Yes, he came there.

Q What took place at the dinner? Was anything said about the marriage?

MR. SANDLER: Objected to as leading.

Objection overruled; exception.

A Always about marriage, he always spoke.

BY THE COURT:

Q What was said in the restaurant about marriage by the defendant? A Well, they wished us luck, they thought we were going to get married the next day.

Q Tell the jury what the people said and the defendant said at the door? A They told me I should not worry, he is going to marry me, I should go and visit some of his friends, some of his

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friends around 100th St.; and he said "I will show you the apartment where we are going to live." So after all four of us we went in the house, I didn't know where I was going and I asked them whether he objected to answer me.

BY MR. ELLISON:

Q What did you ask him? A I says "Where are you going?" Well, he says -- he didn't answer me, he just spoke to the other girl and fellow. So I didn't ask him any more, and we went up on the fourth floor and we went in the house?

Q What number? A 143 West 100th St. We went in the house and then I begged him he should let me go out, that he should not keep me in there, and the other girl went away. I begged him he should let me out, but he begged me that I should not be foolish, I should stay in the house, I am sure that he is going to marry me and I should be sure because if he would not want to marry me he would not take me away, and he liked me and he thinks I will be the only girl that makes a man out of him, because he is nothing else but an independent bum, and he says he is nothing else but a horse thief and I will make a man out of him; and then he started to beg me I should stay in the house, I should not go down, and that is the time I begged him as I started to.

Q What time was this? A That was around nine o'clock.

Q At night? A At night, ten o'clock.

Q Was this in an apartment? A An apartment, two rooms on the fourth floor.

Q What were they? Were they bedrooms or parlors? A One

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was a kitchen and the next one was a bedroom.

Q Did you stay with him that night? A Yes, and that was the night he ruined me.

Q Did he have intercourse with you that night? A Yes sir.

Q Was that the first time you had intercourse with any man in your life? A The first time; that was the night he ruined me.

Q Did you then continue to live there with the defendant? A Well, after I was ruined I had to live with him. I promised him --

Q How long did you live there with him? A Yes, sir.

Q For how long? A One week.

Q A few days after did the defendant take you any place? A Well, the few days after, on a Monday, November 3rd, he says "Well, you see, you say always there I would not marry you. Now we are going to get married, we are going to City Hall." I was very glad. I was ruined already, I was terribly ashamed of my sisters, so we went to City Hall to get married and then there the man started to question us some things; he says to me "How old are you?" And then I told him I was eighteen. He said "Don't say you are eighteen, because you wouldn't get your marriage paper; say that you are twenty-one".

Then I says "Must I say a lie?" He says "YOU have to, because you wouldn't get our marriage paper."

I told him I was eighteen, and they questioned me -- where I was born, and how long I am in this country, and what I am working at, and that's all -- and where I was living.

Q He was right there with you when the certificate was taken, wasn't he? A Yes, sir.

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Q I show you this certificate and ask whether that is not the certificate? A That is the paper, yes.

THE COURT: Certificate or license?

MR. ELLISON: This is the certificate. I offer this in evidence.

MR. SANDLER: Objected to.

MR. ELLISON: Then I will have to get the City Hall Clerk.

MR. SANDLER: Oh, all right; I am not objecting to it because it is a certificate, but it is incompetent.

MR. ELLISON: I Counsel does not object to it on the ground that it is not an original document, he objects on other grounds, as to the materiality.

THE COURT: Is this the paper that is actually given to the parties?

MR. ELLISON: That is an original certificate from the City Clerk's office -- an original duplicate.

THE COURT: It is not the marriage license?

MR. ELLISON: No, sir; it is a certified copy from the City Clerk's office.

THE COURT: How can she tell whether it is a copy of the paper that was given.

BY THE COURT:

Q Did you see this paper that he got there? A He got it in an envelope that time.

Q You did not see it? A Well, I did see it.

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Q Did you read it? A Well, I could not read English, I couldn't understand much about it.

THE COURT: You will have to prove it then from the City Clerk's office.

MR. SANDLER: I do not object to it on technical grounds, that it is not the exact paper, I will consent to its admission if Your Honor will rule on the proposition of law. Excepting on the proposition that this was obtained after the alleged seduction, it is not competent.

THE COURT: You concede that a paper, of which that is a copy, was issued to the defendant, but you object to its admission on the ground that it is irrelevant, immaterial and incompetent?

MR. SANDLER: Yes, sir.

THE COURT: Very well, I will overrule the objection.

MR. SANDLER: Exception.

(Received in evidence and marked People's Exhibit 1.)

(People's Exhibit 1 in evidence is now read to the Jury by Mr. Ellison.)

BY MR. ELLISON:

Q Now, Frieda, you say that you then remained at 143 West 100th St. for one week, is that right? A Well, we lived there four weeks.

Q I thought you said one week? A No, the fourth floor in that apartment.

Q Four weeks? A Yes, sir.

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Q Were you present when this defendant rented the rooms in that place at 143 West 100th St.? A Yes, sir.

Q Do you know who the janitress of that house is? A Well, I know her, but I don't know her name.

Q While you were living with this defendant at West 100th St. did you call with him to see anybody? A To my sister, the same day when we got the marriage paper.

Q On November 3rd? A November 3rd.

Q On whom did you call, what sister? A Gussie Weiner, and the next sister, Paula Nussbaum, both of them, and we showed the paper. First of all he objected; he said "They have got some nerve not to believe" him, what he says, that he is married to me. They have got some nerve that he has to show the paper.

Q Your sisters ~~waxt~~ want to see the evidence that you were married? A Yes, sir.

Objected to; objection sustained.

MR. ELLISON: I consent to strike it out.

Q What day did you call on them? A On November 3rd.

Q On November 3rd, the same day; what happened when you called at Gussie Weiner's house? A We came and I said "Gussie, we are married;" and she began to cry, "What did you do?"

Q The defendant was with you, was he? A Yes, sir.

Q This man (Indicating defendant) was right with you? A Yes. So he says -- I says "We are married," and then she began to cry. She said, "What did you do?" and my other sister

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also started to cry, she says "What did you do?" "What did you marry for without us knowing?" I said "I couldn't help it, it was too late, I had to marry him. Then he says "We are married"; he told them, "Oh we were married." So they wished us luck and they said so long as I am happy, they will be happy, let it be already, so long as we are married.

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Q And at that time was any paper shown to your sister?

A Yes, sir.

Q You don't know whether it was the paper you got at the City Hall or not? A I couldn't swear, I don't know.

Q Did you call on Mrs. Nussbaum that day? A The same day and we had supper there.

Q And the defendant was with you? A He was with us.

Q Tell the jury what happened when you called on Mrs. Nussbaum?

A We went up to my other sister, Paula Nussbaum, and he said also we were married.

BY THE COURT: Q Who is Mrs. Nussbaum? A My oldest sister.

MR. SANDLER: I object as incompetent, immaterial and irrelevant to any admissions made by this defendant, after the alleged seduction, as to the marriage.

Objection overruled. Exception.

A He said we were married and then she wished us luck, and she says "Well, I am the oldest sister, I hope you will show us the paper, show me the paper, the marriage paper; and then he looked at me so cross and he says, "What the hell! Why don't they want to believe me?" I said, "Show her, show her; she won't believe it if you don't, if we wouldn't show her."

Then he took out the paper with the envelope and put it on the table and she looked at it and she said she was not married in city Hall, she don't know what the paper has to be like; so he says, "All right." She didn't say nothing else. We had supper and the same night we went home.

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BY MR. ELLISON:

Q During the four weeks that you lived in West 100th street with him, did he have intercourse with you? A Pretty near every night. One night ---

Q You were living as man and wife? A Yes, sir, I was married to him, I thought.

Q Has he ever married you? A Well, on November the 3rd.

Q Well, I mean outside of that going to City Hall has he ever married you? A No, sir.

Q You have never appeared before any Rabbi, have you?

A No, sir.

Q Or any judge? A No, sir.

Q To be married, or by anybody else? A No, sir.

Q Outside of going to the city Hall and getting a piece of paper which you cannot read, has he ever married you? A No, sir.

MR. SANDLER: I object to that. It is People's Exhibit 1, at this time.

THE COURT: I will allow her to answer whether or not she has ever been married to this man.

Q Had you ever had anything to do with, or any intercourse with any man in your life, before you had intercourse with this defendant? A No, sir, I can prove that by my clothes.

Q I just asked yes or no. 143 West 100th street is in the county of New York, isn't it? That is the place where he first had intercourse with you, isn't it? A Yes, sir.

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Q When did you see this defendant the last time? A Well, in 54th street, when we came in front ---

Q After you lived at 143 West 100th street did you go to live with him at any other place? A No, sir, we just ---

Q When did he finally leave you, or when did you leave him?  
A November the 26th.

Q 1913? A Yes, sir.

Q And at that time where were you living? A I have been living with my sisters.

CROSS EXAMINATION BY MR. SANDLER:

Q You just said a few minutes ago, "No, sir, I can prove that by my clothes"? A I could prove it by my clothes.

Q Will you explain to the jury what you mean by that? A Well I mean that, that he was the one that ruined me.

Q What do you mean by your "clothes"? A By my clothes, he was the one that ruined me, and I got my clothes yet.

Q You mean you have your underwear? A Yes, sir.

Q From the night --- A Yes, sir.

Q From October 28th? A Yes, sir.

Q You saved it? A Yes, sir.

Q And you have it today? A Yes, sir.

Q Did you show it to the District Attorney? A I didn't bring it along. I didn't know it was necessary; but I can send anybody over and get it, to the house.

Q Why did you save that from that night? A Because he told me that I should go out and pick up men, and hustle for him, so

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I expected to have trouble, so I saved the clothes.

Q You thought you would save the clothes in case you were arrested for picking up the men -- you could show them the underwear? A No, I expected to have him pinched, because he told me, he begged me not to have him arrested because he says, "I know that I deserve five or six years for punishing you -- for sending you picking up men and hustling. That is the only purpose he married me for, he said; he didn't need me for any other.

THE COURT: Do not get to talking. Only answer the questions that are put to you.

Q I want you to give the best explanation you can to this jury why after the night of your ruin, as you characterize it, you saved your underclothes? Or what was in your mind then?

A Because it was on a Tuesday night, and I did not have no place to wash the clothes, and I didn't have my clothes washed out, and Monday, it was just a couple of days after I was ruined, we went to get married, and the same night he told me that he wanted me to go out and pick up men and hustle for him, so I expected right away to have some trouble.

Q That is why you saved your clothes? A That is why I saved them, and I gave them right away to my sisters to hold it. I said, "Here, hold this shirt", and she says, well, what is the difference, don't wash it. But it is very lucky", she says, "If you are a respectable girl, and if you keep your underwear for a year."

Q How long do you expect to hold it now after this trial?

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A As soon as I will prove that he was the one that might murder over my life ---

Q Who was there when he murdered you that night, as you have characterized it? A I with him.

Q Was there any other person there? A Nobody else.

Q Did you call the defendant's attention to your clothes that night? A I couldn't understand what you mean.

Q The night that you claim, on October 28th, 1913, that this defendant ruined you, do you remember that night, that was the first night? A Yes, sir.

Q Did you show this? A He saw that.

Q Wait. You don't know what I am going to ask you. Did you show this defendant the clothes, the underwear? A He saw it, even his underwear got alos stains on -- on his own underwear.

Q Quite a lot of stains, weren't there? You mean blood, don't you? A Yes, that is what I mean.

Q Let us be frank here. A lot of blood, wasn't there?

A Yes.

Q Were you menstruating then? A I don't know what you mean.

Q Were you unwell? A No, sir. That you can find out by a doctor when I am unwell, and when I am not.

BY THE COURT:

Q He means did you have your monthlies? A That is what I mean.

Q What time of the month did you have them? A I used to have it on the 18th and the 16th, and that was on the 28th.

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BY MR. SANDLER:

Q Did you tell some one -- A (Interrupting) That?

Q That you had prepared this blood or red paint for this young man here? A I beg your pardon, there was no red paint, I can prove it.

Q You are sure it was not? A I am going to go for ten years if you find out it was paint.

Q It was not paint? A No.

Q Where are those drawers now? Will you bring them here this afternoon? A Yes, sir; I can send right away home my sister to do it.

Q Will you do it? A Yes, sir. Just call in my sister, it is in her house. I will go for ten years if you will find out that I was not respectable. Oh, his gang can swear false too.

Q Do you know Joe, an Italian boy? A No.

Q Never met him? A No, sir; I know I had a girl friend, she had a boy friend, but she was the one that ---

THE COURT: You answer the questions. Please do not talk after you have answered the question. You said no, now that settles it.

Q Do you know Minnie Smith? A Yes, I know her.

Q Who is Minnie Smith? A Well, she used to live in the same house where my sister used to live, and I had another girl friend ---

Q Did you ever go out with Minnie Smith? A Yes, sir.

Q Did you ever go to the Hotel LeRoy with Minnie Smith?

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A No, sir.

Q What? A No, sir.

Q Did you ever go there with Joe? A I don't know any Joe.

Q You don't know Joe then? A No.

Q Do you know Frank Ross? A I think it is her ---

Q Minnie Smith's fellow? A I think I do.

Q Were you ever out together with Frank Ross and Minnie Smith one night before you met this defendant? A No, sir.

Q Sure about that? A No, sir.

Q Are you sure about that? A Sure.

Q How old are you? A Eighteen. November 16, 1913, I was eighteen.

Q You remember that very well, don't you? There are two days you remember, and that is your birthday and the day you were murdered, or ruined, isn't that right?

MR. ELLISON: I have not objected, but I must object to counsel in a sarcastic way referring to the night of the murder. I think we all know what this witness meant by that.

THE WITNESS: Surely.

THE COURT: Yes, just speak of it as the night ---

THE WITNESS: When he ruined me.

Q These two dates are fixed in your mind, one is your birthday --- A I have more dates fixed. I have a date fixed when he was pulling me in a hotel and got me drunk. He got me drunk.

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Q Was that before he ruined you? A That was september the 5th.

Q Did you tell that to the District Attorney? A They didn't ask me.

Q Did he pull you into the hotel? A He got me drunk in a cabaret show; he was going with another good friend of his, and he pulled me in a cabaret show and he made me drink three drinks -- two sherries -- with cocktail -- I don't know what it was, and one was a port wine, and then when I was all drunk he told me if I will drink more I would not be so drunk. He was pulling me at 124th street and Lexington avenue, in the hotel, but I have been remembering something so I didn't want to go in there, so he tried to pull me in the house where he used to live and he took me in the hall and he put his hand to my mouth that I should not scream, he wanted to take me up; so the landlady comes out and she says, "How dare you take this girl up in your house?" He says, "I may do anything I want in the house, I pay my rent." The landlady was down here too, she swears for it.

Q You were born on the other side, weren't you, in Europe?

A Yes, sir.

Q And before you came to this country you spent some time in London, in England, didn't you? A In London?

Q What country did you come from? A Hungary.

Q Did you come direct from Hungary to the United states?

A Yes, sir.

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Q You did not stop over in London? A No, sir, I couldn't remember, we didn't get off, probably the steamer stopped, it stopped in three places.

Q You learned how to speak English in this country, didn't you? A Yes, sir.

Q Do you know Mrs. Feinberg? A Yes, sir.

Q Mrs. Feinberg is the lady where this defendant took you the first day he met you? A Yes, sir.

Q Did you go home that night? A I stood there that night because she told me, she begged me I should go and sleep with her because she was all alone.

Q Did you tell that to the District Attorney? A Yes, sir; she was all alone, and he stood there until about, I couldn't remember -- he didn't want to go home because I was there.

Q He remained there with you, didn't he? A He stood there.

Q Where did you sleep? A In the morning ---

Q Where did you sleep that night? A I slept with Mrs. Feinberg.

Q You are sure about that? A Sure. I didn't sleep with him, of course.

Q Why not? A Because I couldn't sleep there? How in the world do I go to sleep with a man, not married to him?

Q Oh, I see. But this was the first time you met this man, the first day? A Well, I was not in my own house to take this gentleman and kick him out.

Q Mrs. Feinberg, of course, was a friend of yours? A Mrs.

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Feinberg was a friend? I know her, she is no friend to me, I just know her.

Q You just walked in there and spent the night in there, didn't you? Yes, or no? A Well, I used to sleep there very often.

Q Whenever you were away from the place of employment, is that correct? A No, when I was not working.

Q Whenever you had a night off you went up to Mrs. Feinberg to sleep there? A No, sir, nobody could prove that.

Q Why did you sleep there?

MR. ELLISON: I must again object. I think if Mr. Sandler reduces the tone of his voice he will keep this witness calm, and we can get on much better, but he yells at her and excites her and she yells back.

THE COURT: I cannot control counsel's voice, but I suggest we can get on better of both counsel and witness control their excitement.

Q How often did you sleep at Mrs. Feinberg's house? A I suppose about three times.

Q Did you take any other men there? A No, sir, I never had to do with any other man.

Q Who told you you were eighteen years of age? A Nobody.

Q How do you know it? A I know it.

Q Did your sister tell you? A My relatives.

Q Is your mother or your father in this country? A No, sir, I haven't a mother, my mother died when I was a kid, four years.

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11.

Q Do you know of any record that can be produced showing you are eighteen years of age to-day? A Well, that is the only proof you can have. You could send for my birth certificate to Hungary.

Q You did not bring that over for the District Attorney, did you? A No, I haven't got it here.

Q How old were you when you came to this country? A I was around fifteen -- about fourteen and a half.

Q How old are you now? A Eighteen, past eighteen.

Q You are nineteen, aren't you? A No, sir.

Q You have had various talks -- you know Miss Perlman?  
A Yes, sir.

Q Who is Miss Perlman, do you know? A She is the lady that used to help me out when I was out of work.

MR. ELLISON: I will state that she is from the Jewish Council of Women.

MR. SANDLER: Never mind, I don't request it. I will conduct my own case.

THE COURT: He asked the witness, let the witness answer

Q Now, we will go back when you first came over to this country; how soon thereafter, after you landed did you go to work? A Three weeks or four weeks, I suppose. One month over.

Q Weren't you out of work over a year and a half? A No, sir.

Q Whom did you work for? A In the beginning? I couldn't remind myself, I had a very much positions; I was very home-sick, I couldn't stay in one place very often, so I went.

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I had about three places and then I couldn't stay. Then I went to a factory, to Goodman Brothers in Wooster street; I stood there six months or seven months, I suppose, and after I went again in a place --- I was a year in this country, I went to Mrs. Cosby, and I stood there a year.

Q Mrs. Cosby is here in court today? Is that right? A Yes -- Miss Cosby.

Q Did you bring her here? A I didn't bring her here, she came here herself.

Q You did not go downstairs with Miss Cosby today, did you, in the pen? A No, sir.

Q The day that you were introduced to this defendant by your sister, Mrs. Weiner, do you remember that day? A Yes.

Q Didn't Mrs. Weiner, your married sister, introduce you to this young man? A Yes, sir.

Q That was at Classon Point.

Q Last summer? A Last summer.

Q After you left Classon's Point, you testified that before you left he asked you to marry him? A Yes, sir.

Q Right away? A Right away, as soon as we started ---

Q As soon as he met you, he said "Marry me"? A No, as soon as we started to go on those things ---

Q All right -- he says -- A Yes, sir, he started to propose to me, and he asked me would I marry him, that he wants to marry me.

Q And you said no? A I said no.

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Q Did you bid your sister good bye? A My sister? Well, we took my sister home in a carriage.

Q Did your sister ask you where you were going after you left? A Yes. Miss -- what's her name? That lady there.

Q Who, Mrs. Feinberg? A Mrs. Feinberg asked my sister to let me go and sleep with her and my sister said, "All right, so long as Frieda is willing to go, but please, Frieda, come home next day early." And that night Mrs. Feinberg asked me to go down to court with her, or she asked me the day before I should go to court with her, that is why I slept with her, so that I should be able to go to court with her the next day; she went to the Post Office.

Q That was the first time in your life that you met this defendant, that was at Classon Point? A No, I met him two years ago.

Q Where? In Harlem? A In Harlem, around 121st or 122nd street.

Q Did he ask you to marry him then? A Not at that time, I didn't pay no attention to such a gentleman as this one was.

Q What was there about him, the defendant, the day that you met him at Classon's Point that interested you to go home with him? A He didn't interest me a bit, but he started to bother me, he wants to go with me, and I should go with him; he begged my sister she should let him talk to me.

Q Of course you did whatever your sister told you? A Well, if I would have listened to my sister nothing would have

happened to it.

Q Well, now, what has happened to you that you think is so terrible? A It is terrible, nobody has no use for me after a thing like that.

Q Who has no use for you? A None of my relatives.

Q Which one of your relatives has no use for you? A Well, a whole lot of them.

Q Who are they? Give me their names? A I can't give you their names.

Q Give me the name of one relative that has no use for you since that happened to you? Can you give me the name of one?

MR. ELLISON: I object to that as immaterial.

THE COURT: Question allowed, as long as she has made the first statement.

Q Give me the name of one man or woman? A My own father has no use for me, that is the main relative.

Q Where is your father? A In Hungary.

Q How do you know he has no use for you? A Because he wrote to me he don't want to know me.

Q You wrote him a letter, what happened to you? A No, somebody else did. I couldn't tell you who.

Q Have you got the letter from your father? A No, I don't know. He wrote to me he don't want to know me. He heard---

Q That is enough. What time did this defendant leave Mrs. Feinberg's house next morning when you slept there? A I couldn't tell you.

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Q Were you asleep when he left? A I was asleep with Mrs. Feinberg in bed when he left.

Q What time did you get up? A Around seven o'clock. We had to go to court -- she had to go to court.

Q Has Mrs. Feinberg a husband there? A Her husband left there, he ran away. She was all alone and she asked me to sleep with her and she wants to go next day to the court in the Post Office.

Q Did she have any children? A I don't know.

Q Did you see any children there? A No.

Q How many rooms did Mrs. Feinberg have there? A Three.

Q How many bedrooms were there? A One.

Q How many rooms in the apartment? A Three.

Q How many beds were there? A Two beds. One was supposed to be for me, a single bed, so I couldn't sleep there because the gentleman didn't want to go home. So I went away from the little bed, and I went in the big bed to her to sleep, and he slept there, I suppose, in the little bed.

Q How long a time before you went from the little bed to the big bed, were you with this defendant? A I didn't sleep in that bed.

Q Well, did you sit there with him? A Yes, sir.

Q Did you spoon and love? A Well, surely.

Q Kiss? A Yes.

Q Did you have your clothes off? A No, sir.

Q I mean you had your coat off? A My coat, of course, yes;

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but I didn't have my clothes off. I slept in my clothes all night.

Q Did you have your corset off? A Only the corset, because I was supposed to sleep there. I had my clothes on.

Q And this was long before October 28th, 1913? A That was the 24th of August.

Q And you tell this jury here that you didn't have sexual intercourse with the defendant, that night, is that right?

A No.

Q Did you or didn't you? A I didn't have nothing to do with him.

Q Did he try to have sexual intercourse with you? A Well, he tried, of course.

Q You know what I mean by sexual intercourse? A He tried to ruin me.

Q Do you know what I mean by sexual intercourse? A No. You could explain me a little better, if you don't mind.

Q Did he try to have connections with you? A Yes, sir.

Q You know what that means? A Yes.

Q He tried, didn't he? A Yes.

Q And you were there without your corset, sitting on a bed with this defendant? A Yes, sir.

Q And he did not succeed? A No, he didn't do me nothing.

Q Did you yell? A Well, he was not so far that I would have to yell.

Q Did you call on Mrs. Feinberg to protect you? A No.

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Q Well, did you get anything in the morning in the way of money from this man? A No, sir.

Q Didn't he give you something in the morning? A No, he just told me that night all about we should go and get a marriage license tomorrow.

Q Oh, he spoke about a marriage license? A Yes, sir, in the morning when he was supposed to go away, I think I was up, and I said, "How about your promise?" And then he says, "Oh, I thought to get a license for peddling, not a license with you."

Q That was the first day you knew him, and you had spent a night there, and in the morning you said to him about the promise to marry, is that right? A Yes, sir.

Q When you woke up in the morning, did you get any money that morning? A No, sir, I never got any money off him; he tried to get money off me.

Q Didn't he give you any money at all? A No, sir, never.

Q I mean that morning particularly? A No, no money.

Q Well --- A Why, should he?

Q Well, I mean seventy-five cents, for example? A Why should he give me money? He didn't owe me no money.

Q Well, did he give you any money? A No, sir.

Q Did he give you seventy-five cents? A No, sir.

Q In Mrs. Feinberg's house? A No, sir.

Q Did you tell your sister that you slept there that night?

A Yes, sir.

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Q Did you tell her what happened? A Yes, sir.

Q Did you tell her how this man tried to ruin you? A No, sir; I told her he had been pretty nearly the whole night, but I didn't tell her he was trying to ruin me.

Q You were a good girl and met a man the first time, and here is a man trying to take advantage of you and trying to ruin you -- didn't you tell that to any one? A No, I did not. Mrs. Feinberg started to explain me how to take care of myself only.

Q What did she tell you about taking care of yourself?

A Well, I couldn't explain that.

Q Oh, you can tell the jury, that is all right, go on. Tell the jury what Mrs. Feinberg told you about taking care of yourself.

MR. ELLISON: I object to it as immaterial to this issue here, what Mrs. Feinberg told her. I object to that as immaterial to this issue.

THE COURT: I will allow it in conjunction with what happened.

Q You can speak up here, tell this jury? What did she say to you about taking care of yourself after that night? A She told me that I may sleep with a man, but I should only take care of myself. I said, "I don't want to sleep and I don't want to take care of myself."

Q Did you ask her what "taking care of" means? A No.

Q Were you interested enough to know, to ask what "taking

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care" means? A I was interested, but I didn't have the nerve to ask what. I was ashamed to ask.

Q But she did tell you you could sleep with a man, but you have got to take care of yourself? A Yes.

Q Did you follow her instructions, yes or no?

MR. ELLISON: I object on the ground that the witness does not understand the word "instructions".

THE COURT: If she does not understand, at any time you do not understand a question do not try to answer it, but say you do not understand it. A No, I didn't know what she meant with it. I was just telling her that he was trying to sleep with me, so that is why I came to her bed, she should excuse me. Well, she said, "It don't matter if you sleep with a man", she said, "But you have got to take care of yourself."

Q When you woke up that morning, I want you to try to remember what bed you were in? A Mrs. Feinberg's.

Q Did you look around for this defendant? A No.

Q Were you interested enough to find out where he was? A No, sir, he came into the bedroom and he told me good bye and he told me to meet him at Wednesday night at Proctor's Theatre, 125th street.

Q A few minutes ago you said that when you woke up he was gone. Now you say he came over to the bed and bid you good bye? A He said good bye and told me to meet him at 125th street, by Proctor's Theatre, Wednesday night, the 27th of

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August, Proctor's.

Q You know everything you are telling here is under oath, do you know that? Do you know that you have been sworn here to tell the truth? Do you know what it means to tell the truth?

A I know, I certainly do know.

Q And you put your hand on the Bible there? A Yes, sir, and I swear for the God's honest truth. If you find out any lie I am willing to go away forever.

Q For how long? A I wouldn't swear for a lie. My father and mother is too good.

Q Well, are you good? A Not no more; I was good.

Q Only since the night of October 28th that you were no good, is that right? A Yes.

Q That is the night when there was a lot of blood, is that right? A Yes.

MR. ELLISON: I must object to these sarcastic questions that counsel is wasting our time with.

THE COURT: I will allow the question.

MR. ELLISON: He don't need to rub it in, we all know it.

Q Did you meet him that Wednesday night? A No, I was supposed to go Wednesday night to work and Tuesday night I came to him to 122nd street with my sister, to tell him that he should not meet me on Wednesday night because I am going to work by Cosby's again; that was the second time I went there. So that night he came and he took us home and he brought us a

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box of fruit, to my sister, and that whole night he was in my sister's house with another friend of his. So he didn't want to go away, so we stood up the whole night on account of him.

Q You say you were in your sister's house, Mrs. Weiner's?

A Yes, sir.

Q Where did your sister live at that time? A 130th street.

Q What number? A 119, East.

Q And you met this defendant in your sister's house in 119 East 130th street? A Yes, sir.

Q What month was that in? A That was in the same month when I met him.

Q That was August? A August 26th, it was supposed to be the 27th, he was supposed to meet me, and the 27th, that day I had to go to work, so the 26th I went to tell him he should not come and meet me in 125th street because I am going to work.

Q What day was it that you went to your sister's house?

A I have been in my sister's house all the time.

Q I mean when you met him in your sister's house? A No, I didn't meet him that time in my sister's house.

Q Or did you meet him in Mrs. Weiner's house? A Many a time.

Q When did you come over with your sister, Mrs. Weiner, and invite this defendant up to Mrs. Weiner's house? When was that? A Oh, well, very often. We didn't invite him, he went himself.

Q Well, I will direct your attention to the night that he

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spent in your sister's house, do you remember that night?

A That was the 26th; he was sitting there near me.

Q What month was that in? A That was August the 26th.

Q That was after you had spent the night at Mrs. Feinberg's house? A Yes, sir.

Q On August 26th this defendant here was in your sister's house, Mrs. Weiner, is that right? A Yes, sir.

Q And where was Mrs. Weiner's husband? A Well, he was working.

Q What is he? A He is an iron worker.

Q Does he work at night? A Well, he never works at night, only that night he had to work.

Q He was not home at all? A No.

Q So that night you were there and this defendant was there and Mrs. Weiner, your sister, was there? A Yes, sir.

Q What was the name of the other man who was there with your sister? A I don't know that man's name, but my sister and that other man was sitting right near me.

Q Do you know the man's name? A His name is Sol.

Q Is it Wishnick? A I don't know.

Q Can you describe him? A Yes.

Q Is he in court, do you see him here this morning? A I don't see him.

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Q What did you do there that night -- sit and talk?

A Sitting and talking, that is all; I didn't sleep.

Q Did you sleep there that night? A No, sir.

Q What time did you go home? A I was in my sister's house.

Q I mean in your sister's house, did you sleep in your sister's house? A No, they were there the whole night.

Q Where did you go? A No place.

Q You remained there, didn't you? A I remained there.

Q So did this defendant remain there? A Yes.

Q And your sister was there? A Yes.

Q And Mr. Wishnick that strange man? A Yes.

Q And her husband was not there that whole night? A He was not home, he had night work.

Q Whom did you sleep with? A Nobody? I was sleeping -- I didn't have no bed -- I had to sleep on the lounge.

Q Didn't you sleep on the couch with this defendant? A No, sir.

Q Whom did your sister sleep with? A Nobody, she was sitting near me with Mr. Wishnick. I heard them every word they were talking.

Q While you were sleeping you heard them talk? A I didn't sleep. I couldn't sleep because he was in there.

Q This defendant was keeping company with you wasn't he? A Yes.

Q And you were both on the couch? A No, we were not. He was sitting on the rocking chair right near the couch, and I was on the couch.

Q Sitting or lying? A (Continuing). And my sister was sitting near the table with the other man, but they were talking so loud I heard every word, and they were talking to us at the same time.

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Q How many bed rooms were there? A Where? One.

Q One. Who occupied that bedroom that night? A Nobody.

Q Didn't your sister go to bed at all? A No, sir. In the morning when they left, when they went away.

Q You tell this jury that you sat up all night long talking?

A Yes, sir, all night long I sat up and was talking. I even didn't take my clothes off at all.

Q Well, you took your clothes off in Mrs. Fernberg's? A I did not.

Q You took your clothes off in Mrs. Fernberg's house the first night you knew him? A No, sir.

Q Didn't you say you had your corset off? A Only my corset, but I can have my clothes on and my corset off. I am dressed even when I have got a corset off if I have clothes on.

Q Did you put on your house gown, a wrapper? A No, I had my dress on that I have been out all day in.

Q And you threw your corsets off. Were you in the same condition of undress that night in your sister's house as you were the first night you met this defendant? A Why, I didn't have no corsets on.

Q Your corset was off again, wasn't it? A Yes.

Q Well, you were on a couch and this defendant was sitting on a chair, is that correct? A Yes.

Q How was your sister dressed when Mr. Wishnick was there? A I don't remember.

Q Did she have her corsets off? A You don't think she went naked around?

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Q Well, I wouldn't expect it, but I wouldn't be surprised.

What did you say, how was she dressed, was she naked? A She was not naked ; she had on also clothes, skirt and waist.

Q Her corsets were off? A Well, we did not go around in the house in corsets, we never go around in corsets, we work very hard.

Q I know you work very hard. Did she have a wrapper on? A I don't know. I think she had a white waist and blue skirt.

Q Is this Mr. Wishnick a married man? A I don't know.

Q Do you know if he has a wife and children? A I don't know

Q Were you drinking anything that night? A Yes, coffee they brought up and cake.

Q No beer? A No beer.

Q Did you fall asleep at all? A No, sir.

Q Were you up all night long? A All night long.

Q Why did you remain all night? A Because they was there -- I couldn't throw them up.

Q Did you ask the defendant to go home? A I did, but he said he has got to go right away to business so he might -- I should let him stay near me.

Q Well, he sat near you and he hugged you, didn't he? A Yes.

Q Kissed you? A Yes.

Q Loved you? A Yes.

Q Told you how much he cared for you? A He always told me lot love.

Q That night particularly, and then you laid down on the

couch, didn't you? Didn't you lay down at all? A I was sitting this way.

Q Yes, leaning down that way and then this defendant leaned down too, didn't he? A No, sir.

Q Did <sup>not</sup> you have an act of sexual intercourse with that defendant that night? A What?

Q Didn't you have connection with him that night on the couch? A No, sir, never before the 28th of October.

Q That is fixed in your mind, that 28th of October when the blood was there, is that right? That is the only night you remember?

A That is the time when it was, when it happened, and I swear for it

Q Who told you to say that? A Nobody.

Q Are you sure about that? A Nobody, and I swear by it not once but one hundred times. I give my life away and I swear for it. I could have speaked with any fellow and go anywheres, but I was a respectable decent child, just like a child that gets born.

Q You are as decent as an unborn child, or a child that is just born? A I was just as decent as any of your children or any of somebody else's children, how would you feel?

Q You were working that week, weren't you, for Mrs. Cosby? A I went to work that week.

Q Yes, you had to go to work the next morning, is that right? A Yes, sir.

Q And you tell this jury that you did not sleep all night and you had to go to work next morning? A Well, she has said so.

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Counsellor, get along with the case.

MR. SANDLER: All right, Your Honor.

Q When you went down to the marriage license bureau with this defendant -- A Yes, sir.

Q Did you tell your sister about it? A After we came back.

Q I mean before you went down. A No, sir.

Q You were asked how old you were at the marriage license bureau, what did you say? A Twenty-one. He told me to say it.

Q Did you swear to that statement at the marriage license bureau? A I think so.

Q Well you knew it was a crime to swear falsely? A Well, he told me to.

Q When were you telling the truth -- then or now? A Then I was not telling -- then I had to say a lie, that I was twenty-one; I was hardly eighteen. And now I say the truth.

Q Everything you say here is the truth? A Yes, I have been a respectable girl and I can prove it.

THE COURT: Just wait a minute, you have answered the question.

Q Where did the defendant ask you to marry him after you obtained the license? A No, we were married.

Q I mean after you found out that the license was not a marriage  
A I didn't find out for about a day before I had him arrested.

Q Did you go to him and say "Mr. Weintraub, you have deceived me; I want you to marry me". A Yes, sir.

Q Did you go to him? A I asked him, I said "So you bluffed

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me", I said.

Q What did he say? A I says "Now, you are going to marry me." He says "Like Hell I will, I wouldn't support you, I didn't marryn you to support you, you ain't sick -- to go out hustling for me."

Q Where did this talk take place? A In the house.

BY THE COURT:

Q What house? A 100th St. where we used to live.

BY MR. SANDLER:

Q Was your sister with you? A No, sir.

Q You had been informed by your sister or rather that the paper that purported to be a marriage license was not so. Did you ask your sister to come and interview this defendant and compel him to marry you? A When?

Q After you found out that you had been imposed upon. A No, I told my sister the other thing, I told him he wants me to pick up men and hustle, and she says God forbid, I should have to live with him; they don't want me to become a bum, I am on the bum enough, they don't want me to go and pick up men, because they have got none of those people in the family. They said I should not live with him, absolutely not.

Q Did you agree to go out and pick up men? A Well I promised him many times, but I didn't want to. I promised him because I was afraid of the gun he had.

Q Oh, he had a gun too? A Surely he had. He had a gun and a bottle of poison or chloroform, or what it was there.

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Q Did you tell that to the District Attorney? A If they ask me I will tell them, and show them some more things which he done to me. He hit me --

Q Tell this jury, here is your chance A The 3rd of November when he married -- when we went to get married he came over to my sister and he showed my sister the paper and my sister did not understand much about it, she looked at it but did not understand much about it.

Q I thought you were going to tell us something new, never mind that.

THE FOREMAN: We would like to hear that now.

MR. SANDLER: All right.

(Witness continuing) The 3rd of November, the same evening when I came home from my sister with him, he went home to 100th St. So we laid down to sleep and he says to me, "Now, Frieda, I want to ask you a favor." I says "What is it?" And he says "You know business is very bad"; he says, "now, and I want you to help me out in business." I says "Oh, I will be too glad to help you out if I only could."

And I thought he meant I should go to outside work, in places again the way I was, so I says "Well, I can get a position in a family for \$5. or \$6. a week, and I will make my own living." He said "Your own living! What the Hell do you think I am going to do, -- starve? I can not live on \$6. a week." He says "I thought you knew what purpose I meant to marry you for. You know that it

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means by marrying a woman, what purpose I married you for is this, that you should go and pick up men and hustle."

Q Tell the jury the exact language he used, go ahead. A Then I said "You don't mean what you are saying". He said "Yes, I do mean it; I want you to pick up men and hustle. If not, I will murder you."

So I says "I see, that is the purpose you married me for?" He said "Yes, I didn't want -- I don't want to support you. If I wanted to support I had my own sweetheart which I loved and I could have married her and supported her, I would not support you. Now, I want you to go out and pick up men and hustle."

And I began to cry. I says "How in the world will I do it? I never -- I don't know how in the world to start in and do it."

He -- well, he says then "We will make it different, I will make it easier for you. Phillip and Rosie Corson is over in a restaurant 71 West 100th St., she used to do it, she used to pick up men and hustle, but she was very lucky, and we will give you a place where to stay, a half a dollar place. It is a dollar place but half the woman gets and half for me."

So he says to me "We will go out, I will go with Phillip and look for a place and you will stay in there in that house;" and then he says to me -- then I began to cry "How in the world will I do it?" And he says "You knew I asked you to go with me out West and you knew what purpose people are going out West," and you answered me "What will I do out West?" Then I told you, "Well, the same as here, but you knew what I meant by staying out West."

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So I says "So that is what you mean, only that I should hustle for you." He says "You knew I didn't love you, that I loved the other girl, and if I would have wanted to support the girl I could have had her for my wife." And he says -- then I began to cry very bitterly and I thought to myself, "Here it must take and end there. I had the night gown, the shirt, I didn't have it washed yet, so I thought to myself, so there must be trouble, I will murder that man or that man promised to murder me -- let him murder me, I don't want to live. And then I told him how about that we should go and ask my sister for money, "Probably you will go to work, I will ask my sister for money and you will go to work and you may make good business."

So he says "All right". The next day I came to my sister and I was crying terrible. I said "Please, Cussie, help me out, save my life, help me out, Charlie has no money to go in business and he would like to have a couple of dollars, " we would lend it.

She says "So long as it is for business I will lend it for you, I have not much more but I will give you the last couple of cents." So she could not go the same day, it was some kind of a holiday, the 4th of November, some kind of a birthday, and she said the bank was closed, she told me to come the next day.

I came the next day and I got \$50. off her, and as soon as he got the \$50. from me he went and gave half of it for Phillip Corson. They were two partners. I was supposed to hustle for both of them. So he gave the money that day, and as soon as he got the money he promised me that he will get the money, he wouldn't send me out

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hustling; and as soon as he got it he told me to go again and I went and got a couple of dollars of the bank that I saved from my poor brother -- I wanted to send to him to bring him out here. So he made me take out those couple of dollars too from the bank. I had it in Rivington St., in Mendel's Bank, and I took out those couple of dollars and he took it away and I don't know who he gave it to; but as soon as he had it, in a couple of days he sent me to hustle and pick up men again, and it kept on four weeks, but that he didn't stop bothering me. And then Sunday, the next Sunday after he had the money, -- that was the 8th I suppose, we went to a house already --.

MR. SANDLER: I don't know whether I should stop it now, but it is getting immaterial.

THE COURT: This is in answer to your question.

MR. SANDLER: Yes, I have no objection if it don't take too long.

(Witness continuing) He went to Mrs. Levinson, one of his friends who keeps a good house, we came in there and they started to tell me, Rose Corson and her, that I should please him, he will make up a good husband, and I should please him, and I should come to her, and I will be well protected there. She says Rosie calls in Mrs. Levinson's house, --

THE COURT: Do not state what these women told you -- you were just asked what the defendant said .

(Witness continuing) The same evening we went away from that house, and I surely thought I will remain there, that he would

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lock me in a room the way they did before.

MR. SANDLER: I think we have had enough of that.

THE COURT: Stop now and wait for another question.

BY MR. SANDLER:

Q Do you know Charley Hirsh? A Yes, sir.

Q Who is Charley Hirsch? A He is a very good friend of my brother in law.

Q Did you ever receive any presents from Charley Hirsh? A No, sir.

Q Have you a ring on your finger now? A No, sir.

Q Did you have a ring? A No, sir, not by him.

Q Whom did you have the ring from? A Well, I have a ring from another friend of mine, from Mr. Katz.

Q Where does Mr. Katz live? A He comes to visit me every Sunday, and that is the man that is going to marry me.

Q Oh, you have another man to marry you now? A That is the man I supposed, but he is too fine to put his fingers on me, he never dares to shake hands with me, that is how much respect he has for me.

Q Well, does Mr. Katz know all about your career? A Yes, sir.

Q You have told him everything? A I have told him everything. No secrets in front of him.

Q How long did you know Mr. Katz? A Since he is here in this country. He used to live by my sister, Paula Nussbaum.

Q Didn't you know Mr. Katz at the time you met this defendant at Classon Point? A Yes.

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Q Weren't you keeping company with him then? A No, sir.

Q Was he calling on you? A No, sir, he used to live that time in my sister's house; he used to live by the other sister's house.

Q You used to go to your sister's house to meet Mr. Katz? A No, sir.

Q Mr. Katz gave you a ring? A Yes, sir, I have got it right here with me, a little signet ring, and this gentleman (indicating defendant) was trying to take it away; he says he needs a couple of cents.

MR. ELLISON: The defendant seems to think this is a joke, I see him laughing. The defendant and his counsel seem to think this is a great joke.

MR. SANDLER: There is no need for these side remarks.

THE COURT: Well, Counsel will simply confine himself to trying the case.

A (Witness continuing) He just gave me this ring a present.

Q What did he give it to you for? A It was my birthday.

Q What birthday? A Seventeenth.

Q Seventeenth birthday? A Yes, sir.

Q And he is a year in this country? A Yes.

Q When were you 18? A 16th of November.

Q And you say he is one year in this country? A He is more than one year in this country.

Q How long is he in this country now? A I suppose it is two years.

Q A few years? A Two years -- a little over.

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THE COURT: Is it very material how long he was in the country?

MR. SANDLER: No, sir, excepting on a question of credibility.

THE COURT: Please expedite your cross examination. We want to make some progress.

Q You said on your direct examination that your sister said "I hope you will show us the paper." Your sisters were very anxious weren't they? A Certainly they were.

Q About the paper? A Certainly.

Q Why were they anxious? A Because they wanted to see the paper; they wanted to have it proved that we are married? Wouldn't you be anxious to see?

Q When did you discover that that paper which is People's Exhibit 1 was not a marriage license?

THE COURT: It is a marriage license, but not a marriage certificate.

Q I mean not a marriage certificate? A When one of his friends came up.

Q When, when, give me the day.

BY THE COURT:

Q How long after you got the paper was it before you found out?

A It was a day before I had him arrested, one of his friends came up to the house and he was trying to lay me down.

BY MR. SANDLER:

Q That was November 26th, do you remember? A 25th.

Q Then your sister was ready to make a wedding, wasn't she?

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A Well, by the Rabbi, he said that it was not necessary, he said the main thing is in the Court.

Q And he was ready to marry you wasn't he? A He did marry me in Court.

Q Are you married to him? A Certainly -- well, that was supposed to ~~me~~ be married.

Q I don't mean that. Did you marry him after you found out that paper was not a marriage certificate but simply a license?

A I didn't have no time and I didn't want to marry him no more because I knew for what purpose he wants me and I didn't want to become a bum.

Q Didn't you have enough strength to resist him? A I didn't want to marry him no more.

Q Didn't he offer to marry you in your sister's house? A Well, he told my ~~is~~sister before we ever got the marriage certificate that he is going to marry you.

Q Did he offer to marry you one day before his arrest? A No.

Q Did he offer to marry you any time since he was arrested?

A Well, I don't know. People came around and offered me money that I should marry him.

Q And you wouldn't do it? A No, because I know what purpose he wants me for.

Q Who told you to say that? A Nobody.

Q Would you marry him today? A No, sir, how in the world could I become a bum? How in the world would I go up and pick up men.

Q Well, he is the man that ruined you? A That's all right.

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he ruined me, but how in the world could I go and pick up men and hustle?

THE COURT: The girl is not compelled to marry him if she does not want to.

A (Witness continuing) I don't want to become a bum.

Q Did you ever have a criminal abortion performed on you.

BY THE COURT:

Q Do you know what that means? A No, I don't know what it means.

THE COURT: Explain it.

BY THE COURT:

Q He means did you ever go to a doctor and have a baby taken from you before it was born? A When, after I lived with him?

Q At any time? A No, sir, no, sir, I went to a doctor to have myself cured when he got me diseased.

BY MR. SANDLER:

Q When did he disease you? A When he lived with me.

Q Do you know Dr. Heinz? A (No answer.)

Q What was the name of your doctor who treated you? A My doctor was from Bellevue Hospital, Dr. Loebenstein, in the out-door department.

Q Did you have any other doctor? A Yes, sir.

Q What was his name? A That was in the Harlem Hospital, Doctor.

Q What was his name? A I don't remember his name, but I had another doctor although, by examining my heart and lungs.

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Q I won't speak about your heart. Did you undergo an operation in the Harlem Hospital in the last six months? A No, sir, I had different troubles but I never had to do --

Q What troubles did you have? A I had troubles from gall stones, so doctors were supposed to operate me on that.

Q Oh, it is gall stones? A Yes, sir.

Q Did Mrs. Weiner ever have a criminal operation performed?

MR. ELLISON: I object to that as immaterial to this issue.

THE COURT: On Mrs. Weiner or on this girl?

MR. SANDLER: Question withdrawn.

A She had an operation this month in the Harlem Hospital.

MR. ELLISON: That will do. Answer questions that are allowed.

Q Will you promise to send for those clothes after you get off this stand? A Yes, and any doctor should examine the clothes, I suppose the doctor knows the difference.

MR. ELLISON: Wait a minute.

THE COURT: Please do not talk. Just answer the questions.

Q Did you ever go to any public school in this country? A No, sir.

Q Did you go to any school in the old country? A Yes, sir.

Q How old were you when you left school? A Eleven.

Q Can you read and write English? A No, sir.

Q Are you sure about that? A No, sir. I can read a little, a couple of words, but if you give me a letter I couldn't read.

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Q The District Attorney asked you whether you could read that People's Exhibit 1. Just take it and look at it and see if you can read anything on it. A I can read my name here (Pointing) Frieda Milovitz; and this is his name, Charles Weintraub. My name I could read on it.

Q Can you read the English printing? A No, I couldn't read it.

Q Did you ever write any letters in English? A No, sir.

Q Did you ever write to your sister? A No, sir in Hungarian.

Q Did you ever write a postal card to your sister in English?

A No, sir.

Q Who was the first person you made a complaint to about this defendant? A Mrs. Gussie Weiner.

Q That was your sister? A That was my sister.

Q Then when you made a complaint to Gussie Weiner, where did you go then? A I went home.

Q Did you go to Police Headquarters or the District Attorney or where did you go, or to the Magistrate's Court? A My sisters went.

Q Where? A They went to the 38th Precinct, Lenox Ave., and then they sent her to 100th St., to the 32nd Precinct.

Q And you made the complaint? A yes, sir.

Q What charge did you make against him? A I made the charge against white slavery. I never expected to have this charge against him.

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Q . You charged him then with white slavery? A Yes, but they didn't know they could have this charge.

Q And they told you the charge of white slavery would not hold and had you charge him with seduction? A Well, they expected to have more charges against him -- about the gun too.

Q Did you make a complaint that he had a gun? A Yes, sir.

Q What did they say about that charge? A They went to look for the gun.

Q But could not find it? A He took it out just the day before and gave it in the restaurant for the people to hold the gun.

Q And then after they would not take your complaint about the gun against him they told you to make a charge of seduction under promise of marriage, is that right? A Well, that is all I suppose they did.

Q You never intended up to that time to charge him with seduction under promise of marriage?

MR. ELLISON: She probably don't know what that means.

Q This charge here is for seducing from you -- for taking from you your virtue. A Yes, I know it, and I expected to have more charges against him, about white slavery too.

Q Which was the most important charge of all you were going to make against him?

Objected to; objection sustained.

Q After you made the charge that the defendant is being tried for now, were you told that it would be necessary to prove that you were a good girl? A Yes, sir.

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Q. Who told you that? A. Nobody.

Q. How did you know you would have to prove that? A. He ruined me and right away he told me --

MR. ELLISON: I object; I don't know what it means.

THE COURT: If she does not understand that she may say so.

BY MR. ELLISON:

Q. What did he ask you? A. I couldn't tell you ~~was~~ what he asked me now.

THE COURT: Then do not answer unless you know what the question is.

BY MR. SANDLER:

Q. Were you told by any person that in order to charge this defendant and have him held on the charge of seducing you, that is taking from you your virtue, your purity, that you would have to prove that you were a pure girl? Did anyone tell you that? Do you understand my question? A. No. You mean if anybody asked me?

MR. ELLISON: How could she understand that?

THE COURT: If she does not understand she should say so and it will be put again.

Q. I will direct your attention to when you got to the station house with your sister Mrs. Weiner, and you were to make a charge against this defendant of white slavery, isn't that correct? A. Yes, sir.

Q. Then you had a talk with the policeman sitting behind ~~with~~ the desk with a cap on his head? A. Yes, sir.

Q. And after you told him your story what did he say to you?

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MR. ELLISON: Objected to as immaterial to this issue.

Objection sustained; exception.

Q Did you then, after you had a talk with the policeman behind the desk make a charge of seduction? Do you know what seduction means? Against this defendant? A What do you mean by seduction?

Q It means he ruined you. A Yes, sir.

Q Did you make that charge? A Yes, sir.

Q Who was the first person, if it be a policeman or a young lady or a District Attorney, who told you that in order to charge this defendant with ruining you that it was necessary to prove that you were a good and virtuous girl?

MR. ELLISON: Objected to as assuming something that is not in the proof.

THE COURT: I will allow her to answer, if she can.

A Nobody told me anything.

Q Still you say you never intended or expected that this charge would be made by you against this defendant.

MR. ELLISON: I object to that.

THE COURT: That has been testified to.

MR. SANDLER: All right, that is her testimony.

Q Whom did you tell your story to before he was arrested, other than the policeman behind the desk? A My sister.

Q Mrs. Epstein? A Mrs. Weiner.

Q And that is the lady we refer to that you spent the night with and she was with Mr. Wishnick, in that apartment? A Yes, sir.

Q Did Mrs. Weiner take you to the Court? A Yes, sir, with

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my other sister, with Paula Nussbaum.

Q Mrs. Weiner made an affidavit in the police court against this defendant? A I did.

Q She was a witness for you? A She was a witness, she was supposed to go and watch me while I was going in the house there, in the whore house where he took me.

Q In what house? A In the whore house; she was supposed to watch me.

Q Did you ever hear that word before you met this man? A This man learned me to say that word.

Q You never heard it before? A Well, never heard it? I never used the word.

Q Did Minnie Smith ever use that word, your friend?

THE COURT: I do not think that is material, whether Minnie Smith used it or not.

MR. SANDLER: All right, I withdraw that.

Q Is there anybody else you told it to other than your sister?

A What?

Q How you were ruined, about the blood? A Well, I showed that to my sisters right away a couple of days after they came around in the house, and I showed it to them and I told them they should take it home and keep them.

Q Did you show it to anybody else? A Yes, to his friends and Fanny Tabbat.

Q You showed the underwear? A Yes.

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Q Anybody else? A I showed them to my sister Paula. My sister Paula seen my underwear.

Q Did you have them in the police court with you? A I had it but they didn't want to see it. I didn't want to show it to them because I was ashamed. I can have it brought down.

(The Court now declares a recess until two p. m., first duly admonishing the jury in accordance with law.)

Recess until two p. m.

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After Recess, Trial Resumed.

MR. ELLISON: If there is no objection on the part of defendant's counsel I will call another witness in the meantime until the other witness (the complainant) appears. Is there any objection.

MR. SANDLER: None.

MR. ELLISON: Call Mrs. Mary Mahoney.

M R S. M A R Y M A H O N E Y, called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q Where do you live? A 101 west 100th street.

Q Do you know the premises 143 West 100th street? A Yes, sir.

Q What, if anything, have you to do with the premises West 100th street? A We have furnished apartments there.

Q You have what? A Yes, I have just one.

Q You have one. Do you remember this defendant calling to see you in regard to that apartment in October? A Yes.

BY THE COURT:

Q Do you live there? A I live in 101 West 100th street; it is a furnished apartment.

BY MR. ELLISON:

Q What, if anything did this defendant say to you at that time? A He just asked for a furnished apartment for himself and his wife.

Q And did you see the girl Frieda? A Yes.

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Q And he was with her? A Yes, sir.

Q He said it was his wife? A Yes, sir.

Q And did you rent him the apartment? A Yes.

Q What floor was that on? A Well, now, the apartment I rented was a week later, he came to me a week later; he was with my sister first on the top floor, a two room apartment.

Q What apartment did you rent him? A One flight up, front.

MR. SANDLER: I move to strike out all the evidence of this witness as to the first conversation.

THE COURT: Any conversation she had with him she may tell.

Q You are telling us about what you said to him, and he said to you, aren't you? A Yes, sir.

Q He came to you personally? A Yes, I was in the apartment so I walked down.

Q How many rooms were there in the apartment that you rented to him and the woman which he said was his wife?

A Four rooms.

Q One flight up? A One flight up.

Q Front or rear? A Front.

Q How much? A \$5.50 a week.

Q After that did they continue living there? A They were there three weeks.

Q Was the rent paid to you during that time? A Yes.

Q Who paid the rent? A He paid the rent the first week, when he first took the apartment and she paid it the second and third weeks.

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3 Q Did she come to you with the money and pay you? A Came to 101 100th street.

Q Who was the janitress of the apartment at that time? A Mrs. Cornell.

Q When was it? A They came to me November 4th, that was a week later; they were with my sister one week in the same house, but not in the same apartment, on the top floor. They came there the latter part of October.

MR. SANDLER: No cross examination.

R O S E C O R N E L L, called as a witness in behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q Where do you live? A 153 West 100th street.

Q Were you the janitress of the apartment 143 West 100th street in October, 1913? A Yes, sir.

Q During that time was this defendant Charles Weintraub and Frieda Smilovitz living there? A Yes, they lived there.

Q Do you remember when they first started to live there? A It was about the 28th of October.

Q What floor did they occupy? A They occupied the top floor rear.

Q How many rooms were there? A Two rooms.

Q And did they then move to another apartment in the same house? A Yes, they moved down stairs to one flight up, front.

Q Did the defendant ever tell you who the woman was? A No.

Q But you in July were living there, that is, as the janitress

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of the apartment? A Yes.

Q Mrs. Mahoney was the woman who leased the flat there, wasn't she? A Yes, sir.

MR. SANDLER: No cross examination.

FRIEDA SMILOVITZ, called for further cross examination, testifies as follows:

CROSS EXAMINATION BY MR. SANDLER: (Continued)

Q How long a time before you went down to the City Hall to obtain the marriage license did you have a talk with the defendant in the presence of your sister as to getting married?

A Well, a couple of days before.

Q Do you remember the day that you went down to the City Hall? A The 3rd of November, 1913.

Q The talk you had with the defendant and your sister, was there any date fixed when you were to be married? A Well, he had been down on Thursday and told my sister that we are going to be married Monday.

Q And you agreed to that? A Yes, certainly.

Q When you went down to the city Hall to the Marriage License Bureau, did you have a talk with the clerk and the defendant here as to the best day to get married on? A No, sir.

Q Did the clerk say to you and the defendant that New Years Day, January 1st, would be a good day? A He didn't speak to me anything else, but questioned me how old I was, and where I come from and what I was working at, and where I lived.

Q But did you have a talk with the defendant while in the

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Marriage License Bureau as to postponing --- A I didn't have nothing to talk with him, I didn't speak to him nothing at all.

Q You don't know what I was going to ask you, why do you answer so quickly? Did you have any talk with the defendant as to allowing for the day of the marriage? A No, sir, he only told me how old I should say I am.

Q Did you say to the defendant here, after you got the license, or before you got it, that you would get married in January? A No, sir.

Q When you obtained the license? A I thought we were going to get married right away. We were supposed to get married that day.

Q Why didn't you get married that day? A Well, we did get married. He fooled me, that is the whole thing. We did get married that day in the City Hall.

BY THE COURT:

Q That is, you thought you got married? A Yes, sir.

BY MR. SANDLER:

Q Didn't the clerk who gave you the license question you?

MR. ELLISON: I object. We have been over this three times.

THE COURT: She said he questioned her.

Q Did he ask you if you want permission or license to be married? A No, sir.

Q Do you say now that the clerk told you that that was a marriage certificate that he gave you? A No, sir, I didn't

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Q Didn't he question you at all? A Nothing at all.

THE COURT: She said he did question her as to her age.

A (Witness continuing) That's all, my age, how old I was, where I lived, and what I am working at, and what my mother's name was.

Q Did you ask the defendant whether there was any other ceremony that you will have to go through? A Well, when we came out he said "Now, we are married. You were afraid all the time I would not marry you. Now we are married. Now, I am not afraid of your sisters, that they will take you away from me, or anything."

Q Your sisters had threatened to take you away from him, hadn't they? A No, they didn't try to take me away, but they tried I should not go with him before.

Q You were giving your sisters a great deal of worry before that day, weren't you? They were worried about you?

A Yes, sir.

Q And they knew you were not behaving yourself? A I was always a good girl.

Q Why did your sisters worry about you? A Because they didn't know where I was. He took me over to his friends.

Q Didn't you tell your sisters where you were going?

A No, sir, I was going from the place. My sisters even didn't know about it.

Q Did you bring the underwear that I asked you to bring?

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A My brother-in-law went to get it, he will be here pretty soon.

Q He will be back with it? A Yes, sir.

Q Where did he go to, what house? A He went to my sister's house to get it.

Q When you left it at the house this morning, it was there in the trunk, wasn't it? A Yes, sir.

Q Did you have it down in this building, in the District Attorney's office? A I had it down by Mr. DuVivier, but he did not look at it.

BY MR. ELLISON:

Q In the Grand Jury room? A Yes, sir.

BY MR. SANDLER:

Q Do you know what the Grand Jury means upstairs? A Yes.

Q This defendant was arrested in the month of November, isn't that correct? A Yes, sir.

Q And you have not seen him out in the street since that time? A No, sir.

Q How many times did you appear before the Grand Jury in this case? A What do you mean? How many times I have been?

Q Yes. A I have been in 54th street once, the next day.

Q I mean in this building? A Once. I have been very often by Mr. Ellison and by Mr. DuVivier, that's all.

Q How many trips did you make to the Grand Jury room? A Once.

Q What month was that in? A I couldn't remember. It was last month, the 28th of --- I couldn't remember the date.

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Q When you claim that on October 23th, 1913, that this defendant ruined you, just before he ruined you, did he say anything to you about marrying you? A Certainly.

Q What did he say? A Well, he said I should not be foolish, I should let myself, and he would marry me, that is one thing, that I should be sure about it, that he would marry me; if he would not marry me he wouldn't do a thing like that to me, and he told me surely he would marry me. He was supposed to marry me the next day, but he changed his mind the next day.

Q You believed him, didn't you? A Well, I expected him to marry me.

Q Did you ask him to marry you after the night you spent in Mrs. Feinberg's house? A Yes, sir.

Q Did you ask him to marry you after the night that you spent in your sister's house? A Well, I didn't ask him to marry, he asked me after to marry him.

Q Now, at that time you were still keeping company with Mr. Katz? A No, I didn't keep company with that young man.

Q Or with Charles Hirsch? A No, with nobody.

Q You were friendly? A I was friendly, and he gave me last year, November 16th, my birthday, a ring, and I got some more presents of my sister, too. I got a hat and some more things.

Q This Mr. Katz is quite friendly with your sister, Mrs. Weiner? A With my brother-in-law, yes.

Q The family liked him very much? A They used to go to

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school together.

Q The family liked him? A Yes, sir.

Q And the family would like to see that he should marry you? A Yes, he would marry maybe, but I objected, I didn't want to marry him before too.

Q Well, you would marry him now, you said so to-day?

THE COURT: Is that material?

MR. SANDLER: I am coming to it, your Honor.

Q Isn't it a fact that the reason you refused to marry this defendant is because you wanted to marry Mr. Katz? A No, sir.

Q Hasn't there been some talk about your marrying Mr. Katz?

A Not because, - only because he wants me to go and pick up men and hustle for him, and I know he just wants me to be the way his friends are, to live in a swell apartment, and have a whole lot of jewelry and diamonds and hustle.

Q You don't care for them? A No, I would rather work the way I do work. Look at my hands.

Q Isn't it a talk that you have had a talk with Mr. Katz about getting married? A No, sir, never spoke about it. He asked my sisters. He never mentioned the word that I should marry him. He asked my sisters, he never dared to ask me a thing like that; he asked my sisters.

Q Is it such a terrible thing to ask? A No, he is too respectable, too fine.

Q To marry you? A No, that he should insult me and ask me such a things. He never asked me to marry him. He asked my

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1ster would she allow me to go with him; or to keep company with him.

Q You know what I mean by marriage, don't you? When I say the word marry didn't you understand me? A Yes, sir.

Q I ask you whether Mr. Katz ever asked your sisters whether he could marry you? A Yes, sir.

Q Isn't that a fact? A Yes.

Q And they said he could? A No, they said it is up to me.

Q Did you accept Mr. Katz? A No, I didn't care for him.

Q You care for him now, don't you? A Well, now, I don't know. I don't know. I think I would.

Q And you would marry him when this case is over? A Well, if this case will be all over, and if he will want me --- I don't know if he will want me now.

Q And you would not marry this man (indicating defendant)?

A How in the world could I? Do you blame me? No, sir.

Q I just want to ask you. You said here before that because this terrible thing had happened to you, you have lost everybody in this world: is that right? You lost all your friends? A Yes.

MR. ELLISON: She said she lost her father. I object to this. We have been all over this.

THE COURT: No question is pending. I cannot rule till there is a question.

MR. SANDLER: I will withdraw that question.

Q Have you seen Mr. Katz to-day? A No, sir.

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Q Have you seen him last week? A Yes, sir.

Q He called at your sister's home? A Yes, sir.

Q He has been taking you out, hasn't he? A No, sir.

Q Haven't you gone to the theatre with him? A No, sir.

Q The sister is Mrs. Weiner? A Mrs. Nussbaum.

BY THE FOREMAN OF THE JURY:

Q The day that you went down to City Hall with this gentleman, they asked you whether you took an oath. Did you take an oath that day the same as you took it here? Did they give you a Bible when they asked you these questions? A No, sir, they just told us to swear, we should raise our hands up.

Q And you raised your hand? A Yes, sir, and I thought ---

Q You knew when you were telling twenty-one, you knew you were only eighteen? A I knew I was eighteen, but I had to say that because he told me to. He told me otherwise I don't get my marriage paper, so I might as well state I was twenty-one, because that I should not be disappointed, that I should get my marriage paper.

Q You knew the oath that you took here to-day? A What is that?

Q The oath that you took here today?

BY THE COURT:

Q When you were sworn to tell the truth? A Yes, sir, I am telling the truth, the God's honest truth, the very God's honest truth.

BY MR. SANDLER:

Q Did you tell the God's honest truth in the City Hall? A No.

THE COURT: She has so testified; she said she was  
twenty-one, when she was eighteen.

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M R S. G U S S I E W E I N E R, called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q Where do you live? A 200 Brook avenue, Bronx.

Q You are the sister of Frieda Smilovitz? A Yes, sir.

Q Where do you live? A I live at 200 Brook avenue, New York.

Q When did Frieda come to this country? A Well, it is about three years ago, three and a half.

Q Where did she go to live when she came here? A 410 East 121st street, with my sister, Mrs. Nussbaum.

Q Do you know this defendant, Charles Weintraub? A Yes.

Q When and where did you first meet this defendant? A Well, I met him at, he is at 122nd street.

Q Were you down in Classon's Point in August, 1913, with Frieda? A Yes, sir.

Q The time he joined your party there? A Yes.

Q Who was in that party? A Well, it was a couple of more fellows and him, my sister.

Q Who else? A My sister and me and another lady friend.

Q What has Frieda been doing for a living since she has been in this country? A She was a servant girl.

Q Did she do anything else? A Well, she works a short while in a factory.

Q After meeting this defendant in August, 1913, at Classon's

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Point, did you ever see him after that? A Yes, sir.

Q How often did you see him after that? A Oh, I seen him quite often because I lived at that time at 130th street and I used to come down that way, and I seen him often.

Q Did you ever see him with your sister? A Yes.

Q Frequently, often? A Quite often; he used to take her out.

Q Were you ever present at any conversation when the question of marriage was discussed between the defendant and your sister and yourself? A Yes.

Q When was the first time you ever heard this defendant say anything about marriage? A Well, he was in my house, and he told me he was going to marry her.

Q When was that, the first time he told you he was going to marry her? A I couldn't exactly remember when it was.

Q Do you remember what month it was? A It was a couple of months before he did take her away.

Q Before he took her away from where? A From Mrs. Cosby.

Q Then would you say that it was in the month of October, 1913, if she left there in October? A Yes, sir.

Q Just tell the jury what, if anything the defendant said at that time? A Well, he said ---

BY MR. SANDLER:

Q Where did this talk take place? A In my own house.

BY MR. ELLISON:

Q Tell the jury what he said? A He said he was going to

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marry Frieda, and of course I did not think he was good enough, so I didn't want to believe it, see? I didn't think that she was going to go away with him, and then I asked him if he liked her enough to marry her. He says, "Why, certainly I like her; if I wouldn't like her I wouldn't go to work and marry her."

Q Keeping that visit in your mind, when was the next time that you saw the defendant and your sister? A I seen him after-- it was on a Sunday, she had a date with him, and she did not want to go to meet him alone, so she tells me, she says "Gussie2--

Q You cannot tell what she said to you, but did you go with her? A Yes, sir.

Q And did you meet the defendant? A Yes, sir.

Q Where? A In 122nd street, at No. 315.

BY THE COURT:

Q Was that while she was still at Cosby's? She was at Cosby's that time, yes.

Q And just tell us what took place when the three of you met on that Sunday? A Well, we met and then I thought if they were going --- she said --

Q No, don't say what you thought. What did the defendant say and what did your sister say and what did you say? A Well, we met and then he took -- I come down there and he said he is going to take Frieda out, and Frieda didn't want to go with him, but he coaxed her and he took her away; that was on Sunday night.

MR. SANDLER: I object to the term "coaxed" her.

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THE COURT: Yes, you will have to say what he said.

A (Witness continuing) He said, "Let Gussie go home and you come with me." That was on a Sunday night. Sunday night she went with him, and then the next day he took her out. It was seven ---

BY THE COURT:

Q You were not there, you did not see them? A No, I was not there.

THE COURT: Strike that out.

BY MR. ELLISON:

Q Was there anything said about marriage at that time, on that Sunday? A I didn't hear that time.

Q When, if you can remember was the next time that you saw the defendant? A Well, I didn't see him any more, but ---

Q You didn't see him any more? A I didn't see him until I called up from his stable, where he used to hang out. I wanted to know where my sister was, he took her away that time from Mrs. Cosby ---

MR. SANDLER: I move to strike that out.

THE COURT: Yes.

BY THE COURT:

Q When did you see the defendant? That is the question.

BY MR. ELLISON:

Q When did you see him next? A Next? Wednesday, in my house.

BY THE COURT:

Q What Wednesday? A Wednesday. I seen him Sunday, and

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Wednesday he come down to my house. I asked him to come through the telephone.

BY MR. ELLISON:

Q Was that after your sister left the Cosby's? A Yes, sir.

Q That was the following Wednesday? A Yes, sir.

Q Where did you see him? A At my house; he come up to my house.

Q Who was there? A Nobody was, only me and him.

Q Was your sister there? A No, he had her away already that time.

MR. SANDLER: I move to strike out that he had her away at that time?

THE COURT: Yes.

Q Was your sister there while he was there? A No.

Q What did you say to the defendant and what did he say to you on that Wednesday in your house? A I asked him where Frieda was and he says, "I don't know where Frieda is. Why are you asking me where Frieda is?" I said, "What do you mean, you don't know?" I said, "I heard you took her off last night." He said, "She is working some place in Brooklyn." And I said, "Charlie, don't be like that, because I will fire something at your head; tell me where Frieda is, because I heard you took her." And he started to laugh; he says, "Well, how would you like to hear that Frieda and I are going to be married?" I said, "Well, what was you lying for? At first you didn't know where she was. Why didn't you say the truth?" And I started to cry,

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and he said, "Because you always were against me, you never liked me, you always hated me, that is why I made Frieda never tell you where she is going, or what she is doing."

Q Is that about all the conversation that took place at that time? A Yes.

Q When was the next time that you saw the defendant after that Wednesday? A He told me he was going to get married. The next Monday he came down to the house with her as man and wife.

Q What took place on the following Monday when the defendant and Frida called at your house? Tell us everything that was said? A He come down ---

MR. SANDLER: I object to it on the ground that it is incompetent.

Objection overruled. Exception.

Q Go ahead, tell us everything that you said, that Frieda said and the defendant said? A He come down, they come down and I wished them luck.

Q What did you say to them? A I said, "Hello", and he said, "This is my wife, we are married." I said, "I wish you luck, I said, and I kissed her and I started in to cry. And he said, "What are you crying for?", and then I said, "Well," I said, "Let me see something, if you are married, let me see the marriage certificate." And he didn't want to show me at first. He says, "I left it home.

Q I say, "Well, show it to me. If you just coming down from Court a couple of hours, I suppose you have it with you", and

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Frieda says, "Show it to her, because she might not believe we are married." So he goes to work and shows me that paper, but I looked at it and I didn't know nothing about it.

Q He showed you a paper? A Yes, sir.

Q Did you read it? A It was from the City Hall, that's all I seen.

Q Did you read the paper? A I didn't read it because I can't read English.

Q But he showed you a paper? A Yes, he showed it to me, but first he didn't want to.

Q What was said after he showed you the paper? A Then I asked him if he is going to start to keep house, if they are going to take rooms and keep house, and he said, "Oh, we have got time"; and I said, "You should make a jewish ceremony." He said, "We have got time, I have no money for that now." I said, "It don't take so much money, me and my other sister, we are going to spend the money what it has got to cost." So he says, "Ah, don't bother me, I have got plenty of time with that.

Q Do you remember when was the next time that you saw the defendant after that monday? A Well, a couple of days later he was in the house with my sister.

MR. ELLISON: Your Honor will take judicial notice that the Monday that this witness speaks about is November 3rd, 1913, which is the date of People's Exhibit 1, the marriage license, which was issued on November 3rd, 1913.

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Q Now, after that Monday when do you say you saw the defendant next? A Well, he was a couple of days later in my house.

Q Alone or with Frieda? A With Frieda.

Q What was said at that time relating to the case, to this case? I don't mean outside matters. Anything? A Yes, Frieda told me that he asked her for money.

Q Was the defendant there when she said this, or wasn't he? A He was there but he did not hear it.

Q Then you must not tell us. I want to know what was said to the defendant or by the defendant or in the presence of the defendant? A Well, she was talking about getting rooms and fixing up a home, and he didn't want to hear from that.

Q What did he say? A He said he has not got no money, he is glad he is living.

Q Anything else that you can remember? A He said so much that ---

Q Anything said at that time by the defendant as to where he was living with Frieda? A No, he would not tell us. I asked him, "Where you live?" And he wouldn't tell us the address.

Q You didn't know he had taken rooms up in 143 West 100th street, did you, at that time? A No. Not until Frieda came for money, I should give him \$50, not until that time.

Q After this time when did you see Frieda next? A Well, she came a couple of days later.

Q Did she have a talk with you? She had a talk with you

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when she came, didn't she?

MR. SANDLER: Objected to.

THE COURT: Answer yes or no.

Q Did she have a talk with you? A Yes, sir.

Q Now, after she had the talk with you did you give her anything? A Yes, sir.

Q What did you give her? A \$50.

MR. SANDLER: How is that material? I move to strike it out.

THE COURT: You elicited on cross examination that she got \$50 from her sister.

Q When did you see the defendant after that? A Yes.

Q When? A After I gave her \$50, he gambled it away.

MR. SANDLER: I move to strike that out.

THE COURT: Motion granted.

Q When did you see him again? A About two days later, he came up in my house.

Q Tell us what took place on that visit, what you said to him and what he said to you?

MR. SANDLER: When?

MR. ELLISON: That would be in the week of November 3rd.

Q What did he say at that time? A He said he was broke, business is very bad, he is broke, he has not got no money, and he wants \$50 more, if I could give him any more.

Q What else was said at that time? A Well, after he left

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Frieda was telling me ---

Q When did you see the defendant after that time? A Well, she always came every second day because my sister came to me often and so he came there.

Q Did the defendant and your sister visit you frequently after that? A Yes.

Q At your home? A Yes.

Q When was the last time that you saw the defendant? A When he was arrested. That was Thanksgiving Day, I believe.

CROSS EXAMINATION BY MR. SANDLER:

Q You live now at 200 Brook avenue, in the Bronx? A Yes, sir.

Q With your husband? A Well, of course, I don't live without my husband.

Q Did you ever live without your husband? A I never did, not since I am married.

Q Why were you so quick to say you did not live without your husband? A You asked me if I lived with my husband. I suppose if a woman gets married she lives with her husband, I don't know anything else.

Q I have not said you lived with anybody else.

Q You asked me if I lived with my husband.

THE COURT: You could have said yes, and we would get along quicker, if you would just answer the question.

Q What does your husband do for a living?

Objected to as immaterial. Objection overruled.

Exception.

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A He is an iron worker.

Q Does he work night or day? A Day.

Q Did he ever work nights? A Never did.

Q Well, was he ever away from home at night? A Once.

Q When was that? A Well, that was when my sister kept company with this gentleman, one day.

Q Do you remember what month of last year that was in? A No, I don't remember.

Q It was in the summer time, wasn't it? A Yes.

Q And do you remember where you were living at that time?

A Yes, sir.

Q Where? A I was living at 130th street.

Q What number? A I don't exactly remember the number.

Q Do you remember the number of the house? A I don't remember the number. I lived near Lexington avenue.

Q East 130th street? A Yes, near Lexington avenue.

Q The night that your husband was away from the house what kept him away, do you know? A Well, the watchman was sick that night, and the foreman asked him to take his place one night.

Q That night your sister and the defendant called on you?

A Yes; she had a date with him that night.

Q This was prior to October the 28th, 1913?

MR. ELLISON: Yes, it is conceded.

MR. SANDLER: Thank you, but I don't want any concessions.

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MR. ELLISON: I object to his mathematical questions;

Of course August is before October.

THE COURT: She has not said it was August.

MR. ELLISON: She said it was the summer time, your Honor, and it was stated before to be August.

Q Was it before October? A I don't remember what month it was.

Q Was the weather warm or cool.

Q How long was it after you had met this gentleman at Classon's point? A Oh, well, I knew him long before.

BY THE COURT:

Q You were not asked how long you knew him. How long was it after you met him? A I don't remember.

BY MR. SANDLER:

Q A short time after? A No.

Q Well, a month? A No, it was more than that, it was a couple of months.

Q Wasn't that a couple of days after you met at Classon's Point that the defendant and your sister called at your Home?

A No, sir.

Q Can't you try to remember? A No, no, no.

Q You don't want to remember that night, do you? A What do you mean, I don't want to remember?

MR. ELLISON: I object to that statement.

THE COURT: She was asked a question, put it as a question, but do not make a statement.

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Q Your sister testified here it was two days after you had met at Classon's point? A No, sir.

Q Can you tell the jury about how long after, either a week or two or a month after you met at Classon's Point? A Well, it was a couple of months but I knew this gentleman.

Q That is not the question asked? A I knew him before, before I ever met him at Classon's Point.

MR. ELLISON: Well, I don't know what question he is asking.

Q Well, anyway, this is the night your husband had to take the watchman's place? A Yes, sir.

Q And that was the night that the defendant called on you with your sister, with the complainant in this case, is that correct? A She had a date with him and she came there to my house and asked I should go with her and she was supposed to meet him at 125th street and she met him and we all went up to my house.

Q And you all got to the house? A Yes.

Q Was the baby home, You have a child, haven't you? A Certainly.

Q What time did you get to the house? A Well, it was about ten o'clock or half past ten.

Q How many people were in the house altogether, outside of the baby? A Five of us; outside of the baby there were four of us.

Q The defendant, your sister, the complainant in this case, and yourself and who else? A I don't know what you mean. Four

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of us and the baby was five.

Q Who was the fourth person? A A friend of his.

Q What is his name? A Solly, that is all I know.

Q Solly Wishnick? A I don't know; I just know Solly.

Q How long do you know that name? A Oh, a long time, because I met him.

Q Does he know your husband? A Why, certainly he does.

Q Has he called on you before? A Surely, often.

Q Very frequently? A He used to call often at my house.

Q He was a visitor there? A A friend of my husband's.

Q Prior to the night that your husband was away had this man Solly ever spent the night at your house? A Well, he never spent the night before, but they come in, and they were playing cards.

Q Just yes or no? A No.

Q Did you ever visit any places of amusement with Solly?

A I guess not.

Q Moving picture shows? A No, not alone, unless we went in a group.

Q Well, if your husband was with you, of course? A Yes.

Q You went to Classon's Point sometimes with your husband and Solly?

THE COURT: Please get along with this examination, now. Do not go back to Classon's Point.

Q Well, that night you got back to the house at half past eight? A Ten o'clock.

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Q Where did you sleep that night? A We did not sleep that night at all. They did not want to get out of the house. They were sitting there all night. I was sitting up, I couldn't go to bed on account of them.

Q On account of whom? A On account of this gentleman here (indicating defendant).

Q What was the matter with him? A Oh, well, you are cracking jokes; I do not feel like joking now.

MR. ELLISON: I must object to counsel's method of cross examination. He says what was the matter with him.

THE COURT: This is a collateral matter on cross examination to affect the credibility. Do not spend all the afternoon on it, please.

Q Why couldn't you get him out? A They were playing cards, and he was supposed to be a friend of my sister's. He was a gentleman friend of my sister's. Was playing cards just for past time, not for money, and then afterwards she got tired playing cards, my sister, and she was sitting on the couch, and this gentleman was sitting near her in the rocking chair, and me and this other fellow was sitting at a table talking, talking all night. I don't know whether this gentleman here was asleep or not, but the rest of us was all awake. I didn't go to sleep. For that whole night, I was sitting up.

Q Did you ever sit up before that way all night? A Well, I had no reason to sit up all night. I didn't --- I didn't want to leave them alone.

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Q Why didn't Mr. Solly go home? A He was waiting for his friend. They were peddling that time together, he was working for him.

Q You did not occupy the bedroom that night, did you? A Well, I was sitting there in my dining room with them all day.

Q I just asked if you went to the bed room at all? A No.

Q You didn't go to bed? A I should say not. I wouldn't leave strange people in my house and I should go to bed.

Q You did not see the defendant and your sister on the couch? A No.

Q Was your sister lying down on the couch? A She was sitting there.

Q Did she lean back? A No.

Q sitting straight all the time? A Well, she was sitting by the table, and then she was sitting on the couch. I didn't see her laying down, no.

Q And you sat until what time in the morning? A It was about five or four o'clock in the morning they left.

Q Did your sister leave too? A No.

Q Your sister remained? A That day she went to take some position.

Q Hadn't she been working at that time? A No, she was in my house.

Q Was your sister out of work? A Yes.

Q You know what I mean? A Yes, she was living with me that time.

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Q Was she out of work? A Yes, she was living with me that time. She went back to Mrs. Cosby.

Q But she had been out of work up to that time, hadn't she? A She was out of work a short while, about a week, or so.

Q Well, she came and she went from Mrs. Cosby's house at various times? She did not work steady for Mrs. Cosby, did she?

A She worked, she was there a year and a half once, and then she went back again, because they liked her very much.

Q How long was she out of work altogether? A I don't remember that.

Q Was she ever out of work six months? A No, she was always working. If she was out of work a week that was too much for her.

Q She always got a job? A She always was working; hard, too.

Q You say that the defendant and your sister called on you very often while you were up in Brook avenue, is that right?

A Brook avenue?

Q In your house? A In 130th street?

Q Yes. A Yes, he used to come there. Sometimes if she was not there he came to see if she was there.

Q Did you ever have any trouble with your sister before she met this defendant? A Never had any trouble with her, never.

Q Why were you so worried about your sister going with this man? A I was worried?

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Q Yes. A Well, because I heard he played cards, see? So I didn't want her to get a man that played cards and gambled away everything he has, that is why.

Q And you objected for that reason that the defendant should go with your sister? A Positively, because I said that he will gamble away every cent that he will earn.

Q Have you met any of your sister's friends since she has been in this country, lady and gentlemen friends? A Well, a few of them.

Q You know this man for quite a while, you say, prior to the summer of 1913? A Yes.

Q That he was a bad man and card player, and gambler? A Yes.

Q Why did you introduce him to your sister at Classon's Point?

A I didn't introduce him. He says, "Why don't you put me next?" "Why don't you introduce me?"

Q Did he say "next"? A He said "Why don't you introduce me to this girl?" And I said, "That is my sister"; and I didn't even give him a regular introduction.

Q Did he say "Why don't you put me next", or "Why don't you give me an introduction?" A That is what he said.

Q You know what that means, don't you? A I don't know, sir.

Well, you introduced him, didn't you? A Yes, sir, half ways.

Q Do you know any of your sister's friends? Did you ever know Frank Ross? A No, sir.

Q Frank Smith? A No.

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MR. ELLISON: I object to that form of question.

He says, "Did you ever know any of your sister's friends," and then asks, "Did you know Frank Ross?"

THE COURT: Just ask if she knows those people.

Q Do you know Frank Ross? A No.

Q Do you know Minnie Smith? A I know a girl named Minnie, but I don't know if it is the same.

Q Do you know a man named Joe, an Italian gentleman? A No.

Q Did your sister keep company with any man? A She kept company with Mr. Katz.

Q And when did she start to keep company with Mr. Katz?

A I don't exactly remember because she lived in my other sister's house.

Q How long does she know Mr. Katz? A For a couple of years now.

Q How long is Mr. Katz in this country? A About three years, I guess, or so.

Q He did not come here last year, did he? A Well, I don't know when he came.

Q You believe he is here about three years? A That is what I think.

Q Mr. Katz is engaged to your sister, is he? A Well, she goes out with him now.

Q He gave her a ring? A Yes.

Q Hasn't a wedding date been set? A No.

Q When is the wedding to take place? A I don't know, and I

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don't know if she is engaged at all.

Q Well, Now, do you know Charlie Hirsch? A Well, I never met him, I heard of him.

Q He is a friend of your sister's? A I couldn't tell you whether he is or not, because I never seen him, and I never met him.

Q You didn't try to stop this man from marrying your sister, did you, at any time? A I didn't like it very much when I heard it, no, that he come down and told me that he is going to marry her, I didn't like it no. He even said, "What are you so sad about? You think to yourself, 'Poor Frieda', don't you?", he said to me. Well, I said, "I do, I am sad over it, because I know she is a good girl and she deserves a good home.

Q Now, did your sister enjoy your confidence? Did she tell you all her troubles? A Yes.

Q Everything? She told you all her troubles, didn't she? A Yes.

Q Will you tell this jury -- when did your sister first tell you that this defendant had had anything to do with her?

A What do you mean?

Q Oh, in a bad way? A Yes, that was the Sunday before he was arrested.

Q He was arrested on November 27th? A Yes.

Q 1913? A Yes.

Q On November 25th approximately she told you something?

A She told me.

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Q Tell the jury what she told you? A She come down and she started in to cry and I said, "What are you crying?" She said, "Gussie, I am going to tell you, nobody else but you, in case anything will happen to me", she says, "you should know the whole story." So she started in to tell me that he wants her to go out on the street, and he has friends in 100th street.

Q Well, I mean about ruining her or trying to get the best of her? A Yes. So she says that he treats her very mean, he always tell her she should go out to work, hustle for him, and she would not get nothing to eat, and he only leaves her ten cents a day and sometimes he don't leave her that much, and when she asks him for money he says, "Well, go out and hustle for money, like others do", and she says, "I wouldn't do it." "Well, you will have to do it", he said, she told me, "Because I will starve you and you will have to do it."

Q What else did she say? Tell the jury everything she said to you? A Then she says she didn't know what to do, she is afraid of him because he has got a gun, she is actually afraid and she don't know what to do. Then she says to me that "He brought me up to a house, to Mrs. " -- I forget her name -- "Mrs. Levinson."

Q Some restaurant people? A No, to a house, Mrs. Levinson's, and he said that she should go to work.

BY THE FOREMAN OF THE JURY:

Q Where was Levinson's house? A Well, the detective knows where it is.

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BY MR. SANDIER:

Q Go ahead. A And she started to cry and she don't know what to do, and she fell in such hands, and these restaurant people always tell her she should go out and hustle and make money and wear swell clothes like others do. So she said, "No, I don't want to wear no swell clothes, and I don't want to dirty my family, and I wouldn't go out and hustle."

Q Is that all she told you? A And then she begged me what she should do, and she went up to my other sister's house, and my other sister said, "The best thing, if you are afraid of him and he has a gun, have him arrested and the law knows what they have got to do with him, what he deserves."

Q What else did she tell you about herself? A And then this restaurant lady says ---

Q Did she tell you anything about herself, her relationship with this man?

MR. ELLISON: Well, she is telling you.

BY THE COURT: You are not asked what the restaurant keeper said but what your sister said? A Well, I am telling you.

BY MR. SANDLER:

Q Have you told the jury everything that your sister told you? A She said the reason she came down for \$50 ---

Q That was on November 25th, two days before the defendant was arrested? A Yes.

Q Did you have any talk with your sister in the month of

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October, the month before that? A About this?

Q Yes. A No, she never ---

Q Did you have any talk with your sister in the month of september? A She never told me, only that day. She told me that she wants to confess everything in case anything should happen to her I should know everything.

Q You have told the jury eberything she told you? A She told me the reason she came down for the \$50. Then she told me, Gussie, you saved my life, you saved me, because he would have dragged me into a house if I did nt give the \$50." He said, "I will bring you away far, you will have to go." She said, "I won't go"; and "Suppose", she said, "I go and I am on the street and I get arrested", she said, "The whole bunch of you will be in Dutch", and he said to her, "Oh, well, don't tell. If you get arrested, don't tell that I sent you out. Don't tell them you go out hustling for me."

Q And that is all she told you? A Certainly, it is right. I won't say nothing that is not right.

Q Are you familiar with your sister's physical condition as to her monthly periods, menstruation -- do you know what I mean? Did she confide in you on that subject? A I don't know what you mean?

Q Well, when you sister becomes unwell? A Yes.

Q Did she discuss that with you? A Oh, well, she never tells me about that..

Q That she never tells you? A Well, she has no reason

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Q Did she tell you anything about having sexual intercourse with this defendant? A Yes. She told me how he took her up, and how he took her out with two more people, and then afterwards those two left and they were going to visit somebody, and he took her to visit a party, and he took her up to a furnished room, she didn't know where she was going, from the restaurant she was going there. Afterwards the two left and he was left with her there. That is what she was telling me.

Q She told you nothing about the fact that she had connections with this man, did she? A Why, certainly, she told me that he ruined her.

Q Ruined her? A Yes.

Q Why didn't you tell that to the jury? When did he ruin her. A When he took her up to that flat, there, up to that room that he said he was going to visit somebody, and he went with two more, with another girl ---

Q Do you know where that was? Did she tell you when she was ruined? A Yes, she told me but I don't remember the day.

Q Do you remember the month? A I don't remember that day, no.

Q Do you remember the month? A Well, I suppose he ruined her next day when he took her away, because one night she slept with those restaurant people.

Q Well, did he go away with her on the day that you met at Classon's Point? A Go away?

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Q Yes, didn't they take you home first and then went away from you? A Not only him but a crowd of us was there. She went to Mrs. Feinberg.

Q Can you tell the jury when your sister told you she was ruined by this defendant? Try to fix the time. A After he took her away, the next day.

BY THE COURT:

Q Took her away from where? A From Mrs. Cosby.

Q Then you say that the next night after that she spent with some restaurant people and the next night went to this furnished room A Yes; he told her he was to go to visit somebody, so two more people went up there and after that left him remain with her there.

BY MR. SANDLER:

Q Did you hear your sister testify in the police court?

A What do you mean?

Q You were in the police court when your sister was telling her story about this man? A Yes, I was there that time.

Q What charge did you make against this man? Was it white slavery?

MR. ELLISON: Objected to as immaterial to this issue as to what charge. It assumes that this woman made a charge.

Objection sustained. Exception.

Q Did you hear your sister in any court tell any judge as to when she was ruined by this defendant?

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MR. ELLISON: Objected to as immaterial to this issue.

Objection sustained. Exception.

Q Do you know how long after you introduced your sister to the defendant that she had sexual intercourse with him -- how long a time was it, a week or a month or two or three? A I don't remember.

Q What do you mean, you don't remember? Do you know? A When he ruined her after he met her?

Q How long after he met her through your introduction, did he have sexual intercourse with her? Just look at me, do not look at the District Attorney.

MR. ELLISON: I object to this statement of counsel.

BY THE COURT:

Q When did your sister tell you that this man first had connection with her? A When she came down and they were married.

Q That is the day she told you, but did she say when the occasion took place? A She told me after she confessed everything that Sunday.

Q When did she say that she and this man had connection together? A The next day when he took her away from Mrs. Cosby.

BY MR. SANDLER:

Q Can you fix that date? A I don't remember exactly the date.

Q But you remember all the things about the gun? A Yes.

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MR. ELLISON: Now, we are wasting time.

BY THE COURT:

Q You didn't see her taken away from Mrs. Cosby's? A No.

Q You don't know the date of your own knowledge? A No.  
BY MR. SANDLER:

Q Do you know Mrs. Cohen? A Mrs. Cohen?

Q Yes. A I know her.

Q Did you ever tell Mrs. Cohen you were going to run away with Abie, the fellow that stopped in your house? A I never said that. The fellow that stopped in my house?

Q That night, yes. A Abie?

Q To Mrs. Cohen, yes. A That I run away with Abie? I am a married woman, - run away with Abie!

THE COURT: What night do you refer to?

MR. SANDLER: The night they spent -- the four of them.

THE COURT: There was not any Abie there then.

MR. SANDLER: A different fellow, your Honor.

THE WITNESS: Certainly, that is a fine one!

Q Did you see any of the underslothes of your sister?

A Yes, it is going to be here right away. We sent for it.

Q Did you save it? A Jewish people always save it, because the family want to see if a girl gets married -- that is the Jewish rule, they always want to see if she was a respectable girl.

Q Where did you learn that rule? A My aunt told me that. She is an old woman and she has told me that.

Q When did you first see the underwear? A I seen it when I

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went up to visit her one day.

Q What month was that in? A Well, that was about a week after she had him arrested, but I didn't know anything about it, anything then.

Q Well, then you saw it for the first time in November or December of last year? He was arrested on the 27th of November, and a week after that you first saw your sister's underwear, isn't that correct? A Yes, sir.

Q How long before that did you inquire about the underwear? A I didn't inquire at all; she showed it to me.

Q Well, you are your sister's guardian, you are a married sister? A Yes.

Q Looking after her welfare? A Yes, I come down there, and she showed it to me.

Q When did you see it for the first time? A I don't remember the date.

Q Well, what month? A Well, it was --- what month? Well, it was about a month after he ruined her.

Q When did he ruin her? A What do you mean?

THE COURT: Do not let us go into all these things again.

A. (Witness continuing) I cannot remember all the dates. I haven't got a lawyer's head.

BY THE COURT:

Q Do you remember the day he showed you the paper from the City Hall? A Yes.

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Q Did she show you these underclothes before that, or after? A Well, much after that.

Q How much after that? A About five days after I went down in her house and she showed me that underwear, and she showed me that Charlie owns a gun.

BY MR. SANDLER:

Q So you believe your sister was ruined after she obtained that marriage paper?

MR. ELLISON: I object to that as a statement of counsel; she didn't say anything of the kind.

THE COURT: Objection sustained.

Q After he got that paper, People's Exhibit 1, the marriage license, when he came and showed it to you, do you remember that? A Yes, sir.

Q It was the week after that that you inquired from your sister as to this underwear? A She showed it to me, yes.

Q Prior to that time you never had any talk with her and she with you about this --- A No, that he wants her to do white slavery, no.

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MRS. PAULINE NUSSBAUM, called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q Where do you live? A 260 West 143rd St.

Q Are you married? A Yes, sir.

Q Have you any family? A I have one baby.

Q Are you a sister of Frieda Milovitz? A Yes, sir.

Q Do you know this defendant Charles Weintraub? A I have seen him the first time my house when he came over with my sister Frieda Milovitz and she introduced me.

Q That is the first time you ever saw him? A Yes.

Q When was that? A That was around September 3rd or 4th.

Q Was it while Frieda was working for Miss Cosby? A No, it was while he said she was married to him.

Q You don't know whether it was September or October then, do you? A It was in September.

Q Do you know the months of the year? A Not positive.

Q What month was it? A It was in September, the 3rd I guess.

Q Are you sure it was not November 3rd?

MR. SANDLER: I will object to that.

THE COURT: Yes.

Q Just tell us who called at the house? A Frieda came, Frieda Milovitz came with Charley Weintraub.

Q And you never saw him before? A I never did.

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Q What did they say when they called on you? Just tell

us. A He introduced himself to me as her husband, and I wanted to see the marriage license or certificate, whatever you call it. So he objected showing it to me, but I said "I am the oldest sister and I deserve so much," and he should show it to me, the license or whatever you call it so he wouldn't but she said "Well, show it to her because she wouldn't believe us"; and then he showed me a paper, but I don't know whether it was a license or not, because I have never seen any license, I was not married in the Court here.

Q Now don't you know that that was the month of November that they called and showed you a paper? Do you know when winter is?

A Winter?

Q Do you know when Christmas is? A Yes.

Q When? A The 31st of December.

Q Well, we will take the December part of it. A 25th of December.

Q How long was it before Christmas that they called on you? A It is about six weeks.

Q When did you see the defendant again after that first visit? When did you see them again? A Well, he came often then to my house.

Q Did he come there with Frieda? A He came with Frieda often.

Q He used to call there? A He used to call often; he was for his dinner or supper.

Q With Frieda? A Yes.

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Q And you thought they were married? A Positively.

MR. SANDLER: I object to what she thought.

THE COURT: Objection sustained.

Q Well, they stated they were married.

Objected to; objection sustained.

Q What if anything did they say about being married?

Objected to as leading; objection overruled.

A He said that he loved her and he married her for love and he will try to give her a good home, and all sort of things, and then when I asked him why don't he want to furnish up a flat; two or three rooms or so, and furniture put in it, so he always had some other excuse. So she used to come often and I seen she is not -- not that she is a happy married woman, only she is a hungry woman.

Q How long has your sister been in this country? A She came in August, the 18th or 16th. I guess the 18th I took her off myself

Q What year? A 1910.

Q What has your sister been doing since she is living in this country? A She was living out, working.

Q As what? A As a servant girl.

CROSS EXAMINATION BY MR. SANDLER:

Q Did you enjoy your sister's confidence? A You have got to tell me.

Q You and your sister were very fond of each other? A Well, sisters -- one time we were good and one time we were fighting.

Q You are the oldest sister? A Yes.

Q You expected naturally that Frieda would come around once

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in a while and have a talk with you? A Yes, sir.

Q How often did she call on you? A Well, I seen that she is most of the time --

BY THE COURT:

Q How often did she call on you, that is the question? A Well, the last time before he was locked up she called pretty nearly every day.

BY MR. SANDLER:

Q Well, I will take you back to September of last year. Did she call on you very often in the month of September? A After she came and said, that he said he was married to her, and as a married woman she came often to my house.

Q But did she come very often before that time? A She was in places, she could not come very often, because she was not off.

Q Did she come every two weeks? A Sometimes once in two weeks and sometimes she went to my other sister's, so she was not all the time.

Q Do you know whether she was in a place in October last? You know that is the third month before the last? A Yes, yes she was in a place.

Q Who was she working for? A She was working that time for Miss Cosby.

Q And did you see her during that month? A I have seen her a couple of days before she was married to him.

Q Did you have a talk with her? A Well, I just asked her what she is doing and she told me she left the place.

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Q Did you ask her about her future plans that she had to make?

A Well, because she was married I had never known she is going with that -- she is going to marry that fellow, she never was telling me because she wouldn't bring him up to my house in there, because I wouldn't accept company like that.

Q In order to fix the time, the license was obtained on November 3rd -- have you got that in your mind? A Yes.

Q How many days before November 3rd did you meet your sister, the complaining witness, or speak to her? A I don't know; it was a few days before. I don't mind myself.

Q You can not remember? A I can not remember how many days I seen her before, but I don't know how many days.

Q She came to your house together with this defendant on the night of November 3rd, that was the day which the license had been obtained on, do you remember that incident? A That was on a Monday.

Q Did you see your sister the day before -- Sunday? A No.

Q Or Saturday? A No.

Q Or Friday? A It was more than that.

Q Did you have a good talk with your sister on that night when she came there with this young man and the license? A I didn't speak to her much, I was too much surprised about to hear -- to think like that. I didn't know anything about going out with a fellow, and all of a sudden she comes and tells me she was married; it was a great surprise, and I had to get my supper.

Q Did she tell you anything about her relationship with this

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man, you know what I mean, how intimate she was with this man? A

She was not telling me anything extra, but after that she was telling me, after they were married.

Q I mean that night. Of course, your sister was a good girl before November 3rd, so far as you know, wasn't she? A Positively a good girl.

Q And of course your sister did not tell you that on October 28th this defendant had had connection with her, did she? A That time, she didn't tell me, not that time, not that evening.

Q Did she ever tell you after that time how long a time prior to obtaining the license that this defendant had sexual intercourse with her? A When the trial was going on.

Q The first time she told you that was in the police court? A Yes; that he took her away from the place.

Q Did she tell you when she had sexual intercourse with this man? A Oh, I wouldn't ask her a thing like that.

Q She didn't tell you? A I didn't ask her.

Q Did you ever talk it over with your other sister Mrs. Weiner? A I don't like to talk such things with my sister.

Q You are the oldest sister and she is the youngest? A Yes.

Q How did you come to be a witness in this case then?

MR. ELLISON: I object to the form of the question and I object to the question as immaterial.

THE COURT: Who sent for her, or brought her down? ~~EMEREX~~

Q Who asked you to be a witness? A I got a paper.

Q Whom did you first tell about what you knew? A Well, they

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were asking me.

Q Who asked you?

THE COURT: Is this material?

MR. SANDLER: I want to show what her interest is here,  
Your Honor.

Q Whom did you first speak to about this case?

THE COURT: She came down in consequence of having received  
a paper, is that it?

THE WITNESS: Yes.

THE COURT: You got a paper and then you came down?

THE WITNESS: Yes, I received a pink paper.

Q So she told you on November 3rd, the night she was there  
with this defendant, that she was married, did you believe her? A  
Well, I asked them to show a paper and they showed the paper but I  
didn't know whether that was the right marriage certificate or not  
because I never seen any one before.

Q But you say your sister was a good girl, you didn't believe  
she would tell you a falsehood? A I As far as I know I am  
positive my sister was a good girl and I can swear to it.

Q And the paper they showed you you did not believe was a  
marriage paper at all? A Well at that time I didn't know whether  
it was a real marriage paper or not. I did ask them to go by the  
Jewish Law and get married, but he objected, he said he is married  
in the Court and that is enough.

Q Did you ask him anything about a stamp on that paper, why  
it ain't stamped? A I didn't know anything about the printing

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on court things, or stamping.

MR. ELLISON: The paper has the seal of the City of New York on it as a matter of fact.

MR. SANDLER: I don't want this at this time Your Honor; it is in evidence.

Q Your sister and this man continued to live together in a furnished flat for four weeks after that night, is that right? A Yes.

Q And you knew that, didn't you? A Knew they were living there, but I thought they were living as man and wife and were really married.

Q You never investigated any further than that night when they were in your house? A Well, she told me after that he wanted her to do something, and then she was talking about committing crime, and I said "Nothing to be done, we go and get him in front of the law and let the law do what is right."

Q You thought white slavery. A She told me he wants her to go out and pick up men in the street.

Q And you said "We will take him and punish him as a white slaver". A I said "We will go and bring him in front of the law and let the law do what is right;" she should not do anything, she should not fight her own case.

Q And because he wanted to send her on the street, isn't that right?

MR. ELLISON: I object to that as immaterial. The Grand Jury indicted this man and he is on trial for this crime.

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anyway.

Q Your sister told you nothing else about what happened to her the night she was ruined? A I didn't ask her nothing what happened

Q But she told you nothing? A I didn't ask her anything.

Q Did she ever show you anything? A Yes. There is a shirt; my husband is going to bring that right away. I even told her she should put that away.

Q When did you first find that? A Well, she came there to my house after and she said "Here" --

Q When was that, what month? A That was about a day or two days after she was the first time, after she got the marriage license, and she says to me "Here, sister, you should not think I was a bad girl, look at it." So I says "I am glad to see that you were a good honest girl," and I have put that away.

Q But she showed you nothing like that in October.

THE COURT: No, she says it was after, so how could it be in October.

RE DIRECT EXAMINATION BY MR. ELLISON:

Q That is a Jewish custom, isn't it? Isn't there an old Jewish custom for a girl when she is married to keep those things and show she was pure before the marriage? A For a year, to keep them.

Objected to; objection sustained.

BY THE FOREMAN OF THE JURY:

Q How long have you been living in New York? A About the

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tenth year already.

Q Are you married? A I am married seven years.

Q Have you got children? A One baby I have got, she is here, three years old.

M I S S A N N A C O S B Y , called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q You live at 850 East 161st St.? A Yes, sir.

Q And have been living there for x how long? A For three years.

Q With whom do you live there? A With my parents.

Q Are there any other members of the family? A I have a brother and sister.

Q Do you know Frieda Milovitz? A Yes, sir.

Q Was she employed by your mother as a servant in the house? A Yes, sir.

Q For how long prior to October 1913 was she working for you? A She worked for us first for a year and a half and then she worked for us for two months before she was taken away.

MR. SANDLER: I move to strike out the latter part of the answer.

THE COURT: Yes.

Q Before she left she was working for you two months? A

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Yes, sir.

Q Do you remember the night of her leaving? A Yes, sir.

Q Do you remember the date? A I don't exactly remember

the date, but I know --

Q Was it in the latter part of October or the prior part?

A I think it was the latter part of October.

Q Did anyone come to the house at the time she left? A

yes, sir.

Q Who? A The gentleman who took her away.

Q This defendant here, Weintraub?

MR. SANDLER: " I move to strike that out "took her away".

THE COURT: Yes, strike it out.

Q You mean the gentleman that walked out with her? A Yes.

Q You must not say "took her away" it annoys counsel. Is this the man that called at the house, Weintraub (Indicating defendant)? A He didn't call at the house, he waited for her outside.

Q Did you have any talk with him that night? A Yes, sir.

Q I want you to tell the jury what was said? A I said

"You are taking Frieda here, she is a good girl, marry her and give her a good home;" and he said "Well, I will marry her and give her a good home."

Q At that time was there anything in front of the house? A There was a horse and carriage.

Q Did he go away with her in the carriage? A Yes, sir.

Q Did you ever see her after that? A No.

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JAMES DALTON (Detective Bureau, 32nd Precinct)

called as a witness in behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q Are you a member of the Police Department of the City of New York? A I am.

Q And have been for how long? A Going on eleven years.

Q Did you arrest this defendant? A I did.

Q When and where? A At Columbus avenue and 100th street on November 26th, I think it was.

Q Did you have any talk with him? A I did.

Q What did you say to him, and what did he say to you?

A I asked him was he married to the complaining witness, and he said he was. I asked him how long was he married, and he said a couple of month, about two months.

Q Anything else? A I asked him was he ever arrested before and he said no.

Q And then you took him into custody? A Yes, sir.

CROSS EXAMINATION BY MR. SANDLER:

Q Did you arrest him on a warrant? A No, sir.

Q Who made the complaint? A The complaining witness and the complaining witness's sister, Gussie Weiner.

Q Frieda Smilovitz and Mrs. Weiner? A Yes, sir.

Q Was that in the station house they made the complaint?

A Yes, sir, at the 32nd precinct station house.

Q What did they charge him with, do you remember?

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Objected to as immaterial. Objection sustained.

Q Then I will ask for the conversation they had with the officer at the time they went out with him?

MR. ELLISON: Objected to as immaterial.

THE COURT: objection sustained. If your purpose in asking the question is to contradict the prior witnesses, you should have called their attention to the conversation. You have not laid a foundation for putting this in.

MR. SANDLER: I believe I did go into that subject with some of the witnesses, as to the charge being based on white slavery.

THE COURT: I do not recall that you asked whether they said thus and so to any officer.

Q What did you charge the defendant with when you took him into custody?

Objected to as immaterial. Objection sustained.

Q Were you present when the complaining witness and her sister spoke to the lieutenant at the desk? Did you hear the conversation? A I don't remember them speaking to the lieutenant at the desk, because they came to the detective division inside.

Q What did you arrest him for?

MR. ELLISON: Objected to as immaterial, calling for a conclusion.

THE COURT: He can state whether he arrested him on a complaint by somebody.

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A I arrested him on the complaint of the complaining witness.

Q What was the complaint?

MR. ELLISON: Objected to as immaterial, calling for a conclusion.

THE COURT: I will allow that.

A She stated that he had taken her to a house at 143 West 100th street, I think, and that he had kept her there and that he told her that he was married to her, and that she produced a marriage certificate and told her he took --- she stated he had taken her downtown and got that and that he says, "Now we are married", and he went over and hired an apartment and lived there as man and wife, and she stated then that he had tried to induce her to go out and pick up men on the street, and that he also took her up to a house in 116th street, I don't remember the number, and wanted her to go in there for the purpose of having intercourse with men.

Q Did she say anything about seduction? A Yes, sir.

Q Let us hear about the seduction --- at that time. A She stated that she was a good girl and that he had seduced her under the promise of marriage.

Q And then what did you arrest him for?

MR. ELLISON: Objected to as immaterial, having been stated.

BY THE COURT:

Q Well, you arrested him on the complaint that the girl made? A Yes, your Honor.

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Q State what crime you charged him with? A He was charged with seduction.

BY MR. SANDLER:

Q In the station house when you brought him in? A Yes, sir, I believe so.

Q Did you advise that charge? A I did not.

Q Who advised the charge of seduction?

Objected to as immaterial. Objection sustained.

Q Now, officer, you understand the purpose of my questions.

Objected to as immaterial. Objection sustained.

THE COURT: If you do not understand, say so, and do not answer the question unless you do understand.

Q Did you charge him with white slavery? A No, sir.

Q Who mentioned the word seduction for the first time after you went out looking for this defendant the first time?

Objected to as immaterial. Objection sustained.

Exception.

Q Did you charge the defendant when you took him into custody with having seduced this girl? A Yes, sir.

Q What did he say? A He said he was married to her, that she was his wife, and that she would be sorry for what she was doing.

Q And also about going on the streets, that he wanted to send her to the streets? A He denied that.

Q You told him that, didn't you? A Well, it was a general

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conversation about that.

MR. ELLISON: I expect the underclothes here that counsel wants, and with that exception the People rest. We will produce them.

MR. SANDLER: I move that your Honor take from the consideration of the jury the indictment here charging this defendant with seduction on the promise of marriage, on the ground, your Honor, that the People have failed to establish by satisfactory legal proof that a seduction, if any, took place on the dates charged in the indictment, on October 28th, 1913.

Your Honor, there is no testimony here adduced by the People to substantiate the story told by the complaining witness as to the alleged seduction on the night of October 28th.

Motion denied. Exception.

MR. SANDLER: I ask your Honor to direct the jury to acquit this defendant and take the case from the jury, on the ground that the People have failed to establish the count in the indictment charging seduction.

Motion denied. Exception.

M I N N I E S M I T H, called as a witness in behalf of defendant, being first duly sworn, testifies as follows:

MR. ELLISON: I wish it on the record that she doesn't know how to spell the name Smith.

THE COURT: If she does not know how to spell her

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own name you can bring it out on cross examination.

BY THE COURT:

Q How long have you been in this country? A Three and a half.

Q Years? A Yes.

Q Can't you speak English? A Well, I speak a little bit.

DIRECT EXAMINATION BY MR. SANDLER:

Q Where do you live? A 129 Monroe street.

Q Do you know a girl by the name of Frieda Smilovitz? A Yes.

Q How long do you know Frieda Smilovitz? A Oh, I know her since I am here.

Q You are here in this country three and a half years?

A Yes.

Q Where did you meet Frieda Smilovitz for the first time?

A I was --- her sister was living in the same house where I was living.

Q Where was that house? A 121st street, 410, east.

Q What is her sister's name? A One is Mrs. Weiner, and one Mrs. Nussbaum, was living there.

Q Did you see the ladies coming out of the court room before? A Yes.

Q Are these the ladies that you know as her sisters? A Yes.

Q Were you a friend of Frieda Smilovitz? A Yes, I was friends with her.

Q Do you see Frieda Smilovitz in court? A Yes.

Q Look around the room and see if you can see Frida Smilovitz?

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A Yes, here she is (pointing to the complaining witness).

Q How many years ago did you talk to her for the first time as a friend? A The first time? Oh, it has been three and a half years since I came here and my cousin was living in the house with her sister, and I was friends with her.

Q Do you know how old Frieda is? A I don't know.

Q Did she ever tell you how old she was? A No.

Q Did her sisters ever tell you how old she was? A No, they didn't tell me nothing.

Q How old are you? A I am twenty-two.

Q Do you know whether Frieda Smilovits kept company, or had some fellows when you lived in that house? A Yes. We used to---

MR. ELLISON: I object to the form of that question.

THE COURT: I will allow her to say she kept company.

Q Did she go out with any fellows? A Yes, we used to go out together.

Q You went out with her? A Yes.

Q Did you have a fellow too? A Yes, I got my fellow. My fellow's name is Frank Ross.

Q Will you tell the jury here one occasion, if you can remember, when you, Frank Ross and Frieda Smilovitz went out together? But, before you answer that question, what was the fellow's name that Frieda Smilovitz went out with? A I don't know. She used to call him Joe. I don't know the last name.

Q Do you know his nationality? A What?

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Q What was he, an Irishman? A No, an Italian.

Q Tell the jury what happened when you all went out together? A Oh, we went out together to a show.

Q What show did you go to? A L25th street and Seventh avenue, Loew's theatre.

Q Where did you go after the show? A After, we went to eat supper.

Q Where did you eat supper? A In 125th street, some restaurant, I don't know.

Q Chop Suey? A Yes, sir.

Q Where did you go after the Chop Suey? A Then we went up together to a hotel.

Q What hotel? A In Eighth avenue, 116th street and Eighth avenue.

Q What is the name of the hotel? A I don't know the name.

Q Do you know whether it is the Hotel LeRoy?

MR. ELLISON: Mr. Sandler seems to know about these places, he can take the stand. I object to putting words in her mouth.

THE COURT: She says she doesn't know the name.

Q There is a hotel on that corner, on Eighth avenue and 16th street? A Yes.

Q When you went into the hotel who went in first? A We went in together.

Q Did you walk with Frieda? A Yes.

Q Was Joe there, the Italian? A Yes, sir.

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Q And was Frank Ross there? A My fellow, yes.

Q Did they sign a book? A Sure.

Q Who signed the book? A First I think the fellow signed, then my fellow signed.

Q Did you sign as husband and wife? A Yes, sir.

BY THE COURT:

Q Did you see the register? A No, I didn't see it.

MR. ELLISON: I see Mr. Sandler is testifying, that is evident by the way she is giving her testimony.

MR. SANDLER: This witness is not a very intelligent witness. There is the interpreter, may we use the interpreter?

THE COURT: She speaks English perfectly well, she has been in this country as long as the complainant.

BY MR. SANDLER:

Q Did you see a book placed in front of Joe and Frank Ross?

A The book?

Q When you went into the hotel? A Yes, I seen them sign the name.

Q Whom did you see sign the name? A I seen the two fellows.

Q Did you go up stairs? A Yes.

Q Did you see the fellows give any money to the man from the hotel? A No, I did not see.

Q What floor did you go up on? A I don't know.

Q What floor did you go up to? A I don't know, I don't remember, it is a year and a half ago.

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Q And did you go into one room with your fellow? A No, she had one room and I had another room.

Q Did you see her go into one room with Joe? A Yes, she came in my room after.

Q Let us first see when they got in there. You saw Frieda Smilovitz go ---

THE COURT: Do not lead her, you are putting the words in her mouth. Ask her to tell what she saw there.

Q Did you see her go into a room with Joe? A Yes.

Q Was there a bed in that room?

MR. ELLISON: Objected to as leading.

THE COURT: I have directed you not to lead the witness. You are suggesting the answer.

Q Did you look into the room? A No.

Q What was in that room? A I don't see. They went in one room and we went to a room.

Q What did you find when you went in your room? A I didn't find nothing.

Q What was in the room -- carpet? A Sure.

Q What else?

BY THE COURT:

Q What was the furniture there? A A bed.

BY MR. SANDLER:

Q Did you look into the room taken by Frieda? A Yes, I was in there and she was in my room.

Q Oh, you changed around? A No, we went -- after her fellow

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went away at two o'clock in the morning, he is supposed to go to work, it was Saturday night, and he is supposed to go to work at twelve o'clock, so he took her home. I don't remember whether it was two or three o'clock in the morning.

Q Well, anyway, about three o'clock in the morning you said Freida came into your room? A Yes, she wants to stay with us.

Q Why did she want to stay with you and your fellow? A She wants to stay with us till morning. That fellow didn't want to leave her stay there, he says, "Come, I will take you home." He says, "That man wouldn't leave me go without you out."

Q You mean leave the hotel? A Yes.

Q Did she sleep in your room that night? A No, they went away.

Q He took her away? A That fellow took her home.

Q Who, Joe? A Yes.

Q Do you remember any other time when you went out with Frieda? A Yes, I used to talk to her.

Q Did you ever go to any hotels with her? A No, that was the first time.

Q Did Frieda say anything to you when she came into your room with this fellow Joe? A No.

CROSS EXAMINATION BY MR. ELLISON:

Q Where did you come from, what country, Russia, Germany?

A Russia.

Q What was your name in Russia? A My name in Russia?

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Q Yes. Smith? A Yes.

Q Did you tell this jury that your name when you were in Russia was Smith? A Smid.

Q Is that your name in Russian? A Yes.

Q Will you show me how you write it in Russian, Smith -- just write it down? A Write it in Jewish? I can't write it in English.

— (Witness now writes on piece of paper.)

Q You tell the jury now that your name in Russia was Smid, and that is the way you spell it? A This is Jewish, Smid.

Q Does that spell Smid? A Yes, Smid.

MR. ELLISON: I offer it in evidence.

(Received in evidence and marked People's Exhibit 2.)

THE WITNESS: I do not say Smith, but I say Smid.

Q Are you a Hebrew woman?

MR. SANDLER: Objected to. She may be a jewess but not A Hebrew.

THE COURT: Objected ~~to~~ overruled.

Q Are you a Jewess? A Yes.

Q And in Russia your name was Smid, is that right?

Objected to as immaterial. Objection overruled.

A Smid.

Q I want to know when you came into this country? Tell me what year you came into this country and what month? A I don't remember that, what month.

Q Oh, well, you remember what year you came here from Russia? A I know it is three and a half years ago.

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Q Can't you tell me whether it was the year 1910 you came from Russia? A No, I don't know about that.

Q You remember the visits to a hotel, with that man, don't you? You remember that very well, don't you? A This is a year and a half ago.

Q Can't you tell us what the less important thing of coming to this country was --- don't you remember what year that was? A I don't know.

Q I am very anxious to find out because I want to look up in the Immigration Bureau to see ---

MR. SANDLER: Objected to, as to what the district Attorney intends to do.

THE COURT: Put the question.

Q Can you tell me what year you came to this country?

A I don't know, I don't know about that.

Q Was it the year 1910? A I don't know.

Q Was it the year 1909? A I don't know.

Q What steamer did you come on? A I came in Canada.

Q What was the name of the steamer? A I don't remember that.

Q Where did you go when you came to this country? Where did you go to first? A I came to my cousin. I have a cousin here.

Q Where? A Cohen.

Q In New York? A Yes.

Q Whereabouts in New York? A 122nd street.

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Q They live there now, don't they? A Yes.

Q What is the name? A Mr. Cohen is here too.

Q He is here now? A Yes.

Q You are a married woman, are you? A No.

Q But you are a perfectly respectable woman, aren't you?

Objected to. Objection overruled. Exception.

Q Are you a respectable woman? A Surely.

MR. SANDLER: Objected to. Everybody is presumed to be respectable under the law.

THE COURT: Objection overruled.

MR. ELLISON: I object to side remarks of defendant's counsel, laughing by Mr. Sandler, your Honor.

THE COURT: Yes, simply proceed with the case, and make no remarks and let us get along.

Q When you came to New York did you start working? A Sure.

Q For whom? A In a factory.

Q Where? A I don't know. I was that time green, and I didn't know the streets. I was working now in Mercer street.

Q Can you give me the name or address of anybody you ever did work for in New York? A Yes, sir.

Q Who? A Mr. Rosenfeld I used to work, 113th street; I was a servant girl there.

Q What number? A I think 131 West, near St. Nicholas avenue.

Q How long did you work there? A I was working there about a year.

Q Can you give me the name and address of anybody else you

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have worked for in New York? A I was working for lots, and I was working in Mercer street for ladies petticoats for Mr. Fischer.

Q How long ago? A 98 Mercer street.

Q How long? A Oh, I was working first about three months, and then I was sick and I went home and then I came back again, and worked.

Q Now, you tell this jury you went up to a hotel with a man, that is so, isn't it? A Yes.

Q And you went there to have connections with him, did you?

A What is that? I don't understand.

Q What did you go with him to the hotel for? A We went -- it was too late to go home to sleep.

Q Is this man married to you? A No.

Q Did you think there was anything wrong for you to go to a hotel with a man, in the same room, because it was too late to go home? A No, he is my fellow and I did go with him, and I go with him now, and I will go -- in a little while after we are going to marry, to get married, because we ain't got no money now to get married.

Q Oh, he was engaged to be married to you, is that so?

A Yes.

Q How long have you been going to hotels with him? A I was one time, that's all.

Q That is the only time you went with him? A Yes, sir.

Q Will you tell me what year it was in that you went up to that hotel? What year was that? A I don't know the year.

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It was about a year and a half ago. I know it was a week before Christmas.

Q What year? A That was 1912, I think.

A 1912, a week before Christmas? A Yes.

Q And you saw them sign the book there, didn't you? A Yes.

Q What names did they sign? Give me the name that your fellow signed? A Frank Ross.

Q He signed Frank Ross, and what else? A I don't know, I didn't see how he signed the name. I seen them sign, but I didn't look what kind of name. I didn't understand English, I can't write English.

Q Is he an Italian? A Yes.

Q And what language do you talk to him in? A English.

Q So you understand him, don't you? A Oh, he understands me and he talks different, he talks to me.

Q He talks a plainer English, does he, than I do? Is that so? A No.

Q He talks plainer English than I do? A Yes.

Q Why don't you know that you are a prostitute on the streets and you are working on the streets for this man Frank Ross, isn't that so?

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

I do not object to the question, but to the form.

MR. ELLISON: I ask the interpreter to interpret that question for her?

A, (Through Interpreter) No, I work. I used to be a servant

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girl and then I worked in the factory.

Q I want to know what you are doing for a living for the last six months?

MR. SANDLER: I believe it is my duty to object to this question, to have this witness advised, as to answering any question along that line.

MR. ELLISON: On the ground that it will tend to incriminate her? Yes, you can advise her that way.

THE COURT: Mr. Interpreter, tell the witness she may refuse to answer any questions if her answers would tend to incriminate or degrade her.

A (Through Interpreter) I am giving the right answer that I know.

BY MR. ELLISON: Q Where have you been working for the last six months? A I was working for a servant girl, and I stopped. When I stopped work I stopped in Mr. Cohen's house, my cousin's house.

Q I asked you where you were working for the last six months, will you ask her that? A (Through Interpreter) I was with Mr. Cohen.

Q Have you been working for the last six months? A Yes, I said by Mr. Cohen, I work there.

Q Who is Mr. Cohen? A My cousin.

Q Weren't you living in East 118th street? A No, I had a friend there, she was living there.

Q I asked you whether you were not living in East 118th

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Street? A Yes, I had a friend.

(The following questions are put and answers given thereto through Official Interpreter Fischer.)

Q (Question repeated as follows:) I asked you whether you were not living in East 118th street? A I had a friend there and I used to come to visit my friend.

Q You used to stop in East 118th street, and haven't you been stopping there? A I didn't live there.

Q Give me the name of your friend in East 118th street? A She is not home there now.

Q But I want to know her name? A Rosie.

Q Rosie what? A I don't know her last name.

Q Can't you tell? A (No answer).

BY THE COURT:

Q Whom did you ask for when you went to this place, or what floor would you go on? If you didn't know her name how would you get into her room? A I asked for Rosie.

Q Whom did you ask for Rosie? A The janitor. I asked the janitor, - she had given her name as Rosie. She used to come with me to Cohen also.

BY MR. ELLISON:

Q And what men lived up in Rosie's? Give me the name of the men that used to live and call there? A No men lived there; she lived with her husband.

Q Don't you know that was a place where other girls lived

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in besides you and men used to visit there? A No.

Q And don't you know that Rosie's place was raided by the police in East 118th street, the place you used to visit? A No, I don't know that.

Q Well, can you tell me what floor that was on, Rosie's in East 118th street? A That was on the fourth floor.

Q How long had you known Rosie and been calling on Rosie?

A I didn't know her not --- about four weeks.

Q Now, I ask you again if you did not use to live there and sleep there? Haven't you your clothes there? A No, I didn't sleep there, I didn't live there.

Q Didn't you use to go up there and meet Italians? A No.

Objected to. Objection overruled.

A (witness continuing) We only used to come there on Sunday, I came there with my friend and with my boy.

Q With your who? A With my boy.

Q Whom do you mean by your boy? A Frank Ross.

Q How long have you been going with Frank Ross? A (Without Interpreter) Two years.

Q And you tell this jury that only once in your life you went to a hotel with him in a room, is that so? A That I have been, yes.

Q And on this one time in your life this other girl and another man were there too, is that so? A Yes.

Q And you can't tell me what year it was in, can you?

MR. SANDLER: I submit she has answered that.

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THE COURT: It has been asked and answered.

A It was the Christmas before the last Christmas, that is the best I can say.

BY THE COURT:

Q Have you seen Joe since that night? A No, since that time I have not seen him.

Q Had you ever seen him before that time? A No, I never go out. I am always in the house.

Q Did you ever see him before that night? A No, I didn't see him.

Q How do you happen to remember a year and a half that his name was Joe? A I remember it because I used to call him Joe.

Q You never saw him but that once? A I saw him several times.

Q Well, now I ask you again did you see him after that or before that? A Before that.

Q Whereabouts? A Once I went with the same girl in the street, and then I met him and I talked to him.

Q Is that the only time? A Yes, and when she became acquainted with him I saw him.

BY MR. ELLISON:

Q Do you know this defendant Weintraub? A Yes, I know him.

Q How long have you known him? A I know him since I am by Mr. Cohen. While I was with Mr. Cohen he used to come to the stable with a wagon.

Q Mr. Weintraub is a customer of your brother-in-law's or

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uncle's, isn't that so? A I don't know. He used to come to see him in the stable there.

Q He used to get a wagon and horse from Mr. Cohen, didn't he -- the defendant? A I don't know, but I used to see him there once in a while.

BY THE COURT:

Q How much money did you give to this Frank Ross? A I didn't give him anything, and he doesn't give me anything. He works and I work, and he gives his money --- he lived with his father.

Q What do you do with the money that you make? A I dress myself and pay for my board and lodging.

Q Do you mean he has been engaged to you these two years and has never asked you for any money? A No, he never.

BY MR. SANDLER:

Q When did you meet me for the first time? A Yesterday.

Q And were you brought down to this building here to meet me yesterday? A Yes.

Q And did I question you if you knew anything about this case? A Yes.

Q And you told me what you testified to?

THE COURT: Do not put the answers in her mouth.

Q And did you tell me all you knew about the case? A Yes.

Q And did I give you a subpoena then? A Yes.

Q How long before today did you speak to Frieda? A About four months ago.

Q Where did you see her? A I see her at the house of Mrs.

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Cohen and she came to tell me that she was going to the theatre with Mr. Cohen and Mrs. Cohen.

THE COURT: Is this re-direct examination?

MR. SANDLER: No, sir, I just want to show how friendly she is with this complaining witness, that's all.

RE-CROSS EXAMINATION BY MR. ELLISON:

Q The night you were in the hotel with Frank Ross you had connection with Frank Ross, didn't you?

MR. SANDLER: I object to that, and ask that the witness be advised of her rights.

THE COURT: She has already been advised of her rights, and I will allow the question? A Yes, I am telling the truth, I had nothing to do with him. I was only sleeping there, I never told a lie.

THE COURT: Do not form or express any opinion as to the guilt or innocence of this defendant, nor allow anybody to speak concerning this case in your presence. We will adjourn until 10:30 tomorrow morning.

ADJOURNED to Thursday, March 12th, 1914, at 10:30 a.m.

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(PEOPLE vs CHARLES WEINTRAUB)

New York, March 12th, 1914.

TRIAL RESUMED.

FRANK ROSS, called as a witness in behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SANDLER:

Q Where do you live? A 2274 Second avenue.

Q What do you work at? A Clerk.

Q Whom do you work for? A R. Brook -- Rubin Brook.

Q Where is the place of business? A 2260 First avenue.

Q What line of business is that concern in? A Like a grocery store; you go out and get orders and deliver orders.

Q Have you ever been convicted of a crime? A No, sir.

Q Do you know ---

MR. SANDLER: Will your Honor direct the complaining witness in this case to be brought in?

Q Do you know a girl by the name of Frieda Smilovitz?

A Yes, sir.

Q How long do you know Frieda Smilovitz? A About two years, since I am going with my lady friend.

Q Do you know a girl by the name of Minnie Smith? A Yes, sir.

Q I ask you to look around the court room and see if you see Frieda Smilovitz?

MR. ELLISON: That is the one, standing right there, sure (Referring to the complainant, who has been brought

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and stood at the end of the jurybox near sixth juror.)

MR. SANDLER: I object to the comments by the District Attorney as to "sure" or not sure.

THE COURT: Yes. Now, I have requested counsel not to make any comments. If you have any objection, make it to the Court. The fact that the girl is standing there is apparent. It does not need comment.

MR. ELLISON: I object to the form of the question. He said "Look around the court room", when the witness was standing right by the jurybox.

THE COURT: objection overruled.

Q How long do you know Minnie Smith? A For about two years.

Q Did you see Minnie Smith in the hallway here yesterday? That is, standing outside the court room? A Yes, sir.

Q And did you ever ask Frieda Smith and Frieda smilovitz to any place of amusement? A Yes, sir.

Q When? A Well, when I was supposed to meet my girl, I had a date with my girl and she would take her friend with her.

Q Who is her friend? A Frieda Smilovitz.

Q The complaining witness and Minnie Smith were friends? A Yes, sir.

Q Will you tell this jury what places you took your girl and Frieda smilovitz to? A We would take her to a show.

Q What kind of a show? A Well, the amusement show, vaudeville show.

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Q Where? A To Loew's, sometimes to Proctors.

Q Did you ever go to chop suey places with her? A Well, that was the night we went out, the four of us.

BY THE COURT:

Q When you say "we" whom do you mean?

BY MR. SANDLER:

Q Tell who composed that party? A My friend, Frieda Smilovitz.

Q What is your friend's name? A Minnie Smith.

Q Who else? A Frieda Smilovitz and another fellow by the name of Joe.

Q Joe who? A I don't know his last name.

Q Do you know him? A Since we went out together.

Q How many times did you go out with him? A Once, the first time I ever seen him.

Q How many times did you go out with him in all? A Only once.

Q I thought you said you had been out before? A I have been out with my friend and her, not with this fellow.

Q They did not introduce him to you by any name except Joe?

A I only know this fellow by the name of Joe, through Frieda.

Q What nationality is Joe? A An Italian fellow.

BY THE COURT:

Q Is Ross your real name? A Yes.

Q What nationality are you? A Italian.

Q What is your father's name? A Vincent Ross.

Q Is that the way he spells the name --- R-o-s-s? A Yes.

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BY MR. SANDLER: I will direct your attention to the night that you testified here that you went out, when was that? A That was in 1912, a week before Christmas.

Q Where did the party assemble, where did you meet? A Lexington avenue and 122nd street.

Q On the corner? A On the corner.

Q And how did you meet -- by appointment? A Well, I had an appointment with my girl, Minnie Smith, and this Frieda here must have told Minnie Smith that she had an appointment with that fellow Joe. I never seen the fellow, understand? So Frieda says she had a date with a fellow in 122nd street and Lexington avenue, so there is where I met this fellow Joe.

Q Where did you go from that corner? A We went to Loew's, 124th street and seventh avenue, and after the show we went for chop suey.

Q Where did you go for chop suey? A To 125th street, between seventh and eighth avenues.

Q And what time did you leave the chop suey place? A Well, it must have been about eleven o'clock.

Q And where did you go after that? A We then went to the hotel.

Q What hotel? A LeRoy Hotel, 116th street and Eighth avenue.

Q And what did you do when you went into the hotel? What did the complaining witness here do? A Joe signed his name first and I signed my name right after.

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Q Did you register as man and wife? A Yes, sir.

Q With your girl? A Yes, sir.

Q Do you know whether Joe registered with the complaining witness? A Well, the book was there. You have got to sign first.

BY THE COURT:

Q What did you sign<sup>as</sup> your name? A Mr. and Mrs. Frank Ross.

Q That is the name you signed? A Yes, sir.

Q Did you see the name Joe signed? A Well, I didn't exactly look at what name he put on, because he was there first, he was there ahead of me and signed the book.

Q Well, he signed it first, so it was on the register just above where you signed? A Yes, sir.

Q Now, did you notice what it was? A No, sir, I didn't notice.

BY MR. SANDLER:

Q Were you assigned to a room? A What is that?

Q Were you sent up to a room? A Yes, sir.

Q Did you pay for the room? A Yes, sir.

Q What did you pay? A A dollar.

Q What did Joe pay? A No, I think it was one dollar and a half.

Q What did Joe pay? A The same thing.

Q Did you have adjoining rooms? A Well, she was in the front.

Q When you say "she" whom do you mean? A Well, Joe and

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Frieda had the room in front of us, and we had in back of them.

Q Did you look into the room, that Frieda and Joe went into?

A No, sir.

Q Were you in the room at all? A No, sir.

Q Well, do you know what furniture was in the room? A Well, a bed, a table, a chair.

Q And the same furniture as that was in your room? A Yes, sir.

Q During the night did you have occasion to speak to Frieda,

A This was when this fellow Joe was supposed to go away at two o'clock in the morning.

Q What did he work at, do you know? A I couldn't exactly know what he worked at.

Q What happened at two o'clock in the morning? A Two o'clock in the morning, this fellow said he was going to go away, being he had to go to work Sunday morning, so she wanted to stay there all night.

Q Who did? A Frieda wanted to stay there all night, so I says, "It don't look bad (good), because you come up here with Joe, and the hotel man won't let Joe to go alone, so you had better go with this Joe here", and so then she went home.

Q Did she go to your room? A Yes, sir.

Q Was she in your room? A Yes, sir.

Q What state of dress or undress was she in when she came in your room? A Her hair was all dressed up, she was not all dressed up anyhow.

Q How many times in your life have you spoken to Frieda

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Smilovitz, the complainant? A Since I have been keeping company with my girl.

Q How long a period has that been? A That has been two years -- it will be about two years.

Q Did you ever take Frieda Smilovitz and your girl to Classon Point? A Yes, sir, one time.

Q When was that time? A In the summer time, 1912.

Q Did you go in the dance hall? A No, sir.

Q What did you do there? A We just took a walk around Classon Point.

Q Did you leave her at the house when you brought her home? Where did you leave her after you came back from Classon Point?

A Well, I don't --- (Witness pauses) well, I don't know where, exactly. I think it was ---

Q I mean, did you take her to her sister's house, or the place where she worked? A (No answer)

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

Q Did she ever have any other young man with her when you took her out? A No, sir.

Q Were you ever four together when you went to Classon Point? A No, sir.

Q Wasn't there any other young man that went out with Frieda? A No, sir.

Q When for the first time did you see me in this case?

A Since I have been coming up here.

Q Where did you meet me for the first time?

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MR. ELLISON: Objected to as immaterial.

THE COURT: I do not see that it is material. Nobody has called your conduct into any question.

Q You received a subpoena here to come and attend here and you have been in attendance here for the last two days? A Yes, sir.

Q Are you engaged to Minnie Smith? A Yes, sir.

Q How long have you been keeping company with her? A Two years.

Q Does she visit at your home? A No, sir.

CROSS EXAMINATION BY MR. ELLISON:

Q Where were you born -- in Italy, or in the United states?

A United states.

Q Where was your father born? A Italy.

MR. SANDLER: If he knows. I object to the question unless the witness knows, your Honor.

THE COURT: If he does not know, he can say so.

THE WITNESS: Italy.

Q Well, ~~so~~ your father's name in Italy was Ross? A Yes, sir.

Q How many times have you been to a hotel with Minnie Smith?

A Once.

Q What did you do there that night in the hotel?

MR. SANDLER: Will your Honor ---

A Well, I slept with her.

MR. SANDLER: Will your Honor instruct the witness as

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to his rights in answering questions which may incriminate him.

THE COURT: I do not see how it can incriminate him. She is over eighteen.

MR. SANDLER: Well, that is true. There is no offense in this State for fornication.

Q What did you do with her in that hotel that night? A Stayed with her all night.

Q Did you have intercourse with her? A Yes, sir.

Q You are sure about that, aren't you? A Yes.

Q How many times?

MR. SANDLER: Objected to as immaterial.

A I ain't ashamed to say it.

MR. ELLISON: Your Honor remembers the testimony of the young girl.

THE COURT: objection sustained.

Q What does she do for a living? A She is a servant and now she is working in a shop. She never tells me where she is working.

Q Where does she live? A 129 Monroe street.

Q You are sure of that, aren't you? A Yes, sir.

Q You call on her there, don't you? A What is that?

Q You call on her at 129 Monroe street? A No, I call on her, corner of Monroe street and Rutgers street.

BY THE COURT:

Q Do you know what wages she gets? A She makes five dollars

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a week, four dollars, six dollars, according to the work.

Q Did you ever ask her how much she makes? A Yes, sir, four dollars, five dollars, six dollars.

Q You ask her how much she makes, but you do not ask her where she makes it? A She works in Rutgers street.

Q You said she did not tell you anything about where she works? A She works, I think in Rutgers street, but she don't tell me what kind of work she does.

Q But she does tell you how much she makes? A Yes, sir.

Q Does she give you any of her wages? A No, sir.

Q Sure about that? A Yes, sir.

BY MR. ELLISON:

Q What floor does she live on at 129 Monroe street?

M. SANDLER: Well, I move to strike out that last answer to that question. I should have objected, as to whether she gives any of the wages.

THE COURT: You move to strike the answer out?

MR. SANDLER: No, the question and the answer. I object to the question.

THE COURT: Very well, you may have an exception.

Q What floor does she live on at 129 Monroe street? A I don't know the floor.

Q You are engaged to this girl and you don't know on what floor she lives at 129 Monroe street?

Objected to as immaterial. Objection overruled.

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Exception.

A She told me it is her cousin.

Q What floor does she live on? A I don't know, sir.

Q With whom does she live? A At 129 Monroe street; she told me her cousin.

Q What is the name of the cousin? A I don't know the cousin.

Q Well, you are intending to marry her, aren't you? A Yes.

Q How often do you see her? A I go every two or three nights.

Q Where do you see her? A Corner of Rutgers street and Monroe.

Q What is she doing now for a living? A She is working in a factory. She ain't working now.

Q How long has she been out of work? A She say she is out of work -- I don't know how long she is out of work.

Q You see her two or three times a week, now, tell us how long she has been out of work?

MR. SANDLER: I object to the question unless the witness knows.

Objection overruled. Exception.

A Well, I don't know how long she is out of work.

Q Where was the last place she was working that you know of? A In Rutgers street.

Q What street? A I mean Mercer street.

Q How long ago was that? A Well, that is about ---- I couldn't exactly tell you how long ago.

MR. SANDLER: Objected to on the ground that it is

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improper to question this witness on where another witness works. Surely the District Attorney had the opportunity to question that witness as to her own credibility and not try to impeach it by other witnesses.

Objection overruled. Exception.

Q And you are sure that she is now living with some cousin that you don't know in 129 street and you don't know what floor, is that so? A No, sir.

Q Do you know the Cohens? A Yes, sir.

Q How long have you known the Cohens? A Well, since I have been with my friend Minnie.

Q Is Mr. Cohen her cousin? A Yes, sir.

Q Is she living with Mr. Cohen? A No, sir.

Q You are sure about that, aren't you? A Now she is living at 129 Monroe street.

BY THE COURT:

Q But you do not know the cousin she is living with? A Just now, no, sir.

BY MR. ELLISON:

Q How long has she been living at 129 Monroe street?

A I don't know.

Q Oh, give the jury some idea, whether it is a month or two months or three months?

MR. SANDLER: Objected to on the ground that the question has already been answered; he says he does not know.

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THE COURT: He may state his best recollection.

Q State your best recollection as to how long she has been living at 129 Monroe street --- one month, two months, three months? A Well, I can't exactly; she ain't going to tell me all those things, how long she has been living, she can't tell me that, I don't want to know that.

Q I ask you to state your best recollection as to how many months she has been living at 129 Monroe street?

MR. SANDLER: Objected to as already answered.

Objection overruled. Exception.

A I couldn't tell you, I don't know.

Q Well, has it been two years since you met her? A Well, no; I met her, I am going with her two years.

Q Has she been living there for two years? A No, sir.

Q How long has she been living there? I don't care whether a month or two months out of the way? A Well, I have been going down there for about five or six months.

Q You have been going down there five or six months, is that right? A Yes, sir.

Q And you can't tell us on what floor she lives? A No, sir. I met her on the corner of Rutgers and Monroe street.

Q You are not ashamed to go up and call on her in her cousin's home when you are engaged to her, are you? A Being I am an Italian, maybe they don't want me up there.

MR. SANDLER: Objected to on the ground that the question is immaterial whether he was ashamed or not.

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Objection overruled. Exception.

Q Well, you never asked them whether they didn't want you up there, did you? A Well, I wouldn't go up there.

Q And is that also the reason why you cannot tell the jury the names of the cousin that she lives with? A No, sir.

Q Who introduced you to Minnie Smith? A Myself, I know her myself.

Q What do you mean -- you spoke to her on the street? A Yes, sir.

BY THE COURT:

Q Has Mr. Cohen ever objected to you because you are an Italian? A Not that I know of.

Q He is a cousin, isn't he? A Yes, sir.

BY MR. ELLISON:

Q Did she live up at east 118th street? A No, sir.

Q Do you know Rosie's up there? A Rosie is a friend of mine.

Q Any other Italians call up at Rosie's besides you? A Well, friends of Rosie's.

Q Give me the names of some of the men that call up at Rosie's? A The only fellow that was up there was Frank, that's all.

Q What is his last name? A I don't know his last name. That's all I know him.

Q He is an Italian too, isn't he? A Yes, sir.

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Q Give me the names of some Italians that call up at Rosie's?

MR. SANDLER: How about some other nationality? I object as to the names of men.

THE COURT: He may state the names of anybody that calls.

Q Well, just give the names of any other men? A Some friends of mine.

Q You have given us Frank. Now who else? A A fellow named Johnnie.

Q What is his last name? A I don't know.

Q Now give me somebody else. A Louis.

Q What is his last name? A I don't know his last name.

Q Give us somebody else? A Well, that's all.

Q And you take those men up to Rosie's, don't you? A No, sir, they are friends of mine.

Objected to. Objection overruled.

MR. SANDLER: I object to the form of the question, but not to the question itself.

Q You used to live in East 118th street yourself, didn't you? A No, sir.

Q Didn't you ever have a room in East 118th street? A No, sir, my friend lives there, Rosie.

Q Your friend Rosie? A Yes, sir.

Q Did you ever live there with her? A No, sir.

Q Did you ever live in that house? A No, sir.

BY THE COURT:

Q Were you ever engaged to Rosie? A No, sir.

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BY MR. ELLISON:

Q What night of the week was this that you went to this Hotel at 116th street? A On a Saturday night.

Q Will you give me Rosie's last name, by the way? A No, sir, I don't know her last name, I only know her by the name of Rosie.

Q Did Minnie ever go up to Rosie's? A One Sunday.

Q Was she ever there more than once? A No, sir.

Q Do you know Weintraub? A No, sir.

Q You never met him in your life? A No, sir.

Q You know Cohen? A Yes, sir.

Q How long have you known Cohen? A Since I was going with my friend Minnie. She told me it was a cousin.

Q Two years? A Yes, sir.

Q Did you ever go around to Cohen's stable? A No, sir.

Q Don't you know that Weintraube has been going around to Cohen's stable? A No, sir, I have never seen him before.

Q Who first spoke to you about this night that you were in the hotel with a girl that you are engaged to? Who asked you about it? A Well, Mr Cohen.

MR. SANDLER: The complaining witness, may I submit, the District Attorney, in putting the question, should state the evidence in this case. The evidence does not state the evidence offered here by the witness that he was in conjunction with the complaining witness in this case and another man.

BY THE COURT: Q Who first spoke to you about that night that

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you and these other people went to that hotel? A Mr. Cohen.

BY MR. ELIISON:

Q That is the cousin of the girl you are engaged to? A Yes, sir.

Q Well, have you told him you spent a night in a Raines Law hotel with his cousin? A He comes over ---

Q Had you told him that? A Yes, sir.

Q Did he say anything when he heard that his cousin was in a hotel with you all night? A No, sir. She told him that she likes me.

Q And he did not say anything about it? A No, sir, not that I know of.

Q And you continued going with her? A Yes, sir.

Q And seeing Mr. Cohen? A Not Mr. Cohen -- I continued going with her.

Q But you have told us that you have seen Mr. Cohen during the last two years, her cousin? A No, I only seen him lately, that's all. I seen some Cohen lately.

Q Did you ever go up to the house and see the girl Minnie Smith at the Cohen's? A No, sir.

Q You have not seen Minnie up there in the last six months, have you, at Cohen's? A No, sir.

RE-DIRECT EXAMINATION BY MR. SANDLER:

Q Did you ever meet the defendant here in the last two years? A No, sir.

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Q Is this the first time you have seen him? A Yes, sir.

H A R R Y C O H E N, called as a witness in behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SANDLER:

(The witness states his address to be 314 East 122nd street.)

MR. SANDLER: This witness is being offered as a character witness for the defendant.

MR. ELLISON: I object to any limitation, your Honor.

THE COURT: He has a right to call him for whatever purpose he sees fit. It is perfectly proper to question a person as a character witness.

Q What is your full name? A Harry Cohen.

Q Where do you live? A 314 East 122nd street.

Q What line of business are you engaged in? A Livery stable.

Q Who are you in business with? A My father.

Q How long have you been in that business? A Five years.

Q Do you know the defendant at the bar, Charles Weintroub?

A Yes, sir.

Q How long do you know him? A It is about six years.

Q Do you know others that know him? A Yes, sir.

Q Have you had occasion to meet him in the last five or six years? A Yes, sir.

Q Often? A Oh, about three or four times a week. Sometimes every day.

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Q What is the defendant's reputation for honesty and peace in the community? A Good.

THE COURT: Well, he is not on trial for his honesty or peace and quiet. He is not charged with an offense of violence, or with an offense such as larceny.

MR. SANDLER: Well, that is the general reputation.

THE COURT: Well, you have not asked that, you have asked as to peace and quiet, and honesty.

Q What is his general reputation in the community? A Good.

Q Good or bad? A Good.

CROSS EXAMINATION BY MR. ELLISON:

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

Q What is the name of your wife?

Objected to. Objection overruled.

A This is immaterial.

Q What is your wife's name? A Becky Cohen.

Q What was her name before she was married? A Becky Bramowitz.

Q Was she also known under the name of Becky Green and Becky Horowitz? A No.

Q What? A Becky Green.

Q Your wife was convicted up in Boston, wasn't she? A No, sir.

Objected to. Objection sustained.

MR. SANDLER: This is entirely unfair.

THE COURT: The conviction of this witness's wife, cannot impeach this witness.

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MR. ELLISON: No. I think I have the right to show the relatives of his family, the different things about them. He is appearing here as a character witness, and the jury have never seen him before and I want to show his surroundings.

THE COURT: You can bring out anything on cross examination that impeaches this witness's character.

Q You have stolen horses over in Kings County, haven't you?

MR. SANDLER: Objected to as wholly incompetent and unfair.

THE COURT: He can be asked whether he has committed crime.

A Go as far as you like.

Q (Question repeated) A No, sir. That is all right. I am willing to answer.

Q Is Minnie Smith your cousin? A Yes, sir.

Q How long has she been in this country? A I guess about three and a half years or so.

Q What has she been doing for a living for the last six months?

MR. SANDLER: Objected to on the ground that there has been nothing brought out on direct examination that would entitle the District Attorney to go into the character of Minnie Smith or any other witness in this case. This witness has been offered as a character witness.

THE COURT: Well, he makes the witness his own witness.

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MR. SANDLER: As to his knowledge, I submit, of the defendant's character, but not as to any collateral matters, or the character of any other witness who appeared in this case.

THE COURT: He is now asking about another witness, Minnie Smith. He makes this witness his own witness for that purpose and he is bound by his answers.

Q What has she been doing for the last six months? A Working.

MR. SANDLER: If he knows. These witnesses are not very intelligent witnesses.

THE COURT: What is your objection?

MR. SANDLER: To the form of the question. He should ask if he knows what she has been doing.

THE COURT: If he does not know, he can state. Objection overruled.

Q Where was she working? A I don't know, sir.

Q Was she working for you for the last six months? A No, sir.

Q Where has she been living the last six months? A Downtown, some place.

Q Where downtown, Mr. Cohen? A I don't know.

Q Are you on good terms with your cousin? A No, sir.

Q What? A No, sir.

Q How long haven't you been on good terms with her and have not seen her?

MR. SANDLER: Objected to as immaterial.

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A I have seen her several times, but I never talk to her.

Q Do you know Frank Ross, the witness here? A No, sir.

Q You don't know him? A I know him by sight.

Q Did you ever speak to him? A I spoke in regard to this case, what I have seen, and that is about all, the first time.

Q When did you see him and talk to him about this case?

A I seen him saturday --- Monday, I guess.

Q Last Monday, was that the first time you have spoken to him in your life? A Yes, sir.

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

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

THE COURT: How is that competent.

MR. ELLISON: Your Honor will recall the testimony of Ross as to a conversation that is alleged to have taken place between this witness and Ross -- it is true, not Monday, but a year or so ago, but he says it was last Monday, and I want to get the conversation and find out what was said about the case.

THE COURT: Suppose you were calling this witness as your own in rebuttal, I think that would be a collateral matter, as to what the other witness said. I will sustain it.

MR. ELLISON: Very well, I won't press it.

Q Can you tell the jury with whom Minnie Smith has been living for the last six months? With whom she has been living?

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A I couldn't say, I don't know, because she was living downtown, and who she was living with I don't know.

Q Don't you know she was living with her cousin downtown?

MR. SANDLER: Objected to. The witness answered the District Attorney's answer and he is bound by that answer. He is trying to impeach his own witness.

Objection overruled. Exception.

A Downtown, I know, but I don't know whether it was a relation or not. I never knew.

BY THE COURT:

Q Have you got any cousins downtown? A No, sir.

Q Have you got any cousins that live on Monroe street?

A Some relation of my wife.

Q What relation? A I don't know whether it is a cousin or something.

Q I asked you whether you had a cousin or relation. Have you any that live in Monroe street? A Well, that is from me, I have not.

Q You say your wife has relations that live in Monroe street?

A Yes.

Q Do you know the number? A I couldn't say, no, sir.

BY MR. ELLISON:

Q What is the name? A I don't know.

Q Do you have any business transactions with Weintraub?

A Yes, sir.

Q He deals with you, doesn't he? A Yes, sir.

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Q And has been for how long? A I guess for about four years, five years.

Q He is a customer of yours? A Yes.

RE-DIRECT EXAMINATION BY MR. SANDLER:

Q What kind of a customer is he of yours? A Hiring horses and wagons.

Q What does he do for a living? A Peddling.

Q Of what? A Fruit and --- fruit.

Q Have you had much business dealings with him in the last few years? A Yes, sir.

Q Did he call on you at your home? A Yes, sir.

Q With friends of his? A Yes -- no.

Q Met your wife? A Yes.

Q And father? A Yes.

C H A R L E S W E I N T R A U B, the defendant herein, called in his own behalf, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SANDLER:

Q Where do you live? A 143 West 100th street.

Q How old are you? A Twenty-four.

Q How long have you been in the United states? A Nine years.

Q What line of work have you been engaged in in the last year? A Fruit business for myself.

Q Where have you been since November 27th, 1913? A Since November 27th, 1913? In New York.

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Q Where? A Up in Harlem. I kept store, 119th street.

Q November 27th, 1913, do you remember that day? November is last year, 1913 --- do you remember where you were that day?

A (No answer)

Q When were you arrested? A I was arrested, I remember a day before Thanksgiving.

Q Where have you been since the day of your arrest? A In the Tombs.

Q City Prison? A Yes, sir.

Q And this is the first time you are on the stand to tell your story? A Yes, sir.

Q You are charged here with seduction on the promise of marriage? A Yes, sir.

Q Do you know the complaining witness, Frieda Smilovitz? A Yes, sir.

Q How long do you know Frieda Smilovitz? A About five or six months.

Q Where for the first time did you meet the complaining witness in this case? A In Classon Point.

Q Where is Classon Point? A It is a little amusement place up near the Bronx --- near Westchester, at least.

Q Under what circumstances did you meet the complaining witness at Classon Point? A I was sitting in a bathing suit on the grass and Mrs. Weiner, the complainant's witness, was there and when this girl came over also in a bathing suit and says, "Charlie, this is my sister, she is a jolly girl, I will

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put you next to her."

Q Mrs. Weiner is the married sister of the complaining witness? A Yes, sir.

Q Who else was present at that time? A Mrs. Weiner and her husband, Mr. Weiner, and Mr. and Mrs. Cohen, and Izzie Cohen, Mr. Harry Cohen's father; a fellow by the name of Mr. Harry Rosen and aI don't remember exactly --- it was a big like a Sunday party --- a lot of people around.

Q Did you get the introduction? A Yes; come over and she says, "Charlie, meet my sister, Frieda."

Q What did Frieda say to you and what did you say to her? A I didn't say nothing. I went in bathing and she went in also with her sister.

Q After you got through bathing, what did you do? A Then she came over to me with her sister and I hardly recognized her.

Q You mean she looked different in her street clothes? A Yes, being she was dark complected and she was powdered; afterwards when used to her I did recognize her.

Q What did you do after you did recognize her? A We went together, all of us in the party, and then she had met a fellow and she left me standing there.

Q When you say "she" use a name. A Frieda met a fellow across the way.

Q Across the way from where? A From us, where we were walking; and she ran over to him and left me stand, and I kind of felt myself and I walked ahead. Then after Frieda came over

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for me with her sister and said, "I know I have made a mistake leaving you, but I didn't mean nothing by it. Come on, we will walk again." And so I did.

Q Where did you go? A Well, walked around all kind of amusement places, like in a summer place, I don't know -- boat rides with her sister, and a lot of people, friends of hers and of mine also.

Q What time did you leave the amusement places? A You mean left Glasson's Point altogether?

Q Yes. A Around half past nine or ten o'clock.

Q How did the party break up? A I took them in my carriage; at least, of the carriages with Mr. Cohen. I had a single seated carriage and Mr. Cohen had a double seated.

Q You hired a carriage from Cohen? A I had a single seated, but I changed with Mr. Cohen going home, and I took Mr. Weiner and Mrs. Cohen, and a lady by the name of Mrs. Feinberg --- they were sitting in the back seat, and Frieda was sitting alongside of me as I was driving them home.

Q Where did you drive them home? A Drove them home to Harlem.

Q Where did Frieda go and where did you go? A I took Mrs. Weiner home with the carriage and Frieda got off in 122nd street in front of the house No. 314.

Q What did Frieda say to you and what did you say to her?

A When I come up to Mr. Cohen and we had a bite all together, we had a bite there and then Mrs. Feinberg invited us upstairs.

Q Where did Mrs. Feinberg live --- what floor? A 314.

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Q Is Mrs. Feinberg single or married? A She is married, I think, but she don't live with her husband.

Q How many rooms did Mrs. Feinberg have in that apartment?

A Three.

Q Did you go up there with the girl Frieda? A Yes, sir, I went up with Frieda.

Q What time of the night was this? A It was after eleven.

Q Tell the jury what happened after you got up there? A And we were sitting there for a while.

Q When you say "we", tell the jury who? A Frieda, Mrs. Feinberg and a gentleman by the name of Sol, and a fellow by the name of Hymie Steinberg, I think, and Mrs. Cohen. They all went down except I and Miss Frieda and Mrs. Feinberg remained, and I said, "I will remain, say about another hour, and then I will go down on the market", being I used to go down at night in the market. And Mrs. Feinberg made a bed with Frieda in the middle room.

Q How many beds were there? A One little couch. She made a bed for herself in the last bedroom, and I and Frieda were left in the kitchen. When Mrs. Feinberg went to sleep Frieda lowered the gas there and went in the bed room and undressed and took off her corset and came in without a waist and bare arms, and came in without shoes and stockings and started hugging me. Of course I admit she did kiss me and then she said, "Come on, we will lay down on the couch, and you will take a nap for an hour and then you will go down"; and I slept with her till about four

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o'clock, and had connections with her at four o'clock.

Q Now ---

MR. ELLISON: Why don't you let him finish?

MR. SANDLER: I object. The witness can be cross examined. He is on the stand.

A (Witness continuing) Four o'clock in the morning Frieda said, "I will go in Mrs. Feinberg's bed a while, for an hour. You tell her you were sick and you slept, and I slept with her."

Q You had sexual connections with Frieda Smilovitz that night? A Yes, sir.

Q Did you force your attentions on her? A No, sir.

Q Do you know whether or not Frieda Smilovitz that night after you had connection with her had been a good girl ---did you ask her that? A She told me that she was not. She told me that she used to go with a fellow, Charlie Hirsh, and used to sleep with him, and stayed out nights, and also with a fellow Joe, but I didn't pay any attention to it, it didn't bother me.

Q What time did you get up from the couch? A Around half past six.

Q What time did Frieda get up? A Frieda woke me up, and she was lying alongside of me, come back from Mrs. Feinberg, and Mrs. Feinberg wasn't there then, and as I dressed and I was going to go out, and she said, "So you say good bye to me"; I said, "Yes", and I kissed her good bye, and she asked me for small change, she said she is going down in an employment office to look for a job, and I gave her seventy-five cents.

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Q Was she working at that time? A No, sir.

Q Was she working for Gosby's at that time? A Not yet.

Q Did she tell you what employment office she was going to?

A No, sir.

Q After you left her where did you go? A I went down to the Market.

Q With your horse and wagon? A No, without a horse and wagon. I went on an auction market I know on Pier 20, on the Erie.

Q Do you go there very often? A Very often.

Q And buy fruit? A Twice a week. I don't buy exactly; I have a broker buys for me, being I don't buy myself.

Q When next did you see the complaining witness after that night? A About two days after.

Q Where did you meet her? A I was standing on the corner of 122nd street and she came over with two fellows.

Q Do you know their names? A One fellow I know by the name of Mr. Katz.

Q Do you know whether that is the one she is engaged to marry? A I don't know if she is engaged, but I know I met the man after in her sister's house, Mrs. Nussbaum --- she was living there.

Q A boarder? A Yes, sir.

Q When you saw her there with the two men what conversation ensued between all of you? A Nothing at all; only she introduced me to her friends and I went from her and I left her. She said she was going up to Mrs. Feinberg's and I went away.

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Q Do you know when she was going to start in work for the Cosby's? A About two or three weeks after I met her up in Mrs. Feinberg's house, or maybe a week -- I don't remember exactl

Q When next did you go out with the complaining witness?

A Take her out all by myself? On a day afterwards.

Q Coming down to the night --- did you ever call on Mrs. Weiner, her sister? A Yes, sir.

Q When did you call on her with the complaining witness?

A Once on a Saturday I called on Mrs. Weiner and I met the complaining witness Frieda there.

Q Who was there other than Mrs. Weiner? A I don't remember exactly. I know it was more people than us there, I don't remember exactly.

Q Did you ever spend a night at Mrs. Weiner's house with Frida? A Yes, sir.

Q Which night was that? Was that before October 28th, 1913? A Yes, sir, away before.

Q What day of the week was it? A If I am not mistaken it was Tuesday. I don't remember exactly, Tuesday or Wednesday.

Q Was Mrs. Weiner's husband home that night? A No.

Q Is that the night he was away? A Mrs. Weiner and Frieda Smilovitz came over in 122nd street and invited me and Solly to take them home.

Q Solly who? A Wishnick. Invited us two to take them home, being they were living at 130th or 131st street and Lexington avenue --- I don't know exactly what street. As I walked with

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them to 129th street and the two of them bought two frankfurters, and they were walking with them in the street, eating.

Q Who did you buy them from? A Off a platform, standing from the platform of the cars. They were eating in the street, I was really ashamed to go out with them, and I went up to the house with them, and we all played cards in the front room, and Mrs. Weiner went in the bed room and enclosed herself and put on a wrap, and she remained in the kitchen with Solly. She took off her corsets, just a wrapper.

Q Did she have a nightgown? A A red wrapper with white stripes.

Q What did Frieda do? A Frieda undressed and laid down on the couch, and I was sitting alongside.

Q What did she take off? A Entirely undressed.

Q What did she have on? A A petticoat, that is about all.

Q And did she expose her body or breast to you? A She took her corsets off, and she was bare-armed again.

Q Did she have a chemise on? A Sir?

Q Did she have a light shirt? A A light shirt.

Q Where was Mrs. Weiner then? A At the time in the bedroom with Solly.

Q And Mrs. Weiner's husband was not home? A No.

Q Where was the child of Mrs. Weiner? A Sleeping.

Q Was there any light in the place where you were? A No, in the front room they made out the light after we got through with the card game.

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Q What time did the card game break up? A Around one o'clock.

Q Did you lie on the couch there with Frieda? A Yes, sir.

Q Did you have sexual connection with her? A Connection with her once.

Q Did she resist you? Did you force your attentions on her? A No, sir.

Q What conversation ensued between you and her before you committed the act of sexual intercourse? A Just jolly along.

Q Did you have to struggle with her? A No, sir.

Q Did she express any desire for the act? A Sir?

Q Did she tell you that she desired to have an act of sexual intercourse? A She told me she is very passionate.

Q What time did you leave the house? A Around five o'clock in the morning.

Q Did you leave Frieda there? A Yes, sir.

Q Was she working at that time, if you know? A I couldn't say for sure, but I don't think so.

Q Did you have a talk with Mrs. Weiner when you left the house? A Just good bye.

Q What became of Wishnick? A Mrs. Weiner told me not to tell anybody that I was up to her room that night.

Q What became of Wishnick? A He went with me.

Q Did you see him leave, Wishnick, do you remember? A Well, I was sitting in the front parlor. No, I was at Frieda's couch,

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and Mr. Wishnick and Mrs. Weiner woke me up and I went out with him together.

Q Do you know whether Mrs. Weiner and her husband were living happily at that time? A Well, I couldn't say.

Q Do you know whether she wanted to run away with a certain man? A I found that out a couple of weeks after.

Q What is his name? A His first name is Abie.

MR. ELLISON: objected to as incompetent, immaterial, irrelevant and hearsay.

Objection sustained. Exception.

Q Did you ever have a talk with Mrs. Weiner about some other man she was going to run away with? A Never told me, but I heard it off the man.

MR. ELLISON: Never mind that.

Q Did you ever meet that man in her apartment?

THE COURT: There is no evidence as to the man.

Q Did you ever meet any other man in that apartment except Solly Wishnick?

MR. ELLISON: That is objected to as immaterial to this issue.

(Question withdrawn.)

MR. ELLISON: Get down to the engagement.

MR. SANDLER: Now, I don't require any assistance from the district attorney as to how to try my case.

THE COURT: Proceed.

Q How soon after this incident did you meet Frieda Smilovitz?

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A About two weeks.

Q After the night you spent at Mrs. Weiner's house? A About two weeks after.

Q Where did you meet her? A In Mr. Cohen's house.

Q That was the witness who preceded you on the stand?

A Yes, sir, 314 East 122nd street, with her sister.

Q What is her sister's name? A Katie Weiner.

Q So Mrs. Weiner and Frieda called on the Cohens? A Yes, sir, met them at the house.

Q And you called there also -- you were there calling?

A Yes, sir.

Q When, for the first time did you talk marriage to the complaining witness? A That was that night.

Q What night? A The same night when I went away up there in Mr. Cohen's house.

Q Can you remember the night? A I know it was on a Sunday night.

Q How long prior to October 28th? A About a week before.

Q Under what circumstances was the question of marriage broached that night? How did they come to talk about the marriage? A She was telling me, what I think about her? And she knew I knew she was not an innocent girl, and I said, "That don't make any difference, I think I will like you good enough and I will marry you", being that I wanted to have a home, I wanted to get married.

Q And Frieda Smilovitz knows Mr. Cohen's wife? A Yes, sir.

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Q The one known as Green --- the Philadelphia woman?

MR. ELLISON; Boston.

Q The Boston woman, with a record? A I don't know nothing about Boston; I know Mrs. Cohen from New York.

Q And Mr. Cohen is married to the lady, his present wife is Green from Boston, or Philadelphia? A I don't know her by the name of Green; it is Cohen.

Q What did you do after that, after the talk about the wedding? Did you make any time when you were to be married? A No.

Q Well, now, this charge here by the People is that on October the 28th, 1913, at 143 West 100th street, you seduced, that is you raped the complaining witness of her virginity, and that she was of previous good, chaste character, that you had sexual connection with her under promise of marriage; did you have connection with her that night, on October 28th? A Yes, sir.

Q At 143 West 100th street? A Yes, sir.

Q Under what circumstances did you have sexual intercourse with her that night? A I don't understand you, very well. Will you please explain.

Q How did you come to go to 143 West 100th street with her?  
A That Sunday night when I see her at Mr. Cohen's house, that Sunday night I went with her in the College Inn, at 125th street, and then the girl-asked me to take her home to the Bronx, and I did take her home. When I got to the Bronx with her, we got out of the Subway, and then she told me she is sick and tired

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leading her life in strange houses, and there is a young fellow about fourteen or fifteen ---

Q Was she working in Cosby's? A Yes, and she said there is a young fellow, fourteen or fifteen named Bennie.

Q Bennie Cosby? A I don't know if it is Bennie, but I know it is Cosby's son. She explained it that way, that he bothers her every night when she comes home late, that he used to come in the bed with her where she was sleeping. She had a separate room for herself, and she even told me that she scolded him once in front of his father, and then she told me that her month is up tomorrow and I should actually come over and help her remove to her sister's house, and I promised.

Monday when I was around in the stable I came in in the evening, and they told me there was a telephone from Frieda, asked for me, and I didn't pay any attention to it, and about half an hour after I was called up again and Frieda asked me to come over and help her move to her sister; and I hired a carriage of Mr. Cohen, and I went over to prospect avenue and stood outside, didn't go in.

She came out, and a fellow and girl, she helped to carry her valise and they placed the valise in the carriage, and the girl, I think that was Miss Cosby asked me "Where are you going with her?" And I said, "I am going over to the west side." Her sister was living, I think, on the west side at the time; and when I took her I was going to drive her through the drive, madison or Lexington avenue bridge, and she told me, "Drive

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through Willis avenue Bridge."

I said it was a rough way to drive this way, and she made me drive the other way, and she told me she don't care any more." I said, "I cannot take you up in my house." I was living at the time in 123rd street with a lady named Liverwitz.

Q You were a boarder there? A Yes, sir. So she says, where, are you going to leave me to-night? I said, "Go up to Mrs. Feinberg's, she is a good friend of yours; you slept there more than one night." She said "No," I drove over in 100th street, near Columbus avenue, and I took her out there, and asked the friend if he has any room for her over night.

Q What is the name of the friend? A Philip Kaston. And he said, "Only for one night", he says he could, and she said she will go to Brooklyn tomorrow, she has got a position, a lady from the same house where Mrs. Cosby was living moved out to Brooklyn, and she offered her about four or five dollars a month more, and she would rather go to Brooklyn to work.

Well, Mr. Philip Kaston allowed us to stay there for the night. I left her in the restaurant and I took the carriage back in the stable, and I came back in about an hour after, and they all went upstairs and they made a bed, with Frieda on the couch, and I said "Good night", and I went home.

Q Did you have sexual intercourse with her that night?

A No, I didn't stay there. I came home the next morning, --- came to the restaurant, and Frieda was there and I said, "Didn't

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you go to Brooklyn yet?" And she said, "I wrote my sister a postal card that I went to Brooklyn. You know, to make my sister believe I was in Brooklyn."

I said "That is foolish." She said, "I don't want to go to Brooklyn." Get a room and we will stay together." I said, "No."

I went back in 122nd street, and the old man, Mr. Izzie Cohen, the father of Mr. Harry Cohen, told me, "There is a lady called up on the phone and asked for" me "about three times, and we were talking and the telephone ring again, and that was Mrs. Weiner, and she said "Who is that?" I said that was me. She did not believe and then I had to get somebody to make sure that was me. She said "Where is Frieda?" I said, "I don't know. She said, "I heard you took her away." I said "I didn't take her away. Don't talk over the phone. I am going right over to your house."

And I went over to 207 West 144th street, on the ground floor, that was Mrs. Weiner. She said, "Do you know where Frieda is?" And I said, "I don't know." And I was leaving. She said, "I received a postal card from Frida this morning that she is in Brooklyn, but I see the postal card was mailed in New York", and she started worrying. I said, "What are you worrying over?" she said, "I don't know where she is." I said, "Would you like to see me get married to Frida?" She said, "I wouldn't object." So she says, "Bring Frieda here."

I went down in the restaurant and I told Frida that I

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was over by her sister and she is wanted home by her sister. She says, "I will not go." I says, "It would not be right for you not to go; and, the second thing, I know your sister, so you will disgust your sister?" She said, "I don't care, I won't go." She said, "Come on, and get a room for me."

Well, I got a room with her. She stood about a week, and she wouldn't go to her sister. Then I wanted her to go to her sister. I seen her sister almost every day and she was crying for me, she said, "Bring her home. Maybe she is there because she married you. I forgive her everything."

Well, she says, "Come on, we will get married." I said "I can't get married, being I am in a bad condition -- I aint got enough money."

She said, "Come on down, we will take a license and show them we are really going to get married."

We went to City Hall and I got the license, and the clerk asked when I intended to marry, and the two of us decided to marry January 1st, and the clerk told her with a smile it would be a good day to remember the wedding day, and she took the license and was going out and went to work and bought---

Q Was she asked her age? A Yes, sir.

Q What age did she give? A Twenty-one.

Q Did you tell her to say she was twenty-one? A No, sir.

Q Did she ever tell you how old she was? A No, sir. I really took her for a girl twenty one.

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Q How old did she tell you she was? A She told me she was a little over twenty.

Q Did you tell her it was necessary to say she was twenty-one in order to obtain the license? A Absolutely not.

Q After you got the license, what did you do? A She bought a marriage ring and she went over to her sister and said we were married.

Q Who bought the wedding ring? A Herself, there at the time.

Q Do you know where she bought it? A No; somewhere in Columbus avenue.

Q When did she tell you about the wedding ring? A She bought the wedding ring two days before I had the license.

Q What happened after that? A When I came in her sister's house her sister started the crying.

Q What sister? A Gussie Weiner was crying. She said, "We are married", and I was laughing. So she said "Show me". I said, "Here is the license, we are going to get married."

She looked at the license and said, "All right, I am satisfied." And I was invited up to Paula Nussbaum's, another sister of her, and she wanted to see the license and she asked me, "Why, you'se ain't married." I said, "I didn't say I was married, but I will be on January 1st."

And she said, "I know you ain't married, you ought to have a stamp the way my license is stamped." And she invited me up separate and offered to make good a Jewish ceremony the coming Sunday, and I said I didn't care, "I shall not spend any

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on expenses until January 1st, and Frieda shall remain with Mrs. Weiner." So Mrs. Weiner invited me to stay with Frieda in her bedroom until January 1st, and I didn't want to, and Frieda did not.

Q She offered you a room in her house that you should stay there with Frieda? A Yes, and I was invited almost every night to supper, to Mrs. Nussbaum's. I used to meet her every night by Mrs. Weiner, and from Mrs. Weiner we went up almost every night to have supper to Mrs. Nussbaum's.

Q What were you doing that time, so far as your business was concerned? A Peddling.

Q Every day? A No, three or four times a week.

Q On October 28th, 1913, in 143 West 100th street, did you hire rooms there? A I hired rooms on the top floor, but then Frieda hired rooms a week afterwards on the first floor, which she had paid the rent.

~~Q~~ Frieda Smilovitz testified here that on that night you ruined her? A No, sir.

Q "Murdered" her? A No, sir.

Q She says she bled very profusely; did you see any blood there that night? A No, sir.

Q She says that your nightgown --- A She didn't have no nightgown on.

Q How was she dressed that night when you had sexual connection? A I would not express that.

Q Well, tell the jury, it is all right. A In a chimney, a

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short shirt.

Q Did she have any underwear on? A No, not that night, the two of us didn't have any underwear on.

Q And this sexual connection that you had that night, was that forced by you? A No, sir.

Q Did you use force on her? A No, sir.

Q What conversation ensued before you had this connection with her? What talk did you have? A Talking about all kinds. Well, we didn't talk much, but she said, "Are we going to get married tomorrow?", and I said "Positive not, only I am going to get a license.

Q Did you promise to marry her that night when she claims you ruined her? A No.

Q When for the first time did you hear anything against you, that there was any objection to your marrying this girl?

A The day before Thanksgiving.

Q That was the 26th of November, or the 25th of November?

A Yes, sir.

Q What happened then? A I met her in Mr. Philip Kaston's restaurant, I was trying to get a job, peddling was not very good, I was in bankruptcy, and I went to look for a job in the Mutual Milk company, in 148th street, and I left word there in case they will have a job they should write to Mrs. Nussbaum, or Mrs. Weiner; in the afternoon I went over to Mrs. Weiner, and expected a postal card from the Mutual company, and I met Frieda there and Frieda said there is no mail for me.

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I said, "Shall I call for you tonight or will you come home yourself?" She said, "Yes, I will come home about six o'clock. I went to 122nd street and remained there until about half past five, then I went over in the restaurant, to Mr. Philip Kaston's. I met her in the kitchen helping Mrs. Kaston making some kind of cake and a policeman came in and asked me, "Who is that girl?" I said, "Well, she is a girl, a woman, we are going to get married January 1st." He said, "Where does she live?" I said "She lives with me. I have got a marriage license out with her."

"Have you got it with you?" "No, up in the place." I went with him to the room to show him the marriage license. So this policeman gave me over to a detective, and the detective says, "Are you Charley Weinberg?" "Yes." "Are you the guy that broke a window today in this and this place?" I said, "I don't break no windows." And he took me in the station house, in the back, and Mrs. Gussie Weiner and Miss Liverwitz made a complaint that I sent her out doing white slavery.

Q Sent her out on the streets? A And telling her that I had a gun, which I never had.

Q Did you ever have a gun? A No, sir.

Q Did you ever point a gun at her? A No, sir.

Q Did you ever send her out on the streets? A No, sir.

Q Did you ever tell her you would bring men up to her? A I never had any conversation like that with any one.

Q From the time you met her up to the time that you were

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constantly in touch with her two sisters? A Yes, sir, very good.

Q Eating? A Yes, sir.

Q And talking with them every day? A Yes, sir, very good.

Q And they received you there in good company? A Yes, sir, very good.

Q So you were charged with seduction? You know what seduction means, don't you? A Yes, sir.

Q Did you seduce this girl under promise of marriage, that she was a pure girl? When did you first hear about that? A When I was here about sixty-eight days. The deputy sheriff with two men came up in front of my cell and asked me if I was married, and I said no, and on the next day I was called down to Part I, where I heard I was indicted for seduction under promise of marriage.

Q You were laying in the Tombs sixty-eight days before you were indicted? A Yes, sir.

Q Did you know this girl Minnie Smith who testified here?

A Not to talk to her very good. Just about "Hello".

Q Did you know Frank Ross? A No, sir, I never seen him.

Q Were you ever convicted of a crime in your life? A Never.

Q Will you name some of the firms you have done business with, that you have bought fruit from? A Yes, sir.

Q Name them? A Jack Boss, 192 Reade street, H. Heller & company.

Q Can you state any reason to this jury why this girl should charge you with seduction? A Well, I think that this girl,

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started going with me she heard of my bankruptcy and she had idea of money and she went with me, and when she found out I didn't have no money, she was always telling me she was sorry, she loved Charlie Hirsch.

Q That is the man she is going with now? A No, sir.

Q Well, she testified to that?

MR. ELLISON: Objected to; she said Katz.

Q Well, Katz, then? A Charlie Hirsch, also Mr. Katz.

Q Were some ladies brought down to look you over yesterday while you were in the pen? A Yes, sir.

Q Do you know who the ladies are? A If I see them again I will.

Q Do you see them in the court? A Well, I can't see from far --- I am near sighted.

CROSS EXAMINATION BY MR. ELLISON:

Q Do you want to add anything to what you have said before I cross examine you? Have you left anything unsaid?

MR. SANDLER: Objected to.

THE COURT: You can ask him whether he wants to say anything more.

Q Do you want to say anything more before I cross examine you? Is there anything else you want to tell the jury? A No. I am willing to answer anything you ask.

Q You came to the United States in the year 1903, didn't you?

A Yes, sir.

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Q Eleven years ago. You came here eleven years ago, didn't you? A Well, I think it is nine years. I didn't keep no track of it; and I took out my first paper about three years ago, before I went with Frieda.

Q You came here in 1903? A I think so. I think it was 1904, I didn't keep no track of it.

Q Oh, roughly in the year 1903, - don't you remember that?

A No, I don't remember it.

Q Didn't you say you had been living in New York over ten years when you were in the police court? A (No answer)

Q Well, we won't waste any time with that. Have you been living in New York for the last ten or eleven years since you have got here? A Well, I have been living most of the time in New York.

Q You have been doing business around New York? A Peddled, that is the only business I was ever in.

Q You talk and understand English, don't you? A Yes, sir.

Q You say that the firstnight that you met this girl down in Classon Point you slept with her and had intercourse with her? A I met her in the day time and slept with her at night.

Q The first time you met her you slept with her and had intercourse with her? A Yes, sir

Q And you never knew her before in your life, before that day? A No.

Q After you slept with her, having met her the first time,

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did you consider that she was a decent girl or not?

MR. SANDLER: Objected to as calling for a conclusion.

Objection overruled. Exception.

A She was not.

Q That she was not? A Yes, sir.

Q Of course you would not expect any woman you could meet the first time and sleep with her was a very decent woman, would you? A Exactly.

Q But you then continued to call on her? A No.

Q When did you see her next? A About two or three days after.

Q And of course the first time you didn't have any trouble in having intercourse with her, did you? A No, sir.

Q In fact she forced you to do it, didn't she? A She did not force me.

Q I mean to say she was the one that proposed it, wasn't she?

MR. SANDLER: Objected to. No such testimony.

MR. ELLISON: I am cross examining him.

THE COURT: Well, do not get excited; I am ruling.

I say he can ask her who proposed this act of intercourse.

Q Did she propose it or did you the first time? A I couldn't remember that. I don't think any young man would remember that.

Q Well, she came into your room, didn't she? A The two of us went into the room together.

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Q Well, the first night you were at Mrs. Feinberg's? A

Yes, sir.

Q She and Mrs. Feinberg had a room together, didn't they?

A No, Mrs. Feinberg was sleeping in the last room.

Q And didn't she come into the place that you were from Mrs. Feinberg's room? A No, sir.

Q Didn't you tell the jury that she went into Mrs. Feinberg's room, and after Mrs. Feinberg went to sleep she came into your room? A No, she went to Mrs. Feinberg's room after I had connections with her.

Q Then Mrs. Feinberg was awake, is that so, while she was in having intercourse with you? A I don't know if she was or not; she was in the last room.

MR. ELLISON: Will you send for Mrs. Feinberg, please.

Q Well, Mrs. Feinberg was there that night? A In the last room.

Q Well, how soon was it after you got in the room that you saw Mrs. Feinberg? A About two hours, maybe an hour and a half.

Q When you saw her three days afterwards did you have intercourse with her that time? A No, sir.

Q When was the next time that you had intercourse with her?

A In her sister's house.

Q And how long was that after the night you had intercourse with her in Mrs. Feinberg's house? Was it a week or two weeks or a month? A I don't remember exactly.

Q Well, give us some idea? A I don't remember exactly.

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Q Well, was it a month or two months? A I couldn't say.

Q Well, you have a pretty good memory, haven't you, for things that happened in this case? A Not very good.

Q Well, can you tell the jury whether it was a month or two months after you had intercourse with her the first time, that you had the connection with her the next time? A I couldn't say, being I don't want to tell no lie. I don't remember it exactly.

Q Well, was it a week? A Well, you force me to tell you I don't remember.

Q I want to know whether it was a week or three months?

A I don't remember.

BY THE COURT:

Q How long was it before you took her from Miss Cosby's house in a carriage? A About a week.

BY MR. ELLISON:

Q So you met her at Classon Point on August 24th, which is the date conceded in this case, and had intercourse with her that night, and then didn't have intercourse with her again until the latter part of October, is that so? A Yes, sir.

Q And during all that time you were seeing her, weren't you? A No, not all the time.

Q But you were seeing her twice or three times a week, weren't you? A No.

Q How often did you see her? A After she started up to work I seen her once a week or once in two weeks.

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Q And you went out with her? A Once to the College Inn.

Q Is that the only time you had her out of Cosby's house, once between August 24th and the night -- and the week before she left Cosby's, did you only see her once? A I seen her once more on a Saturday afternoon, she came over to my wagon where I was peddling, with her sister, Mrs. Gussie Weiner and Mrs. Cohen, on the corner of 123rd street and Third avenue.

Q So you tell the jury that between the first time you met her and the time that she left Cosby's, you saw her one Saturday afternoon, is that so? One Saturday in the evening, is that so? A Yes.

Q Twice? A Well, I think that ---

Q And once that you saw her at Mrs. Weiner's, is that so?

A (No answer).

Q Is that so? A Well, maybe I seen her a couple of times more. I didn't mark that down to remember it exactly.

Q You probably saw her a good many times more, didn't you?

A Not very much.

Q And you went out with her evenings -- you took her out?

A No, not often.

Q But you did take her out evenings? A Once to College Inn.

Q That night you did not have intercourse with her? A No, sir.

Q Why were you continuing to go with her, if you thought that the first night you met her and you had intercourse with her, that she was not a decent girl, why did you keep going with

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her? A I didn't care.

Q Was the idea to go with her, to continue having sexual intercourse with her, or to marry her, which? A Well, I was going to marry her.

Q So although you, a stranger who had intercourse with her the first time you met her, thought she was not a decent girl, you made up your mind you were going to marry her, is that so? A Yes, sir.

Q When did you tell her that, that you were going to marry her, for the first time? A I don't remember that exactly.

Q Is this the Mrs. Feinberg, in whose house you say you had intercourse with this girl (indicating Mrs. Feinberg, who has been brought into the court room, and who now leaves the court room)? A Yes, sir.

Q You cannot tell the jury about how long before she left Cosby's you promised to marry her the first time, can you?

A No.

Q Was it a month?

BY THE COURT:

Q On your direct examination, didn't you say that about a week before, when you took her to 100th street, you met her at Cohen's and that that was the first time marriage was discussed? A Well, yes, sir.

Q That is what I understood you to say, that the first time marriage was discussed was at the Cohen's, about a week before you took her there? A Well, I understood the District Attorney

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he asked me when did I ask her in Mrs. Gosby's house?

Q No, he asked you when was the first time you asked her to marry you?

BY MR. ELLISON:

Q I said, when did you ask her to marry you for the first time? That girl Frieda? A About a week before I was with her in 143.

BY THE COURT:

Q You have stated at the time you had connection with her at Mrs. Weiner's was about a week before you took her to 143; now how long was it after you had connection with her at Mrs. Weiner's that you asked her to marry you? A About three or four weeks.

Q Well, you said that both of those things came about a week before? A Well, I don't know exactly the dates, I cannot give a fair statement, being I do not remember exactly the dates.

Q Did you have connection with her at Mrs. Weiner's before you asked her to marry you? A Yes, sir, positive.

Q And it was after that that you asked her to marry you?  
A Yes.

BY MR. ELLISON:

Q Hadn't you had intercourse with her twice before you asked her to marry you? A Yes.

Q The second time you had intercourse with her, did you still consider that she was a decent girl? A Sir?

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Q The second time when you had intercourse with her at Mrs. Weiner's, when you had connection with her, did you think she was a decent girl then?

MR. SANDLER: I object to what he thought.

Objection overruled. Exception.

A Well, I didn't have such ideas in my head at the time.

Q No, that didn't make much difference to you? A Well, I didn't think of it at all.

Q What did you tell Miss Cosby when you left there that night? A Miss Cosby asked me where I was going with her and I told her, "I am going over to the West side with her."

Q Did you hear Miss Cosby testify here yesterday? You saw Miss Cosby? A Yes, sir.

Q That is the young lady? A Yes, sir.

Q Did you hear her testify on the stand that she said to you, "You are taking Frieda away, she is a good girl, marry her and give her a good home?" And did you hear her further say that you said, "Well, I will marry her and give her a good home?" Did you or did you not say that to Miss Cosby?

A Yes, sir.

Q So you intended then to marry her and give her a good home, is that right? A Yes, I intended to marry her, sure.

Q You have never married her, have you? A No, I was never married.

Q You then went down and got the marriage license, didn't you? A About a week after that.

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Q And you engaged the rooms in West 100th street? A Yes.

Q And you told Mrs. Mahoney that that was your wife, didn't you? A I don't remember exactly. The first time I didn't hire the rooms exactly from Mrs. Mahoney, only from the janitor.

Q You heard Mrs. Mahoney testify on the stand yesterday, didn't you? A Well, I didn't know Mrs. Mahoney till I moved down on the first floor; that was a week afterwards.

Q You say you heard Mrs. Mahoney testify here yesterday, didn't you? A Yes, sir.

Q Do you remember this question and answer being put to Mrs. Mahoney yesterday: "What if anything did this defendant say to you at that time? A He just asked for a furnished room for himself and his wife. Q And did you see the girl Frida? A Yes:

"Q And he was with her? A Yes, sir.

"Q He said it was his wife? A Yes, sir." Did you tell Mrs. Mahoney that Frida was your wife when you engaged the apartment? A I don't remember at all.

Q That you have forgotten? A Do you mean the second time when I moved down?

Q Mrs. Mahoney, whether it is the first or the thirtieth time, did you tell that to Mrs. Mahoney, that she was your wife?

A I don't think I did.

Q Did you see Mrs. Cornell down in 100th street? A Yes, sir.

Q Did you tell Mrs. Cornell that Freida was your wife? A No.

Q Never told her either that that was your wife? A No, sir.

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Q Was she the janitress of the apartment? A Yes, sir.

Q You were living there as man and wife with Frieda, weren't you? A Yes.

Q I mean living in the same place and the same bed -- sleeping with her? A Yes, sir.

Q Do I understand you to say that the reason that she has made this charge against you is because she found out you had no money? A Yes.

Q She expected to marry a very wealthy man when she married you, is that so? A I don't know her thoughts.

MR. SANDLER: Objected to.

THE COURT In view of his explanation I will allow him to interrogate him.

Q Did you tell her what you were doing when you were going with her? A She knew it.

Q During October and November, you say you were not doing very much for a living, were you? A No.

Q And did you tell her that things were coming pretty hard and she had to get busy and do some kind of work? A No, sir.

BY THE COURT:

Q Did you get fifty dollars from Mrs. Wiener? A No, sir.

Q Did you get any money from Mrs. Weiner, or Mrs. Nussbaum?  
A No, sir,

Q They didn't lend you any money? A No, sir, not me.

BY MR. ELLISON:

Q Don't you know that Frieda paid Mrs. Mahoney the rent

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for the last three weeks? A With money which I have given.

Q Money which you gave while you were not working, is that so? A Well, I was working a couple of days a week, I was never a week out of work.

Q How much money were you making those couple of days you were working? A About twelve dollars or thirteen dollars.

Q Do you mean six dollars a day? A Yes, sir -- sometimes more, sometimes less.

Q How long had you been making that amount of money? A Well, I have lost a lot of money during the holidays -- I lost over \$500 also in the fruit business.

Q During what holidays? A During the Jewish holidays.

Q And when were they during the year 1912 -- or 1913? A 1913.

Q What month were the Jewish holidays? A I don't remember the month, but I know I lost that and I had to go in bankruptcy.

Q How long was it before Frieda left Cosby's -- one month, two months or three months? A About two weeks, I think.

Q Two weeks before, and in spite of the fact that you had had this big loss, and that you were pretty hard up and that you did not have any money, that was the time that you selected to take Frieda out of that house, or to go away with her from Cosby's, is that so?

MR. SANDLER: Objected to. That is not so; the witness testified she asked him to take her away.

THE COURT: Well, put it, is that the time she did go,

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away?

Q Is that the time she went away from Cosby's with you to get married, right after you had this loss?

Objection overruled, exception.

Q About two weeks after.

Q Did Mrs. Nussbaum read this paper that you took up to her house when you went up there? A I don't know whether she read it. She looked at it and asked me why it ain't stamped (People's Exhibit 1).

Q Don't you know that there was a stamp on the paper that you showed her -- an official stamp? A Did I know?

Q Yes. On the paper that you got, don't you know that there was a stamp? A No, I didn't look at it.

Q I show you People's Exhibit 1 and ask you whether there was not the same kind of a stamp on that paper that there is on that? A I have not looked at the paper very good.

Q Who did read it? A I don't know. I know Mrs. Nussbaum looked at it good and asked me why it ain't stamped.

Q Was there anything at all said by you before you went to the City Clerk's office -- anything at all said about age? A Who? Between me and who?

Q Between you and Frieda, about her age? A No.

Q Nothing at all? A No.

Q Then do you know why did she say she was twenty-one instead of eighteen, if nothing was said about that? A I don't know.

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Q You know as a matter of fact, if a girl is under eighteen, don't you, she cannot get married without her parent's consent?

A I don't know.

Q Or guardian's consent? A I don't know.

Q You didn't know that? A No.

Q And you knew, didn't you, that if a girl is under eighteen, and you were living with her and not married, you would be guilty of rape, didn't you know that?

Objected to. Objection overruled. Exception.

A I didn't know that.

Q Didn't you know that if this girl was under eighteen years of age and you went with her, and whether you got this certificate or not, and didn't actually marry her, you would be guilty of rape? A I didn't know.

Q You cannot give this jury any reason, can you, why this girl should say she is twenty -one instead of eighteen? A I cannot give a reason for what she done.

Q And that thing was never discussed with you, the question of age? A No.

Q Never talked about at all? A No, no.

Q Did you hear Frieda testify yesterday that on the night that you got this certificate that you went home and you said to her, "Now, Frieda, I want to ask you a favor. I said, 'What is it', and he says, 'You know business is very bad, and I want you to help me out in business.'" Did you tell her business was very bad? A No.

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Q Your business was very bad, wasn't it? A I didn't tell her about it.

Q No, but you say that your business was very bad at that time, wasn't it? A (No answer).

Q It was bad, wasn't it? A Of course it was not as good as it was in the summer.

Q You told the jury that you lost your \$500, and then you were only working a couple of days a week? A Yes.

Q Did you tell her it was bad? A No.

Q Did she say to you, "Well, I can get a position in a family for five dollars or six dollars a week, and I will make my own living"? Did she say that? A No.

Q About your friend living in the restaurant, what is his name? A Philip Kaston.

Q Just spell that? A I don't know how he spells it.

Q How long have you known Minnie Smith? A Two years.

Q What? A About two years; maybe more -- I don't remember exactly how long.

Q And she is a cousin of Cohen's the stable man? A I think she is a relative of Mrs. Cohen.

Q Where did you use to see her? A All over the street, in front of the step.

Q And did you use to see her a good deal? A Not very often.

Q Well, give the jury some idea of how often you saw her?

A I don't remember exactly how often I saw her.

Q Would you see her once a week? A Well, yes.

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Q Once a week? A Yes.

Q And for how long a time -- for the last couple of years?

A Well, I saw her almost eight weeks I was away this summer at Coney Island.

Q You mean outside of eight weeks you were in Coney Island, have you seen her pretty nearly once a week for the last two years? A No.

Q How often? A I have seen her one evening, which Frieda was talking to her from afar, but I didn't go near.

Q When was that? A Some week, some night, I don't remember exactly when, but I seen her from far; I didn't go near.

Q And she knew you were going with Frieda, didn't she? A I don't know if she did or not.

Q Didn't you ever tell that to her? A No.

Q Well, she knew Frieda, didn't she? A Well, I don't know.

Q You didn't know that she knew Frieda? A No.

Q When was the first time that you found out that she knew Frieda? A I think Frieda was telling me that she knew her.

Q Frieda told you she knew her? A Yes.

Q When you saw her did you ever speak to her about Frieda?

A No, I have not seen her.

Q When was the first time you found out Frieda slept in a hotel with a fellow and Minnie Smith and another fellow were along? A Well, I don't know they were sleeping in a hotel, but Frieda was telling me that Minnie was not as good as she looked.

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Q When did you find out the first time that she was up in a hotel in 116th street? A Yesterday, I heard it here.

Q Yesterday was the first time? A When I heard it here?

Q Your lawyer never told you that he found out anything about it at all? A No.

Q And yesterday was the first time that you knew it?

A Yes.

Q And that is as true as everything else you have said in this case? A Yes.

RE-DIRECT EXAMINATION BY MR. SANDLER:

Q When did you see the lawyer for the first time to talk about your defense? When did you see him for the first time? A The day before the trial.

Q That was the day before yesterday? A Yes, sir.

Q When I walked down in the pen here? A Yes, sir.

Q Did you ever see me before that day? A No, sir.

Q Who was your lawyer before I stepped into the case?

A K. Henry Rosenberg, which he took money from me and ain't done anything for me.

RE-CROSS EXAMINATION BY MR. ELLISON:

Q Have you seen Mr. Cohen over in the Tombs? A Once.

Q When? A A few weeks ago, four or five weeks ago, maybe more.

Q Did he tell you anything about Minnie Smith? A No, nothing at all.

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Q Have you seen Minnie Smith over in the Tombs? A No.

Q Have you seen Frank Ross? A No.

Q Do you know Frank Ross? A No.

Q When was the first time you ever saw Frank Ross? A Here,  
but I could not say ---

Q Who had charge of your case outside? Mr. Sandler says he  
came in yesterday -- who was it that was looking after your  
witnesses? A I don't know. I was in here, I don't know who  
had charge outside.

Q You don't know who had anything to do with it, is that so?

A Yes.

M A X G U R I E N, called as a witness in behalf of defendant,  
being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SANDLER:

Q What line of business are you in? A Trucking business.

Q Are you married? A Yes, sir.

Q Where do you reside with your family? A 314 East 122nd  
street.

Q Do you know the defendant at the Bar Charles Weintraube?

A Yes, sir.

Q How long have you known him? A For the last six years.

Q Do you know others that know him? A Yes, a lot of  
people know him on the block.

Q And you know those people? A I know those people too.

Q Has the defendant ever had any business with you? A Yes.

Q What business has he had with you? A I used to help him

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by lending him money.

Q How much money did you loan to the defendant at any one time? A The highest I loaned him was \$310.

Q Did he return it to you? A Certainly.

Q Did you have money transactions with him, with checks? A Yes, I gave him all in checks.

Q What is the total amount of money transactions you had with this defendant in the last year?

MR. ELLISON: Objected to as immaterial.

MR. SANDLER: Well, you practically charge this man with trying to take advantage of this girl.

THE COURT: How is the amount of money transactions had with this man material?

MR. SANDLER: To show this man to be a business man.

Q Well, what is the defendant's reputation in the community or amongst the people that know you? A I know him as a good honest fellow.

CROSS EXAMINATION BY MR. ELLISON:

Q Do you know Mr. Cohen? A Yes, sir.

Q Where is his stable with reference to 314 East 122nd street? A 313 East 122nd street.

Q Right across the street from you? A Yes, sir.

Q Are you an Italian? A No, I am a Jew.

BY THE COURT:

Q Does not Mr. Cohen live in the same house with you?

A With mine, yes, sir.

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Q 122nd street? A Yes, sir; same house, first floor.

BY MR. ELLISON:

Q Do you know a girl named Minnie Smith? A Yes, I know her, but not well acquainted with her.

Q Does she live there too? A If she lives there? No.

Q Have you seen her living around there in the last six months? A I seen her come around; that is a cousin there.

Q Have you seen her with Mr. Cohen? A I have seen her in Cohen's house once or twice.

Q In the last six months? A I couldn't say that, but I saw her last summer or the summer before.

Q Do you know a man by the name of Frank Ross? A No, sir.

Q Do you know a woman named Rosie? A No, sir.

RE-DIRECT EXAMINATION BY MR. SANDLER:

Q Do you know Mrs. Weiner, the sister of Frida? A I know her from far away.

Q Did you ever see her in Cohen's house? A I see her often, yes.

Q You know Frieda Smilovitz, don't you? A No, I don't know her; I see her once by the stable but never speak to her.

Q Did you hire the lawyer to defend the man in this case?

A Did I pay a lawyer?

Q Did you hire a man to defend Weintraub? A No, I did not.

Q Do you know who did? A Harry Cohen.

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H A R R Y R O S E N, called as a witness in behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SANDLER:

Q Where do you live? A 405 East 101st street.

Q Married? A Yes, sir.

Q Wife and children? A Yes, sir.

Q Do you know the defendant at the Bar? A Yes, sir.

Q How long do you know him? A Well, about four years.

Q What line of business are you in? A I have a livery stable.

Q Under what circumstances did you become acquainted with the defendant? A Well, once in a while he used to hire a horse off me or so, working.

Q Do you know other people that know him? A Yes, several people I know that knows him.

Q Businesspeople? A Yes.

Q Well, now, have you ever discussed this defendant's character with those people? A Yes.

Q What is his reputation in the community -- good or bad?

A Well, --

MR. ELLISON: Good or bad?

MR. SANDLER: I object to the interruption.

MR. ELLISON: I ask for an answer good or bad to that.

A Good.

CROSS EXAMINATION BY MR. ELLISON:

Q Do you know Mr. Cohen in the livery business? A Yes.

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Q How long have you known him? A Twelve years.

Q A very good friend of his, aren't you? A A very good friend of him.

MR. SANDLER: Defendant rests.

(The Court now declares a recess till 2 p. m.,, first duly admonishing the jury in accordance with law.)

After Recess, Trial Resumed.

FRIEDA SMILOVITZ, the complainant herein recalled by the People in rebuttan, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q Frieda, do you know a man by the name of Joe? A No, sir.

Q Did you ever know such a man? A No, sir.

Q Did you ever go to a hotel at 116th street and Eighth avenue with a man by the name of Joe and stay there with him until two or three o'clock in the morning? A No, sir.

Q Did you ever go to such a hotel in company with a woman by the name of Minnie Smith, and a man by the name of Frank Ross?

A I went with that company, but I don't know anybody by the name of Joe.

Q Did you ever go to a hotel with any such company? A No, sir, I have been never in a hotel.

CROSS EXAMINATION BY MR. SANDLER:

Q Do you know Minnie Smith? A Yes, sir.

Q How long do you know Minnie Smith? A Three years.

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Q Do you see her very often? A No, sir.

Q How often do you see her? A About --- She used to live next door to my sister --- once in a while.

Q You went to Classon Point with her? A Once.

Q And was not Frank Ross, her fellow there with you? A Yes, sir.

Q Did you ever have chop suey with them? A No, sir.

Q You eat chop suey, don't you? A No, sir, I don't know what that is.

Q Did you ever eat chop suey with Mr. Weintraub? A No, sir.

Q When you were keeping company with him? A No, sir.

Q Did you ever hear of a chop suey place? A I never eat chop suey.

Q But you know what a chop suey place is? A Yes.

Q Who run the chop suey places? A I used to see it written down.

Q What kind of people run chop suey restaurants? A I couldn't tell you.

Q Are they negroes? A I don't know.

Q Are they chinamen? A I don't know.

Q Did you ever see a chop suey sign? A Yes, sir.

Q Did you ever look at it? A Yes, sir.

Q Where? A I was once with him in a chop suey house.

Q That is what I asked you a few minutes ago. A I never had chop suey.

Q But you went in a chop suey place, didn't you? A With him.

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Q With this man here (defendant)? A Yes.

Q Chop suey is something very bad, ain't it? A I don't know.

Q Don't you know Joe? A No, sir.

Q Now did you ever go to Loew's theatre with Minnie Smith and Frank Ross? A No, sir.

Q Did you ever go to any theatre with them? A No, sir; moving pictures.

Q How often did you go to moving pictures with them? A Once.

Q Do you know what Minnie Smith was doing for a living?

A No, sir.

Q Did you ever ask her? A No, sir.

Q Did she ever tell you? A No, sir.

Q Do you know whether she was a prostitute? A I could dn't tell you.

Q Well, is she a prostitute? A I don't know.

Q Is she a good girl? A I don't know.

Q Well, you were a good girl, weren't you? A Yes, sir.

Q And you didn't care whom you went with? A I didn't know if she was good or not.

Q You didn't care which it was? A Oh, I did care, but I never seen anything wrong about her.

Q Well, she had been keeping company with Frank Ross for about over two years, hasn't she? A I don't know.

Q Was she keeping company with Frank Ross then when you knew her? A I don't know.

Q Didn't you say a few minutes ago that you went to moving

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pictures with Minnie Smith? A I don't know if she is keeping company with him.

Q Well, he was her fellow, wasn't he? A I don't know.

Q Well, was he her fellow? A I don't know.

Q Didn't you say yesterday that Frank Ross was her fellow?

A She told me he was her husband, but later around ---

Q When did she tell you that? A Well, just up to her, up once in september, the 11th, on Saturday afternoon, I was up to see her and she called me up, I should come down to the house in 118th street, she is living there, she is living there with a woman.

Q What was the name of the woman? A I couldn't tell you.

Q Was it Rosie? A I couldn't tell you.

Q Did Rosie run a disorderly house there? A I couldn't tell you. I came up to the house and I was looking around for the woman she was living with, and I went in the bedroom and she introduced me to her husband, Ross, Frank.

Q Who did? A Minnie Smith. And another fellow she introduced me to too and she told me I should keep company with that fellow. So I begged her not to force me if I don't want to, and that was the first and last time I have been up in her house.

Q What fellow did Minnie Smith ask you to keep company with? A I don't remember him.

Q Can you describe him to the jury? How big was he, how tall? A I don't remember him any more; I didn't pay no attention

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to him because I didn't want to bother with no ---

Q You did not like his face? A I did not, because I did not like him because I am a Jewish girl, and he has been an Italian, and I didn't want to pay no attention to no Italian fellows.

Q You only kept company with Jewish fellows, is that right? A Yes, sir, I never went out with no Italian fellows.

Q When did Minnie Smith ask you to come up to Rosie's place over on 118th street? A September 11th, on Saturday afternoon.

Q Where did she meet you? A She gave me her address, she was living in 118th street, I couldn't tell you the number, but apartment 21, on the fourth floor.

Q Did she ever call you up on the telephone? A Yes, sir.

Q And ask you to come up to her apartment? A Yes, sir.

Q Did you ever do anything up in that apartment? A No, sir.

Q How long did you stay there? A Two hours.

Q What were you doing there for two hours? A Talking; she was telling me that she has a baby. Then I asked her where the baby is, if she had it. So she said --- she didn't answer me where the baby was, only she was telling me that he treats her mean, that she has to go and pick up men, and that Rosie was smoking cigarettes there. I didn't like the idea and I took my hat and coat and I went out.

Q Did you smoke any cigarettes there? A No, sir, I never do things like that.

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Q Did you ever have a talk with Rosie up in that room there? A No, sir.

Q Did Rosie come in there? A No, sir.

Q How many men were there when you were there? A Two -- Frank Ross and another, - Frank Ross, or whatever his name is, and another fellow.

Q You know his name is Frank Ross, don't you?

MR. ELLISON: I object to the continual repetition; she said so. We are starting all over again in the case.

Q Did you ever smoke cigarettes? A No, sir.

Q Did you ever smoke cigarettes in Mr. Weintraube's room?

A No, sir.

Q Sure of that? A Sure.

Q Did you ever see him smoke cigarettes? A Yes, sir.

Q Did you ever smoke his cigarettes? A No, sir.

Q Did he ever offer you a cigarette? A No, sir.

THE COURT: Well, it is immaterial whether she did or not. I do not know that a woman who smokes cigarettes is more likely to be seduced than anybody else.

MR. SANDLER: I do not say that it is a crime.

Q Did you ever go to your apartment again? A What apartment?

Q Where Minnie Smith lived? A No, sir.

Q Did you ever get any money from Minnie Smith? A No, sir.

Q Did you ask Minnie Smith how she makes a living? A She told me her husband supports her.

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Q She told you she goes out with men? A No, sir.

Q Did she tell you her husband sends her out? A She told me she was married and her husband supports her, and I stood there two hours and I went away and I did not like the way the other women went -- she took out of her pocket cigars and she was smoking.

Q You saw a woman take something out of her stockings?

A Cigars.

Q Cigars? A Cigarettes and cigars and she was giving the other fellows too.

Q You never went there more than once? A No, sir.

Q Did anybody try to ruin you there? A No, sir.

Q Did anybody ask you to stay there? A Yes, sir.

Q Who? A Frank Ross.

Q Was Weintraub there? A No, sir.

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

Q Did you tell it to your sister? A Yes, sir.

Q When did you tell it to your sister? A Well, I didn't tell her exactly everything. I just told her a couple of words, that I have been up, and she begged me that I should not keep company with that Italian fellow. That is all I told my sister.

\*Q You told your sister that Minnie Smith asked you to keep company with the Italian fellow? A Yes.

Q Did your sister say "Don't go any more with Minnie Smith"?

A She said I wasn't go with Minnie Smith, because she heard

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very bad about her, and as soon as I heard that Minnie Smith has been leading a fast life I dropped going with her and I haven't seen her after.

Q And you are only eighteen years of age? A Yes, sir.

Q What is a fast life? A Well, I heard that is what the gentleman was leading me, that is what they call a fast life. If you go and pick up men, that is what she said. Made up his mind to lead only a fast life, that is what he wanted me for, he told me.

Q So you have been asked to lead a fast life by another man outside of this defendant, is that right? A No, sir. He (the defendant) told me what it meant, he explained it to me. He was my husband.

Q Did this other man, Frank Ross, while you were up in Rosie's apartment ask you to marry him? A To marry who?

Q To marry Frank Ross?

MR. ELLISON: She didn't say that.

Q Did the man in Rosie's apartment ask you to lead a fast life? A No, sir, Frank Ross told me that I should keep company with that Italian man, with the other man that was sitting in the bedroom, and that he will marry me and he will work for me.

Q And before you went up there you didn't know where you were going to, did you? A No, sir, I thought I was going to a woman where Minnie was living.

Q Were you looking for a job? A I was working.

Q Where? A By Mrs. Cosby.

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Q What time in the day did you go up to this place? A Afternoon.

Q How did you get off from Mrs. Cosby's? A Well, it was my day off.

Q So on your day off you went up there? A Yes, sir.

Q Where did you go on your day off? A My other day off I met this gentleman.

MR. ELLISON: Call him the defendant, or else counsel will mix you up.

Q I want to direct your memory to the Christmas of 1912.

MR. ELLISON: I object to this.

THE COURT: This girl was called in rebuttal.

MR. SANDLER: All right, your Honor.

BY MR. ELLISON:

Q Have you got those underclothes here? A Yes, sir.

Q Will you bring them in? A Yes, sir.

MR. ELLISON: Mr. sandler wants to see them.

MR. SANDLER: I object to that and I do not care to see them, and I object to the statement in front of the jury.

MR. ELLISON: Counsel requested three times that they be brought here yesterday; now he can have them for whatever they are worth.

LENA FEINBERG, called as a witness by the People in rebuttal, being first duly sworn, testifies as follows:

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(The witness states that she resides at 110 East 225th street.

MR. ELLISON: There are certain witnesses in the court room, that I would like to have excluded, and I ask all the witnesses in this case to step out of the court room.

(Witnesses excluded.)

DIRECT EXAMINATION BY MR. ELLISON:

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

Q Where do you live? A Before I lived 122nd street.

Q What number on 122nd street? A 314.

Q Have you any children? A No.

Q Were you subpoenaed here as a witness by Mr. Sandler, as a witness for the defense? A I don't, can't talk so good English.

(Question repeated through interpreter.)

MR. SANDLER: I object on the ground that it is incompetent.)

THE COURT: Objection overruled.

MR. SANDLER: The District Attorney is calling this lady as a witness.

THE COURT: Either side has a right to ask if the witness has not been subpoenaed by the other.

A Mrs. Cohen brought me the summons the night before yesterday.

Q You mean the wife of Harry Cohen? A Yes.

Q Do you know this defendant Weintraub? A Yes, through Mrs. Cohen I know him.

Q And you know Frieda Smilovitz? A Yes, sir.

Q Do you remember one night Frieda Smilovits and this de-

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defendant coming to your home? A I asked her to come to me, to my house.

Q And did the defendant come with her? A Mrs. Cohen came and the defendant came.

Q And did Frieda come? A Yes.

Q Who stayed there that night all night? A Frieda.

Q Did this defendant stay there, did he, yes or no? A Yes, sir.

Q Where did Frieda stay that night, with whom did she sleep?

A With me, in bed.

Q And where did this defendant stay? A In the dining room.

CROSS EXAMINATION BY MR. SANDLER:

Q What time did you go to bed? A Two o'clock.

Q Was there anybody in bed with you when you fell asleep?

A I didn't fall asleep until Frieda came to sleep with me.

Q How long after you got into your bed did Frieda come up to your bed. How many hours? A I don't remember how many hours.

Q Did you ever tell Frieda Smilovits how to take care of herself so she should not become pregnant after she had intercourse with a man? A No, no.

Q Well, Frieda Smilovitz said so yesterday.

THE COURT: She did not say anything about being pregnant.

Q No, but how to take care of herself after she stayed with a man? A No.

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Q How do you support yourself? A I am working.

Q You understand English, don't you? A Not so much.

Q Well, how long is your husband dead? A My husband is not dead, he is living.

Q Where is he? A He is away from the city. I am married about twenty years.

Q Don't you know where he is? A Now I don't know it. The first of May he was here in New York.

Q When did you see your husband last? A The 1st of May.

Q How do you support yourself? A He leaves me a couple of dollars and I work myself.

Q Do you know Sam Goldberg? A Yes, he was in my house living.

Q Who is Sam Goldberg? A He was a boarder in my house.

Q Did you ever have sexual intercourse with Samuel Goldberg in your house? A No.

Q Did you see Sam Goldberg outside? A Where?

Q Here, in this court? A Now, no.

Q Did you see him out in the hall? A Not now.

Q Did you see him in the forenoon? A Yesterday I saw him, not to-day.

Q Give me the name of the other boarder that you had? A It was Solly. They were together, Sam with Solly together.

Q What is Solly's last name? A I don't know.

Q Wishnick? A I don't know. It is a friend to Sam and to Charley.

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Q Were you forced to move from that house because you ran a disorderly house? A I moved because it was too far for me to go to work. I am working in 103rd street and First avenue.

Q Do you know Max Gurien? A I know him for a tenant in that house that I live.

Q That is the man that was in court this morning. Did you see him --- a big, tall man? A No.

Q Well, anyway, Max Gurien was a tenant in the same house you lived? A A short man?

Q Wasn't he a tenant in the house where you lived? A Gurien, yes. I don't know whether his first name is Max, but Gurien was a tenant in the same house.

Q Did not this man make a complaint against you, that you ran a disorderly house? A Never.

Q And didn't you move after that? A Never.

Q You say you never ran a disorderly house? A I never have something with somebody yet -- I never had any arguments with any of the tenants.

Q Do you have many visitors to your house of the male sex?

MR. ELLISON: I do not know how that is material.

THE COURT: Objection overruled.

A No man came to my house.

Q Give me the name and address of the firm you work for? A 103rd street, I don't know the number -- Ratner -- a white goods factory.

Q Where did you work last? A I worked yesterday half a day.

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Q Will you say that you never had sexual intercourse with Sam Goldberg in your house? A No.

MR. ELLISON: Objected to as immaterial and already asked and answered.

THE COURT: It has already been asked and answered; objection sustained.

RE-DIRECT EXAMINATION BY MR. ELLISON:

Q Did Mr. Cohen have a talk with you in the corridor?

MR. SANDLER: Objected to as not proper re-direct examination.

THE COURT: Answer yes or no.

A Yes.

Q What did Mr. Cohen tell you that you should say when you took the stand?

MR. SANDLER: Objected to as irrelevant, immaterial, incompetent and unfair.

THE COURT: Objection sustained.

Q What did Mr. Cohen say to you out in the corridor?

Objected to as incompetent. Objection sustained.

Q After Mr. Cohen began to talk to you you were not called as a witness by Mr. Sandler?

Objected to as incompetent.

THE COURT: Well, she has not been called as a witness by Mr. Sandler before or after the talk; objection sustained.

MR. ELLISON: Does your Honor hold that that is

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inadmissible because I did not ask Mr. Cohen what he said to her?

THE COURT: It is an immaterial matter and anything which Cohen said is not binding on this defendant.

MR. ELLISON: Your Honor will recall that counsel brought out that Cohen engaged a lawyer, and he seems to be the whole ---

THE COURT: Well, you cannot bind this defendant that way.

BY THE FOREMAN OF THE JURY:

Q Were you in court yesterday? A In the hall.

Q Did you have any conversation with the witnesses in the hall?

A No.

MR. ELLISON: She started to say that she said something to some witness. Ask her again if she said something to the witness.

BY MR. ELLISON:

Q Do you know who the witnesses are in this case?

Objected to as immaterial. Objection overruled.

Exception.

A No.

Q Well, did you talk to any people in the hall?

MR. SANDLER: Objected to as immaterial.

THE COURT: Objection sustained. She has already said that she had a talk with Cohen.

MR. ELLISON: Your Honor, the question was asked by

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the juror whether she talked with any of the witnesses. She said no. I then asked if she knew who the witnesses were. So evidently she does not know whether a person is a witness or not.

THE COURT: She does not know who has been called as a witness, and who has not.

BY THE FOREMAN OF THE JURY:

Q Did you talk with anybody in the hall about the case?

A With Mr. Cohen.

THE FOREMAN: I asked this witness if she had talked to any of the witnesses and now she says she talked to Mr. Cohen.

THE COURT: She said she didn't know who were witnesses, she knows what a witness is, but not being in the court room she does not know who have been witnesses and who have not been witnesses. She knows what a witness is but does not know the people who have been called as witnesses.

MR. ELLISON: People rest.

SAMUEL GOLDBERG, called as a witness in behalf of defendant, is duly sworn.

THE COURT: What is this?

MR. SANDLER: I am going to attack the credibility of the last witness, that she never had sexual intercourse.

THE COURT: You know perfectly well that that is a

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collateral matter on which you are bound and you cannot go into collateral matters by which you are bound.

MR. SANDLER: Very well, your Honor.

F R I E D A S M I L O V I T Z, the complainant herein, recalled by the People, testifies as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q The lawyer for the defendant asked you to produce your underclothes here that you had on the first night that you had intercourse with this defendant; have you produced them here? A Yes, sir.

Q Are they in that package? A Yes, sir, they are in that package, anybody can see them.

MR. ELLISON: I offer them in evidence.

MR. SANDLER: Objected to, unless they are properly identified.

THE COURT: She has stated that they are the underclothes.

MR. SANDLER: Well, I would like to see them.

MR. ELLISON: All right. Go over and handle them.

THE COURT: Is there any objection?

MR. SANDLER: There is, on the ground that it has not been proven that the underclothes which are offered in evidence are the underclothes which this defendant wore.

BY THE COURT:

Q Have you seen the contents of that package? Do you know

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what is in that package? A I suppose nobody changed it while they took it.

Q Have you opened the package and do you know what is inside? A I put it in there myself this morning.

Q And what did you put in the package this morning? A My shirt that I wore the time when he ruined me, the 28th of October.

THE COURT: Objection overruled.

MR. SANDLER: Your Honor does not, however, receive the underclothes in evidence. Now I have a right to question her on that.

Received in evidence and marked People's Exhibit 3.

CROSS EXAMINATION BY MR. SANDLER:

Q What clothes did you have on that night when you say he ruined you? A I had on a shirt.

Q What else? Did you have a nightgown? A No, sir.

Q Did you have drawers? A No, sir.

Q Didn't you say yesterday that you had drawers? A I didn't say so.

Q Well, open that package.

MR. ELLISON: Well, now, I object to the dictatorial manner of Mr. Sandler.

A Why, any doctor can examine that. I suppose the doctor knows the difference.

MR. SANDLER: Will your Honor direct the witness to open it.

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THE COURT: If you wish it opened, you may open it.

Anybody that wants it opened can open it.

Q You had on an undershirt is that right? A Yes, sir.

Q Will you describe to the jury --- did you suffer any pain?

A Certainly.

Q Tell the jury what happened to you the night you say ---

THE COURT: I will not allow that to be all gone into again.

MR. SANDLER: The authorities hold that I can question this witness on everything that heppened, even as to her feeling, presumably she being a virgin.

THE COURT: You can question her about those underclothes and the identity of them and where they have been kept. If you attack the identity of the underclothes you can question her on that.

Q After this night that you say you were ruined what did you do with that shirt? A Well, I kept it.

Q Did you take it to Mrs. Katz's house? A No, I kept it under the mattress where -- the mattress where he ruined me.

Q You kept it under the mattress? A Yes, sir, till a couple of days later.

Q And what did you do with it? A And then November 4th I gave it to my sister, because the third of November he told me that he married me for that purpose, to go and hustle, pick up men, so I showed it to my sister.

Q From the time you gave it to your sister, did you have it in

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your possession? A I saw it many times.

Q How often did you see it since November 4th? A I saw it many times.

Q How many times? A Well, I used to see it about three or four times during the week.

Q Did you always look at it? A I always went to my sister to eat -- he used to starve me, he never gave me more than ten cents, so when I should go up ---

Q Whenever you went there you took a look at your underwear?

MR. ELLISON: I object to that as insulting and suggesting.

Q Everytime you went to your sister to eat you said "Let me take a look at the shirt"? A No, sir.

Q When did you look at the shirt? A Whenever I went over to the drawer. I didn't have my trunk there.

Q How long was it in the drawer? A I didn't have him arrested --- when I had him arrested I had the trunk, and then I put it in the trunk.

Q Whose trunk have you got? A His trunk.

Q You have stolen his trunk? A Yes, sir. He took my money away.

Q With all his papers? A Yes, sir.

Q And all his underwear? A I don't know, with all his papers.

Q You have got his property today, haven't you? You have got things belonging to this defendant? A Yes, sir.

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Q Did you ever offer to return the trunk to him? A Well, nobody asked me to.

Q You didn't think it worth while to give it back to him, is that right? A I was over to the 100th street police station and I asked the police at the Detective Bureau.

Q Did you ever offer to return the trunk to this defendant?  
A I didn't know who to offer ---

Q Where was the shirt after it left your sister's house?  
A In my trunk -- in his trunk.

Q And how long was it in the trunk? A All the time.

Q Was that trunk under lock and key? A Yes, sir, I have got the key right here.

Q You kept the key to it? A All the time.

Q Anybody else go to that trunk? A No, sir. In the place I worked I kept the key with me, and here I have got the key right here. My sister never dared to look at my trunk.

Q How was the defendant dressed that night?

MR. ELLISON: Objected to as immaterial, not proper cross examination.

THE COURT: His underclothes are not produced here.  
Objection sustained.

MR. SANDLER: Exception.

Q Did you get up out of bed that night at all?

MR. ELLISON: Objected to as irrelevant, immaterial and incompetent, not proper cross examination.

THE COURT: Objection sustained.

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Q Did you have the shirt in the police court when you made the charge against this man? A No, sir.

Q Why not? A Because I didn't want to see it.

Q Did you offer it? A Oh, well, they didn't ask me to see it.

Q Did you tell them there that you had a shirt? A Yes, sir.

Q And no one cared to see it? A No, sir.

Q Didn't the judge ask to see it? A What judge?

Q The judge in the police court? A No, sir.

Q Did you tell them about the shirt? A Well, I told them I got it, but they didn't want to see it. They said it ain't their duty to see it.

Q Did District Attorney Ellison ask to see it?

MR. ELLISON: No. I concede that Mr. Sandler is the only one in the whole case that wanted to see it.

A Anybody that wants to see it may see it.

MR. SANDLER: I will renew my objection on the ground that it is not properly identified.

THE COURT: Objection overruled, and exhibit admitted.

MR. SANDLER: Exception.

MR. ELLISON: People rest.

MR. SANDLER: I respectfully renew the motions made at the close of the People's case. Will your Honor direct the jury to take from their consideration the count charging seduction, on the ground the People have failed

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to establish a crime as charged in the indictment by satisfactory legal proof?

There are two elements in seduction which the people must prove -- three elements: One is the promise; second, the taking, and, third, that the complaining witness was of chaste character; and the burden of proof of that proposition is on the People. The People have failed to prove the burden upon them that this complaining witness was of previous chaste character as charged in the indictment.

The People have failed to corroborate the story of the complaining witness as required by the statute as to the taking. The proof as submitted, the uncorroborated story of this complaining witness is that the taking occurred on October 28th, the date charged in the indictment. The people have failed to meet the proof that this complaining witness had sexual intercourse with this defendant at prior times, and furthermore had sexual connection with a stranger a long time prior to the alleged seduction.

And as to the promise, there is very little corroboration.

And on all the grounds set forth I ask your Honor to take from the jury the indictment.

THE COURT: The defendant has admitted the promise.

MR. SANDLER: The only one element left is the promise.

THE COURT: I say the defendant has admitted that he

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promised to marry the girl, but he says he had intercourse previous.

MR. SANDLER: The statute requires both.

THE COURT: I know, but you have not only the testimony of the sisters as to the promise, but the defendant has admitted that on the 28th day of October he had previously promised to marry this girl, but he states that he states that he had previous to that had intercourse.

MR. SANDLER: Yes, I agree on that promise and I admit that is the only element in the case, but the other elements required are lacking here.

Motion denied. Exception.

MR. SANDLER: Now I ask that you take the case from the jury and direct an acquittal on the ground that the People have failed to prove the charge set forth in the indictment.

Motion denied. Exception.

(Counsel now close to the jury.)

The Court now charges the jury.

The jury now retire to deliberate upon a verdict and upon their return render a verdict finding the defendant guilty of the crime of seduction under promise of marriage.

MR. SANDLER: I move to set aside the verdict on the ground that the verdict is against the evidence,

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and against the weight of evidence, and contrary to law,  
and I move for an arrest of judgment.

Motion denied. Exception.

(Defendant remanded to March 19, 19, for sentence.)

Stewart Liddell,  
Official Stenographer.

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