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CASE # 371

COURT OF GENERAL SESSIONS OF THE PEACE
IN AND FOR THE COUNTY OF NEW YORK
PART III

377

1081

-----X
THE PEOPLE OF THE STATE OF NEW YORK : Before
vs. : Hon. MARTIN T. McMAHON, J.
ANTONIO IRONE : and a Jury.
9-----X

Indictment filed May 13, 1903.

Charge: Abduction (Section 282, Subdivision 1, Penal Code).

New York, June 9, et seq., 1903.

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

ROBERT TOWNSEND, Esq., Asst. District Attorney, for the People;
PHILIP WALDHEIMER, Esq., for the Defense.

George F. Flack,
Official Stenographer.

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Jury impanelled.

The Court admonished the Jury according to Section 415 of the Code of Criminal Procedure.

RECESS UNTIL 2 P. M.

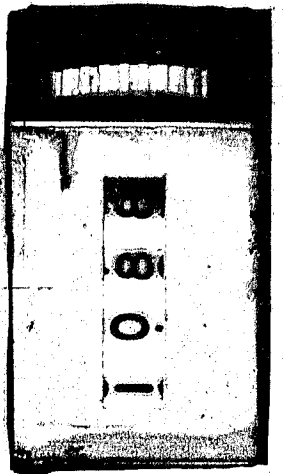
After Recess

THE PEOPLE'S CASE.

PEOPLE'S COUNSEL'S OPENING ADDRESS.

MR. TOWNSEND: If the Court please and Gentlemen of the Jury: The defendant at the bar is charged with the crime of abduction. In this case it is the taking of a girl under the age of eighteen without the consent of her parents or legal guardian for the purpose of marriage, which constitutes the crime of abduction.

Now, if you determine from the testimony that we will offer here that at the time this defendant took this girl and was married to her she was under the age of eighteen, and that he did not have the consent of her parents or legal guardian, he is guilty of the crime of abduction, no matter whether he believed she was over eighteen years of age, no matter whether she then believed or said she was over the age of eighteen. If it is a fact that at that



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time she was under the age of eighteen and that he married her without the consent of her parents or legal guardian, he is guilty of the crime of abduction.

R O S I N A F I N E L L I , called as a witness on behalf of the People, being duly sworn, testified as follows:
(Testimony taken through Official Interpreter Morossi.)

MR WALDHEIMER: I ask that all the other witnesses than the one on the stand be excluded from the room.

THE COURT: Yes; all of the witnesses will be excluded.

MR WALDHEIMER: On both sides.

THE COURT: Yes.

DIRECT EXAMINATION BY MR TOWNSEND:

Q Where do you live? A 240 Thompson Street, New York City.

Q And is your father living? A Yes.

Q What is your father's name? A Constantino Finelli.

Q Is your mother living? A Yes.

Q What is her name? A Rosa Finelli.

Q How old are you?

MR WALDHEIMER: Objected to.

THE COURT: I will allow her to answer.

MR WALDHEIMER: Exception, if your Honor please.

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She can't prove her own age.

A Seventeen--not yet accomplished.

BY MR TOWNSEND:

Q When were you sixteen?

MR WALDHEIMER: All this line of examination is objected to, if your Honor please.

THE COURT: I will allow it, and other proof will be produced, I suppose.

MR WALDHEIMER: Exception.

A When I married him (indicating defendant) I was sixteen and one-half.

BY MR TOWNSEND:

Q Do you know the defendant at the bar? A Yes.

Q How long have you known him? A I didn't know him at all before. It is the witnesses who made me acquainted with him.

MR WALDHEIMER: I move to strike that out.

(No ruling.)

BY MR TOWNSEND:

Q When did you first become acquainted with him? A I don't remember exactly the time.

Q About how long? A Eight or nine months ago. It was at the wedding--when I wedded him.

BY THE COURT:

Q What wedding? A City Hall wedding.

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Q Whose wedding? A The wedding with Antonio Irone.

Q Is that the first time that you met him, the day that you were married to him? A I don't remember exactly the month.

Q About how long? (To the Interpreter) Tell her as near as she recollects? A One month.

Q One month before? A Yes.

Q Before you were married? A Yes.

THE COURT: Now, go on.

BY MR TOWNSEND:

Q Were you married to him? A Yes, at the City Hall.

Q The City Hall in the County of New York? A Yes.

Q When? A On the 16th of October.

Q What year? A Last year.

Q 1902? A Yes.

Q Do you know who performed the ceremony? A I don't know those officials. The name must be in the paper, those that officiated at the City Hall.

Q Were there any people present besides yourself and the defendant? A Antonio Candrea and Seraffino Petre.

Q And who was she? A She was his wife.

Q That was her name before she was married? A Yes, sir. That man who came in just now (indicating) married us in the City Hall.

Q He was also present? A Yes.

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THE COURT: Do you want him excluded?

MR TOWNSEND: No. He was a clerk to the Alderman.

THE COURT: Do you want to exclude him?

MR WALDHEIMER: I don't know what he might be able to testify, if called.

MR TOWNSEND: He will testify that these people were married and that he was present at the time.

MR WALDHEIMER: That is all?

MR TOWNSEND: Yes, that is a good deal.

Q How old were you when you were married to the defendant?

MR WALDHEIMER: I still object. The question has been once asked and objected to.

THE COURT: I will allow it. Of course there will be other proof I presume. You can ask to have that stricken out.

MR WALDHEIMER: Exception nevertheless.

BY MR TOWNSEND:

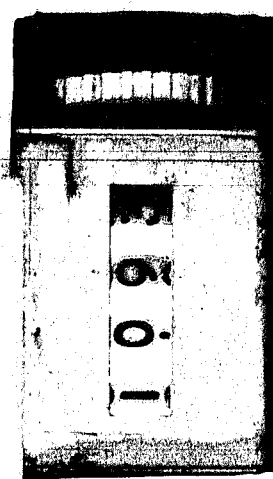
Q How old were you at the time of your marriage to the defendant? A Sixteen and one-half when I married him.

Q Did you live with him after the marriage ceremony?

A One month I remained with him and then---

MR WALDHEIMER: That is an answer to the question.

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BY MR TOWNSEND:

Q And then what? A And then he took me to Philadelphia, that I might do the business.

MR WALDHEIMER: Wait a minute. I move that that be stricken out as not responsive to the question.

THE COURT: The first part of it is.

MR WALDHEIMER: It is indefinite.

THE COURT: The last part may be stricken out. She said she lived with him one month, and that he took her to Philadelphia to do the business. "To do the business" may be stricken out.

MR WALDHEIMER: I ask that the jury be directed to disregard the answer to that extent.

THE COURT: I say that the words "to do the business" may be stricken out, but I will allow the statement to stand that he took her to Philadelphia.

BY MR TOWNSEND:

Q Do you recollect what age you gave when asked by the Alderman or person who married you, what age you gave?

MR WALDHEIMER: I object to the question as already having been answered on two occasions.

THE COURT: It has not been answered at all, Counsellor. The question is, "Do you recollect what statement of your age you made at the time of your marriage"?

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MR WALDHEIMER: She has already stated in answer to the question that she was sixteen and one-half years of age at the time.

MR TOWNSEND: Yes.

THE COURT: Yes. Now, he asks her what age she gave to the Alderman when married; a very different question.

MR WALDHEIMER: She was not any older then than what she said she was.

A I wanted to say my age sixteen and one-half---

MR WALDHEIMER: Wait one moment. That is not responsive to the question.

BY MR TOWNSEND:

Q Go on. What age did you give?

MR WALDHEIMER: One moment.

MR TOWNSEND: You can crossexamine her.

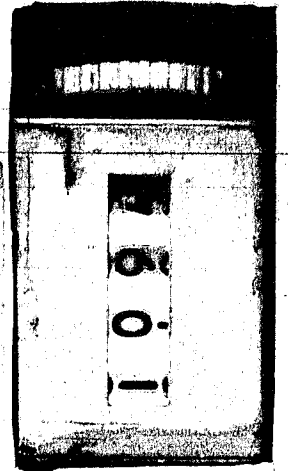
A (Continuing) But the witnesses told me that the marriage could not be made unless I said I was a year older.

MR WALDHEIMER: I move that the entire answer be stricken out.

THE COURT: The entire answer may be stricken out and another question will be asked.

MR WALDHEIMER: And I ask your Honor to direct the interpreter, when I make an objection, that I am entitled to explain my objection.

THE COURT: I say, the answer may be stricken out.



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Now repeat the question and let her state the age she gave without giving the reasons for so stating.

BY MR TOWNSEND:

Q What age did you give? A They compelled me to say I was a year older.

THE COURT: Strike that out too.

BY THE COURT:

Q Now tell her to answer the question without reference to why she answered as she did about her age. What age did she give when she was asked what her age was? A Twenty-one years.

THE INTERPRETER: And then she added something more.

THE COURT: Never mind what she added.

BY MR TOWNSEND:

Q She gave her age as twenty-one? A Yes, sir.

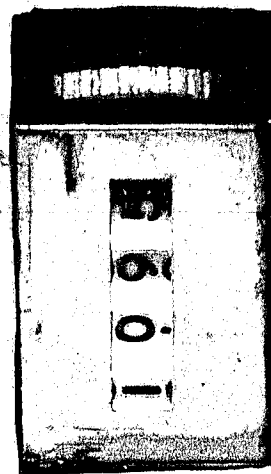
MR TOWNSEND: That is all. I offer this transcript from the record of marriages (showing paper), and there is no objection.

Admitted in evidence and marked People's Exhibit No. 1.

MR WALDHEIMER: I would ask that the Interpreter simply ask the witness upon the stand the questions that are propounded to her.

THE COURT: I am watching that.

MR TOWNSEND: Now, if the Court please, I will read this Exhibit to the jury.



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"People's Exhibit No. 1:

"New York, Feby 21, 1903.

"A Transcript from the Records of the Marriages reported to the Department of Health of The City of New York.

City of New York

No. of Certificate
21,024

STATE OF NEW YORK

I hereby certify, that Antonio Irone and Rosina Finelli were joined in Marriage by me in accordance with the laws of the State of New York, in the City of New York, this 16th day of Oct., 1902.

Witnesses to) Antonio Candrea
the Marriage) Seraffino Petre

Signature of person
performing the Ceremony:

John F. Florence.

Date of Marriage: Oct. 16, 1902.

Groom's Full Name: Antonio Irone.

Residence: 312 E. 40th St.

Age: 25.

Color: White.

Single or Widowed: Single.

Birthplace: Italy.

Father's Name: Gaetano.

Mother's Maiden Name: Paolo Cutroneo.

Number of Groom's Marriage: First.

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Bride's Full Name: Rosina Finelli.

Residence: 240 Thompson.

Age: 21.

Color: White.

Single or Widowed: Single.

Maiden Name if a Widow: -----

Birthplace: Italy.

Father's Name: Costantino.

Mother's Maiden Name: Rosa Ferraro.

Number of Bride's Marriage: First.

Name of Person performing Ceremony: John F. Florence.

Official Station: Alderman.

Residence: 330 St. Nicholas Ave.

Date of Record: Nov. 11, 1902.

A True Copy.

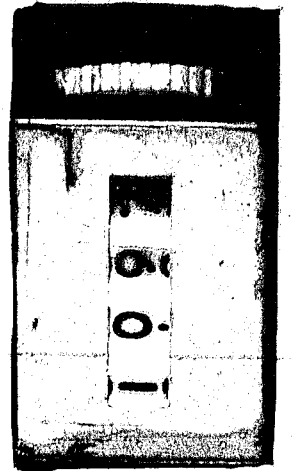
C. Goloman,
Secretary.

NOTICE.--In issuing this transcript of record, the Department of Health of the City of New York does not certify to the truth of the record transcribed. The seal of the Department of Health attests only the correctness of the transcript, and no inquiry as to the facts reported has been provided for by law."

CROSS EXAMINATION BY MR WALDHUIMMER:

Q Miss Rosina, when did you say that you first met Antonio Irone? A I don't remember the date.

Q You met him previous to the time that you were married?



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A One month before the marriage.

Q And did this man (indicating the defendant) come to your house? A During that month, yes.

Q How many times did he come to your house during that one month previous to the marriage? A I don't know how many times, but he used to come.

Q Do you know how many weeks there are in a month?

A Three.

Q How many days in a month? A I don't remember.

Q Do you know the month and the day of to-day? A Tuesday.

Q What month is it? (No answer.)

BY THE COURT:

Q Ask her how this month is called? A May.

BY MR WALDHEIMER:

Q Do you know the date of the month? A The 8th.

Q Can't you tell the Court and this Jury--you state you were married to him on October 16th, and that previous to that time you became acquainted with him and saw him for only a period of one month. Can't you tell how many times during that one month you saw the defendant? A Because so it is also on the paper.

BY THE COURT:

Q What? A Because so it is written on the paper.

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Q Ask her the question, before she was married how many times did this man go to see her or did she see him? A Three times in the week.

BY MR WALDHEIMER:

Q And then you saw him as often as nine times during the month previous, according to your calculation--previous to the time you got married?

THE COURT: You had better leave out the mathematics.

MR WALDHEIMER: Well, she says there are three weeks in the month.

THE INTERPRETER: And that she saw him three times in the week.

THE COURT: And she says there are three weeks in a month.

BY MR WALDHEIMER:

Q Can you tell how long you have lived at 240 Thompson Street? A Ten years or eleven. We have a lease.

Q Did you not, about two years ago, live at another place for a short time? A No, sir.

Q During the nine times that the defendant called at your place at 240 Thompson Street were your mother and father at home? A Sometimes yes, and sometimes not.

Q Did the defendant call during the day upon different occasions? A He came at that time, sometimes in the evening.

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Q How late did he stay in the evenings sometimes?

A Half an hour or so.

Q Did you ever see the defendant play cards with your father, both in the daytime and in the evening? A No.

Q Never did? A No.

Q How many days previous to October 6th had you and the defendant agreed between yourselves to get married? A One month before the marriage he caused me to elope with him. He took me away one evening.

Q Wait; she has answered all I want. Were you living at home the day you got married? A No; I was not living together with my parents at that time. He didn't give satisfaction.

MR. WALDHEIMER: Wait one moment. I have not asked any such question. I move that that be stricken out as not responsive.

THE COURT: Strike it out.

BY MR. WALDHEIMER:

Q Did you ever see your father give the defendant any money at all? A Father gave money to me after marriage; not to him.

Q Was he there at the time? A Father gave me fifty dollars.

Q Was the defendant there at the time? A No. It was between me, my father and my mother.

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Q Was it all paid in at once--the fifty dollars? A Yes.

Q About when was it? A Twenty days after marriage. He commenced to see that there was---

Q Wait. What did you do with that money? A I gave it to him because---

Q That is an answer.

THE COURT: Finish her answer.

A (Continuing) Because he had to buy articles for the home.

BY MR WALDHEIMER:

Q After you got married you admit that you lived with the defendant for one month. Where did you live?

THE INTERPRETER: Six months, she said.

THE COURT: Leave out the argument of what she said.

Ask her where she lived.

THE WITNESS: We lived together one month in New York and then he took---

BY MR WALDHEIMER:

Q Whereabouts?

THE COURT: Wait a moment and you will find out.

MR WALDHEIMER: I have not asked that question.

THE COURT: She lived in New York.

BY MR WALDHEIMER:

Q In what street? A 195 Bleecker Street.

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Q You lived there a month at 195 Bleecker Street?

A (In English) Yes.

MR WALDENBERG: I might be able to get along with her better than with the Interpreter.

THE WITNESS: I understand a little bit English, that is all I understand; not much.

Q Were you born in this country? A No; Italy.

Q How long have you been in this country? A Three years.

Q Do you know how old you were when you came here?

A Fourteen.

Q When you established yourself with your husband in 195 Bleecker Street did your father and mother go there? A No, nobody came.

Q What was done with the money?

THE WITNESS: She has answered that already. She said that she gave it to him to buy things for her house. She has got a list here, if you want to see it.

BY MR WALDENBERG:

Q Did you go to your father and mother's house during that month? A He didn't let me go.

Q Did you go, and how often? A When he gave me the order to go one day, and then we went.

Q Was that the time you got the fifty dollars? A Yes.

Q That is the only time that you went there? A It was

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the first time.

Q And the only time? A No; I had been subsequently two times more or so.

Q Well, your father and mother both knew at that time that you had married the defendant? A They didn't know anything before I went to them. He said after marriage to them that I was married with him, and then my father and mother got angry, because they distrusted him that he had taken me away at such a small age.

MR WALDHEIMER: I move to strike that out.

THE COURT: No; I will let it stand.

MR WALDHEIMER: I didn't interrogate this witness about any such thing.

THE INTERPRETER: She said something now.

MR WALDHEIMER: One moment, I have not asked anyth question and I don't want any answer.

Q When was the first time that you acquainted your father and mother, or either of them with the fact that you had married this man (indicating defendant)? A Twenty days after marriage.

Q And did you then tell them where you lived? A Yes.

Q And you said you were living with whom, with your husband?

A Yes.

THE INTERPRETER: She wants to say something.

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BY THE TWELFTH JUROR:

Q I would like to ask her how long she lived with her parents before she was married; and where did she live with her parents before she was married?

THE COURT: She stated that, but ask her again.

A 240 Thompson Street.

BY THE TWELFTH JUROR:

Q How long did you live with them there before? A Ten years.

Q She just swore that she had only been in this country three years? A But my father was here before and had a lease, and he caused me to come over from Italy.

THE TWELFTH JUROR: She couldn't very well have lived with her parents here ten years.

THE COURT: Under the law she could, Mr Juror. Her residence is where her father and mother lived.

BY THE SECOND JUROR:

Q I would like to ask the witness how she lived before she got the fifty dollars, whether she lived in a furnished room house. A We had rented an apartment and afterwards with the money we bought the furniture, the household articles.

Q You claim it was nearly three weeks after you were married, twenty days, before you got the fifty dollars. Previous to that was it a furnished room was there nothing in the rooms?

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A No furnished room. He took me to 40th Street when he married me.

BY THE COURT:

Q Where in 40th Street? A Here in New York.

Q But in what kind of a house? A Of his countrymen, of his own.

Q And how long did you stay there? A One month and a half I was there prior to being married.

Q I know, you said that he took you away before you were married. Now, how long before you were married did he take you away from your father and mother's place? A In September he took me.

Q Did he take you then to this house that you speak of where his countrymen lived? A Yes.

Q And did you sleep with him in the same bed? A Yes.

Q How long did you stay there before you were married?
A One month and a half.

Q Before you were married? A Yes, sir.

Q (To the Interpreter) She says it was in September that he took her away from her father and mother and that in October she was married. Now, what part of September did she leave her father and mother's place, and in what part of October was she married? A The whole month of September we were together without being married, and then on that day of October we married.

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THE COURT: What is the date of that certificate of marriage?

MR TOWNSEND: The 16th of October.

MR WALDHEIMER: That changes the situation some.

BY MR WALDHEIMER:

Q (To the Interpreter) Ask her how long she was acquainted with the defendant previous to the time that she went away with him? A Never before.

Q How many days were you acquainted with him?

THE INTERPRETER: She wants to explain now.

THE COURT: Let her explain.

A He took me in the first day of September to his room in 40th Street.

BY MR WALDHEIMER:

Q How long were you acquainted with him before that time?

A I didn't know him.

BY THE COURT:

Q How did you come to go with him to this house if you never knew him before? A There were witnesses there who told me that I had better go with him.

Q Where did you meet him? A In Bleeker Street we met.

Q Where? A At the corner of Thompson.

Q How did you make his acquaintanceship? A He talked to me and said to me, "Oh, come, come with me; come with me!"

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And he said that he wanted to take me to a woman friend of his.
So he said I didn't know.

Q In what language did he speak to you? A Italian.

Q What part of Italy do you come from? A I am from
Luerano, Province of Naples.

Q And where is he from? A I don't know. From Calabria,
probably.

BY MR WALDHEIMER:

Q Well, when was it that this defendant---

THE COURT: Wait one minute, counselor, I want to finish
with her.

BY THE COURT:

Q He met her on the street and asked her to go to his
house and she went? A I had to go perforce, otherwise he was
to box me in the face.

MR WALDHEIMER: I move that that be stricken out.

THE COURT: No; I will let it stand

MR WALDHEIMER: (Continuing) And that the jury be
directed to disregard any such testimony.

THE COURT: I will not direct the jury to disregard
it, nor will I strike it out.

MR WALDHEIMER: That she had to go by force.

BY THE COURT:

Q How do you know that he was going to strike you in the
face? A He actually struck me in the face.

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Q Who was there at the time? A Nobody; in the street, that is all.

Q Why did he say that he wanted you to go to this house?

A He said that he wanted me to become acquainted with a woman of his place, of his country.

Q And did you go with him and sleep with him that night?

A Yes, by force.

MR WALDHEIMER: I move that that be stricken out.

THE COURT: No; I will let it stand.

BY MR WALDHEIMER:

Q In what manner was he---

THE COURT: No; I am asking her now.

BY THE COURT:

Q How was the force employed? A Well, he insisted that he wanted me to see a countrywoman of his.

Q I know, but why did you go and sleep with him?

THE INTERPRETER: Now, she said something. I don't know if I have to repeat.

THE COURT: Yes.

A He did violence to me and ravished me.

MR WALDHEIMER: I move that that be stricken out and move that the jury be instructed to disregard it.

THE COURT: Oh, no.

MR WALDHEIMER: It is anterior to the date alleged in

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this indictment.

THE COURT: Very well. If a higher crime is proved I may send it back to the Grand Jury.

MR WALDHEIMER: It is not responsive to any question asked by the Court or District Attorney.

THE COURT: It is responsive to the question I am asking her.

BY THE COURT:

Q Then did you continue to stay there until the day you were married? A Yes.

Q Did you try to inform your father and mother where you were, or did you inform them? A How could I? I was there. I could do nothing.

Q Did you try to? A I was on 40th Street. I didn't know where this was.

Q You knew where your father and mother lived, did you not? A Yes.

Q Couldn't you send a letter or messenger or something? A I couldn't write, because I was watched and ~~fixed~~ spied upon; and if I had written I would have been beaten.

Q How many people were in that house? A A husband and a wife.

Q Only? A And a small child.

Q Only? A And I and he.

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Q What kind of a house was it? A Two rooms. One we had, and the other these other people had.

Q And were there other rooms occupied by other people in the building? A Yes, there were other people in that house.

Q What led to his going to the City Hall with you and marrying you? A He didn't want to marry me, and I said to him, "I want you to marry me at once." I could not see again my parents if I am not married.

Q When did you tell him that? A Many times I repeated it.

Q And then when you went to the City Hall to marry him who went with you? A Antonio Candrea and Seraffino Petre.

Q Did you know either of them before? A Yes; we were neighbors, door against door in Thompson Street where I lived with my father and mother.

Q How did you get them or he get them to go with you to the City Hall? A Upon my insistance to get married we went to the City Hall but he didn't say anything to my parents. After the marriage, however, I let them know that we were married.

Q Who went for these two parties to go there or be there, you or he? A The witnesses caused them to come.

Q Who are the witnesses? A Seraffino Petre and Antonio Candrea.

Q Who got Antonio Candrea and Seraffino Petre to go to the City Hall; who asked them to go? A They said--they came.

Q Where did you see them, or how did they happen to go?

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A They were in his house, were friends of his.

MR TOWNSEND: Yes.

A (Continuing) Yes, they were countrymen of his and friends.

BY THE COURT:

Q And they lived opposite to where your father and mother lived? A Near the house of my parents in Thompson Street.

Q Did these two parties, before going to the City Hall know that you were living with this man? A Yes, they knew it.

BY THE ELEVENTH JUROR:

Q She made a statement at first that she knew him only a month before she was married, and a little while ago she made the statement that she lived with him in 40th Street a month and a half before they were married. I want to know which is correct.

THE COURT: She says she went there a month and a half, living with him, and afterwards she said---

THE ELEVENTH JUROR: First off she said that she only knew him a month before she was married to him, and after that she said that she lived with him a month and a half before.

BY THE COURT:

Q (To the Interpreter) He said that she knew him but a month before she was married and then she said she lived with him a month and a half before she was married to him. Which is true? Ask her. A A month before October, in September,

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he met me and took me to 40th Street, and then in the month of October, on the 16th, we were married.

THE EIGHTH JUROR: She also said that she had only known him for a month before she got married, and that he used to call on her three times a week at her parents', and now she claims she lived with him a month and a half and then got married.

BY THE COURT:

Q Why did you say that he called at the house of your parents three times a week before you were married? A He came three times a week.

Q Before you were married? A Yes, sir.

Q For how long? A Well, for one month we had courtship, and then the other month we married.

Q Then ask her what she means by saying that the first time she met him was on the street? A Well, I met him in the street and then we went to live together. He took me to 40th Street.

Q Is that what you call courtship? A We had courtship in the house of my father and my mother.

Q Before you met him on the street or afterwards?

A First we had courtship and then we ran away.

Q Well, which is true, that you met him the first time on the street and he forced you to go to this house in 40th

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Street, or that he had been courting you for sometime before?

A Yes, it is so.

Q Which is so? A That first we had the courtship in the house and then he took me to 40th Street.

Q Why did you say that you met him for the first time on the Street and that he then struck you and forced you to go to 40th Street? A The family did know nothing about his having gone with me the first time.

Q (To the Interpreter) Tell her to answer the question. Which is true and which is not true, that she knew him for some weeks before she met him on the street, when he forced her to go to 40th Street, or was the first time she ever saw him when he met her on the street and made her go to 40th Street?

A First we had the courtship and then we ran away.

Q Tell her to answer my question. Which is true, that she met him for the first time about the first of September, and that he forced her to go to 40th Street, or that she had known him for several weeks before? A First we had the courtship in the house for the month.

Q Then why did you say that was the first time that you met him, when you met him on the street? A (No answer.)

THE COURT: Are this girl's father and mother here?

MR TOWNSEND: Yes. She is a very stupid girl.

THE COURT: I know she is.

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MR TOWNSEND: I don't think she can read or write. She does not even understand the Interpreter. We have three or four different interpreters with her.

THE COURT: There is no use in dealing further with her.

MR TOWNSEND: She has testified to the main facts.

THE COURT: But she has told so many inconsistent stories.

BY THE COURT:

Q Now where are Antonio Candrea and Seraffino Petre?

MR TOWNSEND: They were here. They are our witnesses.

A I don't know now where they are.

THE COURT: Are they here?

MR TOWNSEND: One of them. They are friends of this defendant's and lived in his house. But they witnessed the marriage, went there as witnesses.

MR WALDHEIMER: You are not summing up, are you?

MR TOWNSEND: And they told her to say, as she says, that she was twenty-one years of age.

THE COURT: There is no use in bothering with this girl any longer.

MR TOWNSEND: No.

THE COURT: And I will let the case go over until tomorrow. Then I want the parents of the girl and these

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others.

MR TOWNSEND: They are all out here.

THE COURT: Very well. There is no use in going on with the case further to-day.

MR TOWNSEND: I would like to put on the gentleman who was present at the marriage.

MR WALDHEIMER: The certificate of marriage is in evidence now.

THE COURT: You concede the marriage, I suppose?

MR WALDHEIMER: It is conceded by the certificate.

MR TOWNSEND: The Statute says I have to have other testimony than her own.

THE COURT: Well, you do not need the Alderman or his clerk. The marriage is conceded.

MR WALDHEIMER: We concede the marriage.

THE COURT: (Continuing) Because the testimony so far would require that I send the case back to the Grand Jury for the higher crime of rape, but I do not care to do that until I hear from the father and mother.

MR WALDHEIMER: I think on the testimony thus far your Honor will virtually allow the defendant to go on parole in this case.

THE COURT: Is he on bail now?

THE CLERK: No, sir, in prison.

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THE COURT: Then he will stay there. Do want to call any witnesses now, Mr Townsend?

MR TOWNSEND: No, sir.

THE COURT: Then it will go over until to-morrow at half-past ten; and, gentlemen, I am required at each adjournment to give you the usual statutory caution, not to converse with each other or any one else about the case, and of course to come to no conclusion upon it until it is finally submitted to you.

Adjourned to Wednesday, June 10, 1903, at 10:30 A. M.

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Wednesday June 10, 1903.

10:30 A.M.

TRIAL RESUMED.

C O N S T A N T I N O F I N E L L I, called as a witness
on behalf of the People, being duly sworn, testified
as follows:

(Testimony taken through Official Interpreter
Morossi.)

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Do you know Rosina Finelli? A She is my daughter.

Q Where do you live? A 240 Thompson street.

Q How long have you lived there? A In this last
house five years; otherwise always in the same block.

Q How long in the same block? A Some thirteen or
fourteen years.

Q Is your wife living? A Yes.

Q Is she the mother of Rosina Dinelli? A Yes.

Q How old is Rosina Finelli?

MR. WALDHEIMER: I object to the question.

BY THE COURT:

Q (To the interpreter) Ask him first if he knows her
age? A Yes.

BY MR. TOWNSEND:

Q How old is she?

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MR. WALDHEIMER: I still object to the question.

Objection overruled. Exception.

A She has been born on the 20th day of November, 1886.

BY MR. TOWNSEND:

Q Where was she born? A In Italy.

Q How long has she been in this country? A It seems to me that on the 17th of next month it will be four years.

Q Look at the defendant and state whether you know him?

A (After complying) Yes, I know him.

Q How long have you known him? A Since the month of August.

Q Last? A Last year's August.

Q Where did you meet him first? A He came to my house.

Q In the county of New York? A In New York at 240 Thompson street.

Q How many times did he come to your house? A The first time he came with some others, Antonio Candrea and Seraffino Petre.

MR. WALDHEIMER: I move that that be stricken out as not responsive to the question.

THE COURT: The only object in striking it out is not to encumber the record, and you doubly

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encumber the record by moving to strike it out.

Now repeat the question and let him answer it.

BY MR. TOWNSEND:

Q (Question repeated). A And he came with those two people to announce to me that he intended to marry.

THE COURT: Strike that out and ask him how many times he came to the house.

THE WITNESS: Four or five times.

BY MR. TOWNSEND:

Q What time did he come with these people; how many times had he been there before he came with these people? A He had not been there himself before alone.

Q Do you know whether he was acquainted with your daughter?

MR. WALDHEIMER: I ask that the time be fixed.

BY MR. TOWNSEND:

Q At that time? A At that time I did not.

Q Was he acquainted with her at that time; do you know?

A At that time I did not know anything about it.

Q Do you know whether he was or not now? A Of course, yes, now.

Q Well, what did he say to him when he came with these people?

MR. WALDHEIMER: Upon what occasion? I ask that

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the time be fixed.

MR. TOWNSEND: I say, when he came with these two people.

A He said to me that he wanted to marry my daughter and I declared that---

MR. WALDHEIMER: You have got an answer; that is an answer.

BY MR. TOWNSEND:

Q Go ahead; what else did he say; what was said by you in answer?

MR. WALDHEIMER: To what he said?

THE COURT: Go on.

MR. WALDHEIMER: Well, he has answered.

A I said that I could not consent at all.

MR. WALDHEIMER: I move that that be stricken out as not responsive.

THE COURT: No; he was asked for it.

MR. WALDHEIMER: The simple question was What did he say to him when he came with these two people.

MR. TOWNSEND: And I followed it up with another question.

THE COURT: I will allow it to stand.

THE INTERPRETER: Have I to say what he says

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now?

THE COURT: I do not know. I cannot tell tell

I hear it.

BY MR. TOWNSEND:

Q What is it? A I said I couldn't give my consent at all because she was not yet 17 and he said then that he wished to have one year's time to call again, and then I consented.

MR. WALDHEIMER: I move that the entire part of that answer be stricken out.

THE COURT: Strike it out.

MR. WALDHEIMER: And that the jury be directed to disregard it.

THE COURT: All except the fact that he did not consent because she was only 17 years of age at that time.

BY MR. TOWNSEND:

Q Did you see him after that? A (In English) He came to the house three or four times; after 15 day he takes my daughter and go away and I no see my daughter till one month and a half more.

Q (To the Interpreter) What does he say, doctor?

A (By the Interpreter) 15 days after he took her away.

Q Did you see him take her? A No. One day I didn't see any more my daughter. She went to visit her aunt who is

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a witness here.

MR. WALDHEIMER: I move to strike that out.

THE COURT: Oh, it more than trebles the record. How can it prejudice your case or client because he says that the complainant went to see her aunt?

MR. WALDHEIMER: He does not know what his daughter knows.

THE COURT: I know, but you move to strike it out and all that goes down on the record and it occupies the time of the Court and jury.

BY MR. TOWNSEND:

Q Where did she go? A At 177 Thompson street.

Q Did you see her there? A My wife saw her.

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

MR. TOWNSEND: I consent to it.

Q Now, when next did you see the defendant after he had taken your daughter? A I saw her eight or ten days after he had married.

BY THE COURT:

Q Where did you see him? A In my house.

Q What did you say to him? A When the defendant appeared I chased him away and said "Are you not ashamed to

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come in my house?"

Q Go on. A And he produced a revolver.

Q Well, what else happened? A I then went away and left him there.

Q Did you see him after that? A Yes, several times.

Q Where? A In my house.

Q Did you have any other talk with him? A Yes, and then we pacified.

Q You what? A Made peace.

Q Did your daughter go to Philadelphia, do you know?

A I didn't know anything.

Q Do you know now that she went to Philadelphia?

MR. WALDHEIMER: Of his own personal knowledge.

THE COURT: Sustained.

BY MR. TOWNSEND:

Q (Continuing) Of your own knowledge? A Not the first time did I know it of my own knowledge.

Q Do you know it now? A Yes.

MR. WALDHEIMER: Wait.

BY MR. TOWNSEND:

Q Did you see her in Philadelphia? A Yes, sir.

Q Whereabouts was it? A The last time I saw her was in Christian street, where I got possession of her by having recourse to the police.

Q Did you see him after that? A When I took her to

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New York he the night following came and then he commenced threatening me, and therefore I had him arrested on the 27th of April.

CROSS EXAMINATION BY MR. WALDHEIMER:

Q When did you come to America? A (The witness refers to a paper).

Q Without referring to any papers?

MR. TOWNSEND: Well, you want the fact, don't you?

THE COURT: He may refer to papers to refresh his memory, if he wants to.

A The 27th of September, 1889.

BY MR. WALDHEIMER:

Q And you left your wife and all the other children of your family, if there were any, in Italy? A Yes, sir.

Q And did he ever go back to Italy? A I went to Italy for a couple of months.

Q When; what year? A About eight years ago.

Q How many other children does your family consist of? A Six and one is coming, my wife being pregnant.

Q We will strike the last one out. Now can you tell the age of the eldest one? A The oldest is Rosina, and then they followed each one one year later.

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Q Can you tell the year that the second child was born?

A The second was a male; the distance of one year all the children.

Q Well, can you tell the age of the second daughter, the third child? A The second child was just an infant on the arm of the mother at that time, when I came to America.

Q Then how old is the third child; when was it born?

A Well, I tell you it was always one year-- each year my wife had a child, and there was one year's distance between one and the other.

Q Isn't it a fact that when you came to America in 1889 that you left your wife over there? A Yes.

Q And how soon after you left her did you go back to Italy? A I don't remember exactly the time.

Q Let us have the year? A So far as I remember, it is eight years about.

Q And when did they come to America? A The next month it will be four years.

Q How old is the third child? A Sixteen; and one died here in America.

Q Are there six living now? A Yes, sir.

Q During the time that you were in this country there were not any children born to your wife in Italy, were there?

A She had the children that she had when I left Italy; then

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When she came over here she had one child and she returned to Italy with one child that she had given birth to here and another which was in her womb.

BY THE COURT:

Q (To the Interpreter) Ask him when his wife first came to this country? A It seems to me that it was in 1892 or 1893.

BY MR. WALDHEIMER:

Q Then she went back to Italy? A Two years later.

Q And she stayed over there from 1894 or 1895---

THE COURT: If objection is made I will rule all of this out about the other children.

MR. WALDHEIMER: The witness has stated that the six children were all apparently about one year apart.

THE COURT: Yes; that is all right; but the other question is not material.

BY MR. WALDHEIMER:

Q When was the last child that is living now born?

A On the 20th of June last year.

Q When was the first time that you saw this man, the defendant? A In the month of August together with Seraffino Petre and Antonio Candrea, as I said before.

Q Was that the first part of August? A I don't remem-

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ber exactly, but it might be the end of August.

Q How many times did you see him during the month of August? A Two or three times more after he came proposing.

Q How many times did he come there before he proposed? A He never came before that and I don't even know him before that.

Q Did he propose the first time that he came to the house? A Yes.

Q The very first time? A Yes, sir.

Q And who was there at that time and heard it? A Seraffino Petre was present and Antonio Candrea; also Mariana Caropreso and Carmena Cesaro.

Q This man (indicating defendant) used to come there in the daytime and also in the evening? A After the proposal you mean?

Q All the time-- any time? A After the day of the proposal he came sometimes during the day and sometimes during the evening.

Q On any one day did he come during the day and also during the same evening? A Sometimes, yes; one time he came twice in the day.

Q So that he only came once thereafter, after that one time where he visited twice, he only came once after that day; is that correct? You have said that altogether he came

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there two or three times? A During the whole time after the proposal and when he had said that he wanted a year of respite to call again, he came three or four or five times altogether and then disappeared.

Q Did you ever play cards in the house with the defendant? A As I have a club house downstairs he came and I have no day exactly now present before my mind, but it seems to me that he played once or twice with other people in the club.

Q Not with you at all? A Yes; a couple of times.

Q Several times? A A couple of times, together with other friends in that club.

Q How many times did you see him during the month of September, the following month? A A couple of times and then they eloped.

Q When was the first time that you heard that your daughter had married? A Seven or eight days after the wedding they came to us.

Q Both of them, your daughter and the husband?

A Yes; and I chased them away.

Q How long were they there that first time? A They only had come upstairs and in that moment I was in the club. They sent for me and I, appearing before them, chased them away and said "These are not things to be done to me. Be ashamed."

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ed. Go away!" Then I went downstairs because there was in readiness a parade of the members of the Club, the Lincoln Club, and then I remained with the members of the club and I don't know how long after I told them to go away that they remained in the house, because I did not see them.

Q When was the first time that they came to the house?

A After some ten days afterwards, upon the insistence and persuasions of friends that I should yield that now the matter was a thing done, so they came and so I made peace with them and gave them \$50-- I gave \$50 to my daughter, because they had no means at all wherewith to live.

Q Did you know where they had established their home?

A They told me that they were going downtown. I was willing to allow them to live in my own house, in the building that I had, but they refused and went to a house in Bleecker street.

Q Do you know the number?

MR. TOWNSEND: Objected to as immaterial.

(No ruling .)

A 195.

BY MR. WALDHEIMER:

Q Did you ever go there to see them?

MR. TOWNSEND: Objected to as immaterial.

THE COURT: I will allow it.

A No; I never went to her house.

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BY MR. WALDHEIMER:

Q Don't you remember ever giving this defendant any money at all? A I had given him ten dollars before he went to Philadelphia, upon the representation made by him that he had something urgent to pay in Philadelphia.

Q Did you ever give him \$25? A No.

Q Did you ever give him any more money; ten dollars?

A I said that I gave him ten dollars.

Q But ten dollars a second time? A Only one time.

RE DIRECT EXAMINATION BY MR. TOWNSEND:

Q What house were they living in in Philadelphia, what place?

MR. WALDHEIMER: What do you mean?

A When I went to Philadelphia, an Italian policeman was charged with an investigation. Then I went a second time to Philadelphia, and when I went the second time I told the policeman that I had---

MR. WALDHEIMER: One moment; I object.

BY THE COURT:

Q Let him state what he did? A I spoke with the policeman.

BY MR. TOWNSEND:

Q What did you do then? A We went then to see.

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Q Did you ever give him any money or her any money after you found him in Philadelphia?

MR. WALDHEIMER: I object to the question.

THE COURT: I will allow it.

A To whom?

BY MR. TOWNSEND:

Q To both of them? A Whom had I to give money to?
As soon as I found her out I took her with me.

Q Did you bring her back alone? A Yes. The police accompanied me to the railway.

BY THE COURT:

Q Were they living together in Philadelphia? A This I don't know. They lodged in a furnished room house.

Q Were there other tenants in that house? A I didn't find her in the house where she lived. I met her in Christian street-- in the street.

Q And was he arrested then? A I was going at that time looking for her with the police.

Q When you found her in Christian street was he arrested then? A Yes.

Q And the police went with you to send her to New York? Did the police accompany you to the station? A Yes.

Q Was she unwilling to go with you? A Well, she commenced to cry and to embrace me.

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

THE COURT: Motion denied.

MR. WALDHEIMER: Exception.

RE CROSS EXAMINATION BY MR. WALDHEIMER:

Q During the time that your daughter was in Philadelphia and the time that you were there and saw her there, did you see the defendant? A I saw him once when my daughter was in the hospital.

Q In Philadelphia? A Yes, and with him I went to the hospital.

Q With him? A Yes.

MR. WALDHEIMER: That is enough.

MR. TOWNSEND: I guess I will go on with that as you have opened the door.

A (Continuing) And he had said that she was in the hospital because she had some trouble.

MR. WALDHEIMER: One moment.

MR. TOWNSEND: He (indicating defendant's counsel) brought it out. He wanted to know.

MR. WALDHEIMER: I object to what the wife said to him.

THE INTERPRETER: Not the wife.

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THE COURT: It was not the wife but the defendant.

BY THE COURT:

Q Go on. A He had said that she was in the hospital for some indifferent feeling, a sore feeling that she had on the stomach, but then when I went to see her in the hospital the directors said--

MR. WALDHEIMER: Wait a moment.

BY THE COURT:

Q Was he present?

MR. WALDHEIMER: Stop right there.

Q (Continuing) At this time in the hospital? A Yes; he came with me.

THE COURT: Now you can state what the directors said.

MR. WALDHEIMER: In the presence of this defendant?

THE COURT: Yes.

MR. WALDHEIMER: I want to find out in what language the directors spoke.

BY THE COURT:

Q Was the defendant present when the director told him what her ailment was?

MR. WALDHEIMER: I want to find out what lan-

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guage the director spoke so as ---

THE COURT: You can find that out later.

A Yes, he was present.

BY THE COURT:

Q What did the director tell him? A The director told me that not even God in heaven would be allowed to see her because---

MR. WALDHEIMER: I move that that be stricken out what the director told him.

BY THE COURT:

Q Go on.

MR. WALDHEIMER: Exception.

A -- because she was sick with an infective disease.

BY MR. WALDHEIMER:

Q What language was spoken at the time the director was present? A English.

Q Did you understand it? A (In English) yes, I understand everything; no so much understand some particular things.

Q And the defendant was present at that time?

A (Through the Interpreter) Yes, he was with me.

Q And heard everything that was said? A Actually he heard.

Q (To the Interpreter) Ask him whether he knows that

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the defendant understood what was said?

THE COURT: No; objection sustained. How
can he know what another man understood.

BY MR. WALDHEIMER:

Q (To the Interpreter) Did he understand all that
the director said? A Who?

Q This witness? A (In English) I cannot look at the
girl, nor can the husband, nor can anybody out of hell, said
he, because he said she is sick to bed. After be all
right anybody that want to can see. "Well, I am the father,
the father!"

Q You did not have any interpreter there, did you?
A Oh, my God, no, sir.

Q You understood English? A I understood English no
more.

Q You understood all the questions that I put to you
in English? A I understand some of my business; no particular
business.

Q You understand all about the club business in Eng-
lish? A Well, it is just a political club.

Q You understand all the questions that I put to you,
do you not? A (In English) I understand all the questions?
No, no much understand.

Q So that you do not have to have an interpreter now?
A No; I want an interpreter, if you please.

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Q You are in this country about 27 years; is that correct? A 27 years?

Q Is that right? A No, sir.

Q How many years are you in this country? A (Through the Interpreter) About 14 or 15 years in this country.

Q Isn't it a fact that you came here on September 27th, 1889? A Yes.

Q How many years do you count that to be up to the present time?

MR. TOWNSEND: Fourteen years.

MR. WALDHEIMER: Well, that is right. I only wanted to know if he could figure. Dates are all mixed up in this case anyhow.

BY THE ELEVENTH JUROR:

Q Is that (indicating complainant) his first child?

A Yes, sir.

Q How long are you married? A On the 20th of February, 1886 I was the intended husband of my wife, and Rosina was born on the 20th of November, 1886. (In English) Just nine months.

BY MR. WALDHEIMER:

Q When did you say you were married? A On the 20th of February, in the morning, and on that evening I joined my wife and in exactly the right time the child was born.

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Q You have figured it out very close? A And she is a good wife and every year makes one.

MR. WALDHEIMER: I don't know whether to move to strike that out or not.

R O S A F I N E L L I, called as a witness on behalf of the People, being duly sworn, testified as follows:

(testimony taken through official Interpreter Morossi.)

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Are you the wife of the last witness? A Yes.

MR. WALDHEIMER: She can get along in English perhaps.

THE WITNESS: (In English) Some words. I like better Italian to speak.

BY MR. TOWNSEND:

Q Do you know Rosina Finelli, the complainant?

A (Through the Interpreter) She is my daughter.

Q And do you know how old your daughter is?

MR. WALDHEIMER: I object to the question.

THE COURT: I will allow it.

MR. WALDHEIMER: Exception.

A Sixteen and one half.

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Q Do you know the defendant Antonio Irone? A Yes,
I know him.

Q When did you first meet him? A I saw him the first
time when he came to propose.

Q Can you tell when that was, about? A I don't remem-
ber.

Q Did he ever have any talk with you about your daughter
Rosina? A He spoke with my husband, with me and with my
daughter.

Q What did he say to you or to your husband? A He said
to my husband that he wanted to marry my daughter and my hus-
band refused on account of her age.

Q What did your husband say?

MR. WALLHEIMER: Wait one moment. In the pre-
sence of the defendant?

A (Continuing) because she was too little.

THE COURT: Why, of course.

MR. WALLHEIMER: Well, I don't know.

BY MR. TOWNSEND:

Q What did he say? A (By the Interpreter) That
her husband would not consent to marriage, because she was too
little.

Q What did the prisoner say? A And then there was
agreed upon a respite of a year.

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Q Did you hear of your daughter's marriage? A For one month and a half we did not know anything; we did not know where she was; I didn't know where she was.

Q Did you ever find out where she was? A We didn't know first where they were.

Q Did you ever find out? A Well, after she eloped we did not know where she was.

BY THE COURT:

Q Now, ask her where she first saw her or found out where she was? A We found out afterwards.

Q That is what we want to know. A He came to the house and then declared that he had married, but this was without our consent.

MR. WALDHEIMER: I move that that be stricken out, "without our consent".

THE COURT: Oh, let it stand.

BY MR. TOWNSEND:

Q Do you know when they went to Philadelphia? A No; we didn't know anything. They went away without our knowledge.

Q How long after he called at the house and announced his marriage?

MR. WALDHEIMER: She said it was "without our knowledge".

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A Four days after.

CROSS EXAMINATION BY MR. WALDHEIMER:

Q Do you remember the time when this man first came to the house? A I don't remember.

Q Not the month or day? A I have six or seven children and have no mind for all these things, and I have another one coming; that makes nine.

Q That is already in. Do you remember with whom he came to the house? A When he came the very first time?

Q Yes. A He came with Seraffino Petre and Antonio Candrea. They proposed and my husband refused.

Q Well, that was the first time he proposed. How soon after that did the defendant come again to the house after he had proposed; the next day? A Some four days after.

Q How long did he stay that time? A An hour, two hours, four hours. After 15 days, after the second call, they eloped together.

Q How many days after the first call did he come there the second time?

THE INTERPRETER: She said four or five days after.

Q How many days after that did he call again-- the third time? A I don't remember the third time.

Q How many days after the third time did he come there the

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fourth time? A I don't remember.

Q How many days after the fourth time did he come there the fifth time? A He came four or five days afterwards.

Q After when? A I told you that after the proposal he came four or five days and then eloped with my daughter, some 15 days after.

Q Did he ever call in one day upon two occasions, morning and evening, or afternoon and evening? A Sometimes. One time he came there in the morning and then in the evening.

Q Upon how many occasions did he do that? A I don't remember.

Q Did he come more than ^{once} two times in one day? A Sometimes he came two times, but mostly one time.

Q How many days did he come twice? A A couple of times.

Q After the first time-- not the first time, but after the first time-- how long was it that he remained at the house upon any one occasion an hour, two hours, three hours or four hours? A Sometimes it would be a quarter of an hour and sometimes a half an hour.

Q And sometimes-- what was the longest? A Not long.

Q Did you ever see your husband play cards with this defendant? A Never in the house; maybe he played in the club.

Q Did you ever go in the club? A No, not in the club.

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There were men there and I never went to the club.

Q. What business is your husband in; does he keep a saloon? A. He works.

Q. Didn't he keep a saloon? A. He works at the great Post Office.

Q. Do you know when the defendant married your daughter, the date? A. I don't remember.

Q. Have you heard the date at all? A. I don't remember what day it was.

Q. Were you there after October 16th, when the defendant and the wife, your daughter, called at the house? A. Yes, I remember that she came. She found me at home that day because my husband was at work.

Q. Were you present there when your husband gave this defendant any money? A. Yes, sir.

Q. How much money did your husband give to the defendant? A. \$50.

Q. You saw the money given to the defendant? A. He delivered the money to my daughter and not to him (indicating defendant.)

Q. Did you ever see your husband give the defendant any money at all? A. No; he gave the money to my daughter and my daughter gave it to him (indicating defendant).

Q. You saw that? A. I didn't see that; when she gave the money to him it was at their house.

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Q Where the defendant lived, in Bleecker street?

A Do you mean when we gave the money to the daughter?

Q Yes; where was that? A In my house. The money was delivered to my daughter.

Q Then you knew that your daughter was married, did you not? A Yes; and the first time when he met my husband, there was a conflict and a revolver was produced.

BY THE COURT:

Q Who produced the revolver? A Irone put his hand on the revolver. He put his hand at his pocket where the revolver was.

(To the Interpreter) Tell her to be quiet; that we only want to know what she knows about this. A He put his hand at the revolver's pocket, but he did not shoot.

BY MR. WALKHEIMER:

Q Did you see the revolver? A Yes.

Q Did he pull it out of his pocket? A I saw that the revolver was in the pocket.

Q Was it the first time after they were married that you learned that they were married that he (indicating defendant) came there with his wife, your daughter, that they got the \$50?

A The second time when my husband was present, because the first time my husband was not present.

Q Isn't it a fact that after you were told that they had been married for fully a month after, say about four Sundays,

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that the defendant with your daughter came to your house and had meals together at your table? A Yes.

Q How many times? A Once or twice.

Q And the husband was there sitting at the same table?

A Yes.

Q And the other children that were able to move about?

A Yes.

Q How many times do you say?

THE INTERPRETER: Once or twice, she says.

Q As a matter of fact wasn't it fully four times?

A No; a couple of times.

Q And how long did they stay?

THE INTERPRETER: Stay where?

Q (Continuing) At your house upon those Sundays?

A A half an hour.

Q Isn't it a fact that they came there in the morning and stayed there till late in the evening? A No, no. My daughter never let him come in my house.

BY MR. TOWNSEND:

Q Ask her what she means by that. A (By the Interpreter) Oh, it is he that did not allow her. He said "Don't go to the house of the mother."

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

THE COURT: Strike it out.

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BY MR. WALDHEIMER:

Q About when was it that you first learned that your daughter was living with her husband, the defendant, at 193 Bleecker street? A I don't remember the date when I knew it.

Q After they were married? A I don't know.

Q How many times did you go to see your daughter at 193 Bleecker street? A Two times.

Q Did you go alone or with whom did you go? A Alone.

Q And did you see the defendant there upon both occasions? A No; I only found my daughter; not him.

Q Didn't you see him at all there? A No; I saw the daughter there, but didn't see him.

Q Did you sit down with your daughter and have anything to eat at the house in Bleecker street? A I sat down, yes, but I never ate, nor did I drink a glass of anything.

Q How long did you stay on each of those occasions?
A Just about a quarter of an hour, and then I just went away.

Q How did you learn that your daughter was living with the defendant at 193 Bleecker street? A I knew it from my daughter.

Q When was the first time that you objected to the marriage of the defendant to your daughter? A I don't remember the date.

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Q Do you remember what month this is? A This month is the month of June, and today is the 10th of the month. My daughter is ignorant, but I know the dates.

Q When was the first time that you objected to the marriage of your daughter to this defendant? A I don't remember the month.

Q How can you tell about how often after October 16th you met your daughter? A I didn't see her any more after one month and a half.

Q After October 16th, after they were married, you admit that the daughter did not come to the house with the defendant. You admit also that you went to the house No. 193 Bleeker street where your daughter lived. Upon how many occasions, now, did you see her? A Yes, and my husband gave them \$5 0. I already told you all these things.

Q How many times did you see them after October 16th ?
A After they had run away, do you mean?

Q No; after October 16th. Did your daughter ever show you her marriage certificate? A Yes; after four days they came and said "We are married," and showed it.

Q And showed the certificate? A Yes. But this marriage had taken place without our consent, either mine or my husband's.

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

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MR. TOWNSEND: No, not a bit of it.

Motion denied. Exception.

THE COURT: Now, counsellor, I do not like to limit you, but you have been over the ground so often that I will have to put a limit on your asking how many days and how often he visited the house. It is of very little importance under this charge.

BY MR. WALDHEIMER:

Q You never found any objection to their marriage after you had learned that they were married, did you?

MR. TOWNSEND: Objected to as immaterial.

Objection sustained. Exception.

MR. WALDHEIMER: That is all.

MR. TOWNSEND: I would like to recall the complaining witness.

THE COURT: It is too late now.

MR. TOWNSEND: Well, tomorrow then.

THE COURT: I mean it is too near the time for recess. The case will have to go over until tomorrow, gentlemen of the jury; and in the meantime, I have to renew at each adjournment, the statutory caution, that you do not converse with each other nor with anyone else about the case, and of course to come to no conclusion upon it

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until it is finally submitted to you. You are excused until half past ten o'clock tomorrow.

Adjourned to Thursday, June 11, 1903, at
10:30 A.M.

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Thursday, June 11th, 1903, 10:30 A.M.

TRIAL RESUMED.

THE PEOPLE REST.

THE DEFENSE.

MR. WALDHEIMER: In the first instance I move that your Honor strike from the record any and all evidence tending to show any abduction on the part of this defendant in relation to the principal complainant in this case which was adduced here showing that any abduction had taken place prior to October 16th, 1902, that being the date laid in the indictment upon which it is charged that this defendant abducted the complainant Rosina Finelli in this case.

Now generally I ask your Honor to direct the jury to acquit this defendant upon the inconsistency of the evidence adduced here tending to prove a charge of abduction against this defendant.

THE COURT: I do not understand your first motion. The crime is laid as having been committed on the 16th of October.

MR. WALDHEIMER: Yes, sir.

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THE COURT: And you move that all evidence referring to a previous date--

MR. WALDHEIMER: Yes, tending to establish any abduction on the part of this defendant with the principal complainant in the case.

THE COURT: I cannot understand the motion yet. Do you mean to refer to circumstances that tend to bring the mind of the jury to the fact that he did on that date commit this crime, on account of its having been of an anterior date, should be stricken out?

MR. WALDHEIMER: That is it; he married the girl.

THE COURT: I will allow the indictment to be amended charging a prior date. That will cover it, won't it?

MR. WALDHEIMER: As to what date?

THE COURT: The date when she disappeared from the house in his company. I will allow the indictment to be amended according to the evidence, fixing the time of the abduction as the time when it actually did take place. The charge is that he abducted this girl for the purpose of marriage. When the abduction took place constitutes the crime. The purpose or intent was in his mind at the time, and it does not make any difference whether the marriage took place that day or

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a week after.

MR. WALDHEIMER: There has been no date, as I understand actually proven.

THE COURT: No; it dates back to the date when according to the testimony of the father and mother she disappeared from their house and custody; and the other motion I deny of course.

Defendant excepts.

A N T O N I O I R O N E, the defendant, called as a witness in his own behalf, being duly sworn, testified as follows:
(Testimony taken through Official Interpreter Morossi.)

DIRECT EXAMINATION BY MR. WALDHEIMER:

Q You are the defendant in this case? A Yes.

Q How old are you? A Twenty-five.

Q Where were you born? A In Italy.

Q When did you come to this country? A On the 3rd of April was three years.

Q What have you been doing since you came to this country?

A I worked when I was able to work, and when I was sick I could not work.

Q How much time were you sick and how much time have you been well since you have been here? A May be I was sick once

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in a year, and sometimes I was not sick at all during the year.

Q When did you meet the family of the complainants in this case? A I know the family since two years.

Q Where did you first meet them or any of them? A At 240 Thompson Street.

Q Whom did you first meet of the family? A My wife.

Q Who introduced you to the family of the complainants? A First I made the acquaintance, as I stated, of the girl, and then for a month or so I spoke with her, and then, with the godfather and godmother, I went to the family and had an introduction there.

Q Who introduced you to the girl? A I met her once in the street and addressed her.

Q Were you not introduced in the house by--

MR. TOWNSEND: I object to any such leading question.

MR. WALDHEIMER: Wait until I get through with the question.

THE COURT: Objection sustained.

BY MR. WALDHEIMER:

Q Did you ever go to the house of the complainants with Mr Candrea?

MR. TOWNSEND: Objected to as leading.

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THE COURT: Objection sustained.

MR. TOWNSEND: He says he met her on the street the first time and addressed her himself.

BY MR. WALDHEIMER:

Q How soon after you met her on the street did you visit her? A After some months, I was at that time working in a place just near the door of her residence.

Q Do you know a man by the name of Candria? A Candria?

Q Yes. A Yes, sir.

Q How long have you known him? A Candria, I know him since the time I was in Italy, because he was from the same place I am hailing from.

Q When you first became acquainted with that family did you know where Candria lived? A Yes, at 288 Thompson Street. I worked there, in that place.

Q Didn't you ever live at 240 Thompson Street? A No; my wife lived there at that number.

Q You mean your present wife? A That woman who is my wife. If, however, there is something between which I do not know, I cannot answer.

Q How do you know to fix the time when you first met your wife as about two years ago? A Because I was in the shop of Antonio Candria and knew that she lived just near by, at 240 Thompson Street.

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Q When was the first year you went to see the family of your present wife? A In the month of August.

Q Of what year? A Last year.

Q The first part of August or the last part? A About the middle of August; I couldn't exactly state the time.

Q How many times did you call and see her during the month of August? A After the first time I continued to visit her daily.

Q How often did you call there during the month of September? A I have been there a great number of times; I couldn't say how many. However, it was sometimes every day, and sometimes every other day. I was working near by and so I had opportunity to visit the house often.

Q Did you go there as often as twice and three times in any one day? A Yes, sir; sometimes I went there at noon when I had an intermission of work, and in the evening likewise.

Q How long did you generally stay when you visited the family? A At noon, as I had only a recess, I stayed there just half an hour, and in the evenings one or two hours, maybe three hours.

Q Did you ever play cards with the father? A Yes, sir.

Q How often?

THE COURT: Oh, Counsellor, I do not propose to have this case occupy the rest of the term. How can

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it be of any importance to show how often he played cards with the father?

MR. WALDHEIMER: Simply to show the intimacy between this defendant and the father.

THE COURT: Very well. You asked the father and mother and they testified that he did not.

MR. WALDHEIMER: The father testified that he did.

THE COURT: And, the matter being immaterial, you are not allowed to contradict them. It does not make the slightest difference how often he played cards with the father of the complainant. I do not see that that would palliate the offense charged in the slightest degree.

BY MR. WALDHEIMER:

Q When was it that you first had a conversation with any one of the family with reference to marrying the complaintant in this case? A In the month of August I asked the hand of the daughter and we agreed that the marriage should take place on Christmas.

BY THE COURT:

Q Who agreed? A The father and mother; and the aunt and another was present, who is now over there, sitting (indicating); he is there sitting near the father.

BY MR. WALDHEIMER:

Q Upon many occasions that you called at the house was it

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all talked over again with reference to your marrying the girl?

MR. TOWNSEND: I object to the form of the question. "What was said?"

THE COURT: Objection sustained.

BY MR. WALDHEIMER:

Q Well, what was said at any time after you proposed to the girl, by the family? Was the matter discussed at all?

MR. TOWNSEND: Objected to as leading.

THE COURT: Objection sustained.

BY MR. WALDHEIMER:

Q When was it that you first acquainted the family with the fact that you were ready to marry the girl? A On a day in the month of August.

Q Was anything said about the marriage after that?

MR. TOWNSEND: Objected to.

THE COURT: I will allow that, and then you have got to discontinue that line.

A Yes; we always talked that we had to marry on Christmas.

BY MR. WALDHEIMER:

Q You did take the girl and married her on October 16th; is that correct? A On the 4th of October I took her to my house.

Q When did you get married; October 16th? A On the 16th of October.

Q How soon after that did you acquaint the family of the

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fact that you had married her? A At once after the marriage, from the City Hall I went to the house of the family. I found there the mother and exhibited to her the marriage certificate.

Q And what did she say at that time? A The mother proved satisfied; she did not say anything against, but said, "All right".

Q How soon after that first time did you go to the house of your wife? A On a Thursday took place the marriage, and the next Saturday I returned to the house of the family.

Q Whom did you see there then? A The father and the mother and the whole of the family.

Q And was any objection made at that time? A No; there was no talk about that at all.

Q Was there something about that you should live with the family?

MR. TOWNSEND: Objected to.

THE COURT: I will allow it.

A No, sir.

BY MR. WALDHEIMER:

Q When was anything said with reference to your living with her family? A I never talked about that, because I had my own apartments.

Q Did you receive any money from the father at all? A \$45.

Q Go on and state in what manner you received that money;

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for what purpose it was given?

MR. TOWNSEND: Objected to as immaterial.

THE COURT: I will allow it.

A The evening before our going to the City Hall I received \$10.
\$25 at another time; and \$10 a third time.

BY MR. WALDHEIMER:

Q That was given to you by whom? A The \$10 on both
occasions I received from the father. He gave the money to me
alone. And the time when he gave me the \$25 there were present
also my wife.

Q For what purpose was that money given to you? A He
had promised me \$100, and he had to give me other \$55.

Q He promised you \$100 for what? A Just as a present to
my wife.

Q Was that promise made to you before you married?

THE INTERPRETER: The promise or the money?

THE STENOGRAPHER: The promise.

MR. TOWNSEND: I object to that as leading.

(No ruling.)

A Before marriage.

BY MR. WALDHEIMER:

Q When was it that you established yourself in 193 Bleecker
Street with your wife? A In the month of November.

Q After you had fixed up a house there did you go and tell

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your father-in-law?

MR. TOWNSEND: Objected to as leading.

THE COURT: Objection sustained.

BY MR. WALDHEIMER:

Q Did you call upon your father-in-law and mother-in-law after that time? A Yes; every Sunday I went there for dinner.

Q Alone or with your wife? A I and my wife.

Q About how many Sundays was that? A Nearly every Sunday, except a few Sundays.

Q And you sat at the table with the balance of the family?

A Yes.

Q And remained there how long? A Well, we would have a meal taken together and then a conversation that lasted a part of the day.

Q How late did you stay upon any of these occasions?

A Sometimes I left the house in the day time; sometimes when it was already night time.

Q And you went there with your wife and left with your wife?

MR. TOWNSEND: Objected to as leading.

THE COURT: Objection sustained.

BY MR. WALDHEIMER:

Q Did your father-in-law ever call to see you at 193 Bleecker Street? A Yes.

Q How many times? A Five times-- ten times. I couldn't

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remember all the times. And the mother came oftener than that.

Q Did your father-in-law and mother-in-law ever sit at your table and partake of any refreshments?

MR. TOWNSEND: Objected to as leading and also as immaterial.

THE COURT: Oh, I will allow it.

A The mother-in-law, yes; but not the father, because he was too proud.

Q How many times did the mother eat at your house?

MR. TOWNSEND: Objected to as immaterial.

(No ruling.)

A I couldn't say exactly, because she came often at times when I was at work and when I could not know.

BY MR. WALDHEIMER:

Q Now your father-in-law says that upon one occasion when you came to his house that you put your hand in your pocket and showed a revolver; is that so? A I never carried a revolver. I only put the hand over a handkerchief in the pocket where other people carry revolvers.

Q Do you remember when you were arrested, what month?

A In the month of April, in the house of my wife's aunt, and she is present in the court.

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CROSS EXAMINATION BY MR. TOWNSEND:

Q You testified, did you, that on the 4th of October, 1902, you took this complainant to your house? A Yes.

Q You were not then married to her, were you? A No.

Q You did not marry her until the 16th of October? A On the 16th of October. I said so.

Q Did she stay at your house during that time? A Yes, sir.

Q Did you have anything to do with her during that time?

MR. WALDHEIMER. I object to the question.

Objection overruled.

Exception.

A Yes.

BY MR. TOWNSEND:

Q You took her to Philadelphia two days before Christmas, did you not? A On the 21st of December it was.

Q You placed her in a house of ill fame there, did you not?

MR. WALDHEIMER: I object to the question.

THE COURT: I will allow it.

MR. WALDHEIMER: Exception.

A No; I took her to my own house, and in Philadelphia I went to work also.

BY MR. TOWNSEND:

Q What did you work at? A Tailor.

Q Whereabouts? A 9th Street.

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Q Whom for? A Luiga Mattia, an Italian man.

Q Were there not girls and men in this house where you placed her? A It was my own apartment. I do not keep nigger girls or other people.

Q What number was it-- what street? A 7th Street downtown.

Q Furnished rooms, wasn't it? A Yes, furnished rooms.

Q Didn't she give you money while she was there? A And who gave her the money? Who would have given her the money?

Q That is not the question. Didn't she give you money while she was in Philadelphia? A No. It was I who gave money to her for the expenses of the household.

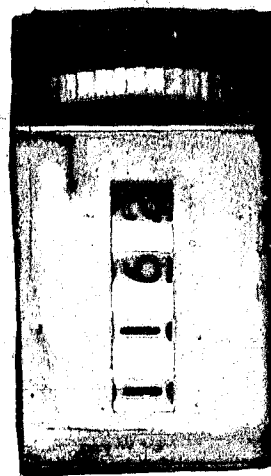
Q Didn't you compel her to solicit men in Philadelphia for money and did you not compel her to give you money that she made by prostituting herself in Philadelphia? A Why? I know that I always maintained her honorably out of my work from the first day that I took her to Philadelphia to live.

Q Did she not go to the hospital from that house affected with a venereal disease? A Yes; and it is I who communicated it to her, who infected her with it.

Q Where were you living when she was arrested in Philadelphia? A Down town.

Q Down town where? A 7th Street.

Q How long had you seen her before she was arrested? A I



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had left her at home on that morning.

Q Wasn't she found wandering upon the streets of Philadelphia and crying at the time she was arrested? A I went in the morning to work and left my wife at home. When I returned home in the evening I did not find any more my wife there. I waited for a while in the house to see if she would come back and then I went out and I met a friend who told me, "Don't you know that your wife has been arrested and that she has been taken over to New York?" Then I myself left Philadelphia and came to New York and went to the house of her aunt, the same house where I was arrested.

Q I didn't ask you that. Did you know that you had the disease when you married her? A No.

Q Did you see her father when you were in Philadelphia? A I saw him once; I found him once in Philadelphia. We went to the station house in order to get the permit to visit her in the hospital, and we went together to the hospital.

Q Where did you meet the father in Philadelphia? A On 8th Street down town.

Q Is that the house that you were living in? A I lived in 7th Street, as I said, and I met the father on 8th Street, in the street.

Q Did he tell you that he had been seven or eight days in Philadelphia looking for his daughter? A He told me that he

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had been three days, and that time that I met him was the third day.

Q Did he tell you that he had furnished the police authorities with a photograph of her? A No, sir. I even believe that he has no picture of her, because I never knew anything about such a likeness.

Q How did you get this disease; do you know? A I was one evening being in company and having a good time, and it was said that we should go to see women and I went and I didn't know anything about that this woman was diseased, and so I got it.

Q When was that? A I think it was in March.

Q March what year? A Last year.

Q And she never went to the hospital until when? A Who?

Q Your wife. A I don't remember the day she entered, the day she entered the hospital, but she remained sixteen days in the hospital.

Q You went out with some other woman while you were married; is that it? A It was the only time when I was in company with a fellow.

Q Now you say that you got the disease in March, 1902; is that it? A This last March.

Q 1903? A Yes.

Q Then that was while you were married to her; is that it? A Yes, sir.

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Q You went with other women, is that it? A I had been drinking with some one.

Q Where was this? A In Philadelphia.

Q How many times did you go with other women while you were in Philadelphia? A It was only that single time, and then also because I was under the influence of liquor, and so it happened that I had a misadventure.

Q Now when you took this girl on the 4th of October, 1902, you didnot have any money, did you? A How could I not have had money? How could I have gone to Philadelphia without money?

Q On October 4th, 1902? A I had money. How could I have gone otherwise?

Q How much money did you have? I don't want to argue it with you. How much money did you have at the time you took her to Philadelphia on the 4th of October? A \$40.

Q Were you working anywhere at that time? A Yes. I worked at 238 Thompson Street.

Q How long did you continue to work after you took her there on the 4th of October? A To the 19th of December, until just before leaving for Philadelphia.

Q What day did you leave her in New York? A Because at the place where I was here in New York I could not earn money any more, the work being slack, and I remembered that before that I had been in Philadelphia and easily found work at such times.

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Q How long had you worked at this place at 238 Thompson Street? A From May to the 19th of December last year.

Q What wages did you get? A I worked at piece work and so I made sometimes \$15, \$14 or \$12-- such amount of money a week.

Q What house was it that you saw these ladies in-- what house in Philadelphia? A In Philadelphia, down town.

Q Was it at the house where you had your wife? A No, sir.

Q Where was she at the time? A In my house.

Q What board did you pay there? A \$2.50 for the furnished room a week.

Q Did you get your meals there? A No.

Q Did your wife get her meals there? A No, sir. We went together out to a restaurant.

Q Every meal did you get at a restaurant? A Sometimes we had our meals in the house and sometimes we got them in a restaurant.

Q How many different houses was she in in Philadelphia? A She always remained in my own house and she never had been in other houses except when I with her visited friends that I had in Philadelphia.

Q Where were those houses? A Christian Street.

Q No. 8 Christian Street? A No.

Q What number? A 722.

Q Who kept that house? A An Italian friend of mine.

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Q A woman? A It is a friend of mine who is married and has a wife and four daughters.

Q What wages did you get in Philadelphia? A \$16 a week.

Q Who is the man you worked for; what is his name?

A Luiga Mattia.

Q What number? A The shop is in 9th Street and this man Mattia has his selling house at 1021 Ellswell.

Q Did you work there by the piece or by the day? A I worked for weekly wages.

Q Now did you see others go to this house in Christian Street? A No, I didn't see anybody, only the family of that people.

Q Who sent her to the hospital? A I.

Q Didn't some woman tell you to take her to the hospital?
A No. There was nothing of it; I took her to the hospital.

Q Where did you find out about the hospital? A The doctor who treated her wrote a letter for the purpose.

Q Who got the doctor? A It is an Italian doctor who was an acquaintance of mine.

Q How many times did you have intercourse with the complainant before you married her?

MR. WALDHEIMER: Objected to.

THE COURT: I will allow it.

MR. WALDHEIMER: Exception.

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A Do you mean before the elopement or after the elopement?

BY MR. TOWNSEND:

Q After the elopement and before you married her? A Well, she has lived with me.

Q Every-- A Yes.

Q Now before you eloped with her how many times did you have intercourse with her? A Never.

Q What do you mean by the elopement? A When I took her to my house, because her father had objected.

Q Because her father had objected to the marriage you took her to your house and slept with her? A Because her father beat her and she was crying, because she wanted to marry me.

Q How long was that after you met her on the street that you took her to live with you? A Where?

Q After you took her to live with you at your own house, how long after you met her on the street was it that you took her to live with you at your own house? A I made her acquaintance in the August before, so we had courtship, and then I took her on the 4th of October. She came to see me at the shop where I worked and we talked together.

Q Then her father told you that he did not want you to marry her; is that it? A Yes, because he wanted her to marry a man of his place in Italy.

Q And then he did not want you to marry her? A It was my

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wife who told me so.

BY THE COURT:

Q When did you go to Philadelphia? A On the 21st of last December.

Q Of last December? A Yes.

Q How long did you stay in Philadelphia? A From the 21st of December until the 20th or 27th of April; I couldn't say exactly the day.

Q When did your wife go to the hospital? A It was in March, but I couldn't state the day; I don't remember the day. I have, however, a notion that it was the 13th of March.

Q And what was the day that you took her from her father's house? A The 4th of October.

DEFENDANT RESTS.

TESTIMONY CLOSED.

MR. WALDHEIMER: I renew my motion, if your Honor please, now, that your Honor direct the jury to acquit, on all the evidence adduced in this case, on the ground of a failure of proof to establish the charge made against this defendant.

It would appear from the marriage certificate that the age of the complainant in this case is 21 years, the age which she gave at the time. There is only

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this discrepancy as to that: That she was told to say that she was a year older than what she really was.

At no stage in this case do I understand that there has been any positive proof, if your Honor please, that the girl was of other than full and lawful age; no satisfactory proof has been adduced here.

THE COURT: Motion denied.

MR. WALDHEIMER: Exception. I move also upon the further ground that upon all the evidence adduced in this case it appears that there was consent on the part of the father and mother of this complainant, which is evidenced by the fact that they continued friendly relations with the party.

THE COURT: You can allude to all of that in your summing up, Counsellor. I deny the motion.

MR. WALDHEIMER: Exception. I will be content with your Honor's charge in this case.

THE COURT: In that case I shall make a very brief charge.

MR. WALDHEIMER: Well, that will suit me.

MR. TOWNSEND: I want to sum up, to say a few things

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DEFENDANT'S COUNSEL'S SUMMING UP.

MR. WALDHEIMER: If the Court please, and gentlemen of the jury: This young man was arraigned some few days ago in Part I of this court and upon his being questioned as to whether or not he had counsel he replied that he was without means, and therefore the Court directed that I look after this defendant's interests. I interviewed him upon several occasions and he told me his story, the story that he has told you upon the stand. The difficulty that presented itself to my mind and to my action, when I came in contact with this man after his being arraigned, was that he does not speak plain English, and therefore I did not comprehend his full defense in this case.

The facts and circumstances in this case would tend to show-- and I believe they have been established to your satisfaction-- that this defendant came in contact with the family of this complainant; that he visited them day in and day out previous to the time when the girl left her father's roof. That is beyond any question. It has been shown by the father and mother of the girl to my mind that in many instances they have contradicted themselves in material and

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necessary and important questions in relation to the charge against this man. The father tells you that the first action taken against him was for threatening him; not for the charge of abduction. Nowhere in this case contend but my friend the District Attorney that there is a charge of abduction in this case.

He took this girl and went away with her and married her; took her down to the City Hall, where she then and there gave her age as twenty-one. Has it been established to your satisfaction what this girl's age is? I cannot see.

You have seen her upon the stand and I think she is fully beyond eighteen, the age of consent in this state. She went away willingly with this defendant, came in contact with the father and mother after that, came in contact with them upon numerous occasions after they were married; went to the house of the father and mother, both of them, where they sat at the same table with the father and mother and ate with the other children, members of the family.

They also called on this defendant and his wife at 193 Bleecker Street-- at least the mother came there.

There is every indication in this case that, with the knowledge of the complainant's father in this case

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and of the mother, that this man (Indicating defendant) went to Philadelphia; so that when they left New York the parents must have known where this man went. He has told you upon the stand that he has not done any overt act whereby he induced this girl to do anything wrong.

He had worked, established himself in the best possible way he could, and paid her living. I judge that you men of the jury know some instances in relation to Italian families where the same thing has occurred, and they are living in this country. Here was a girl of sufficient age who was bound to get married. That is this case.

The marriage certificate plainly shows that she was twenty-one. She says, "I was asked to say that I was a year older than I was." If you believe that story, why then this man must be acquitted. I leave the case in your hands.

THE COURT: We will take a recess now. In the meantime, gentlemen, please bear in mind the usual statutory caution not to converse with each other and of course with no one else about the case and also to come to no conclusion upon it until it is finally submitted to you.

Recess until 2 P. M.

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AFTER RECESS.

PEOPLE'S COUNSEL'S SUMMING UP.

MR. TOWNSEND: With the permission of the Court, Gentlemen of the Jury: This defendant is charged as you know with the crime of abduction, in that he took a girl under the age of eighteen years of age for the purpose of marriage without the consent of her parents or legal guardian. Now that is the law, as the learned Court will charge you.

The Legislature in its wisdom has seen fit to prohibit even males from disposing of their property until they reach the age of twenty-one, and in the case of females they have established this law, that where a person takes a girl under the age of eighteen for the purpose of sexual intercourse or prostitution, he not being her husband, is guilty of the crime of rape in the second degree. Such is the strictness with which the Legislature has seen fit to surround children of the tender years, they believing that previous to that age they are not able to give their consent, and even though they give their consent the Legislature says that they have not sufficient knowledge to know what consent means, what it is to consent. Therefore they

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have said that, even though they do consent, if they are under the age of eighteen years and a person seduces them in the manner described, he is guilty of violating the law.

Now, of course, we have simply to deal with the law as we find it. With the fact that the law may appear harsh to us we have nothing to do. If it is the law we are bound to enforce the law as it exists upon our statute, and we become guilty of wrongdoing if we wilfully and wrongfully fail to enforce it.

It appears from the testimony in this case that this girl, at the time she was married to this man, on the 16th of October, 1902, from the testimony of herself and her parents, that she was clearly under the age of eighteen years.

It appears also that, without the consent of her parents or legal guardian, he married her. The marriage is proven, and in addition, the defense admits that a marriage ceremony was performed. So that really the question you have to contend with in this case-- it being conceded that there was a marriage-- is, Was the girl under the age of eighteen years at the time, and did he marry her without the consent of her parents?

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The father testified as to the time she was born; likewise the mother. Are they telling the truth? is a question for you to determine. If they are, she was clearly then under age.

They also testified that they had declined, refused to give their consent to the marriage. Are they telling the truth in reference to that? If they are, is he not guilty then of the crime of abduction under the statute?

This is one of those cases that jurymen oftentimes become weary of, owing to the fact that the testimony has to be taken through an interpreter and that the people who give the testimony are not over bright, that they are lacking in education, lacking in a knowledge of our language, our customs. So it becomes really an irksome duty that we have to perform.

Yet, while it seems to me that under the circumstances, where we have people such as she represented in this case, seeking for justice, that we ought to be all the more careful and all the more willing to see that, humble though they may be and ignorant as they are, yet they are entitled to the same protection as the proudest and best educated among us. They are under our flag, whether they come from Italy or any

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other quarter of the globe. The question is not asked of them whether they are citizens or not. It is simply, Were you under the flag at the time the alleged crime was committed; if so, we guarantee you the same protection that we do to the proudest among us.

This is our duty under the law simplified in these cases.

Now this is a righteous law. If you give it consideration you will realize that it is a proper and a just statute. That round about these young females at that time, when they are passing from childhood to girlhood and from girlhood to womanhood, the strongest protection should be thrown, ~~about them~~, in order that they may enter upon the marriage state strong in their virtue and able and ready to bear children that will be worthy of them.

So that the law has imposed a penalty upon any one who seeks a young female under the age of eighteen and has sexual intercourse with her, even though he may be the hundredth person, and even though she may have consented and offered or even paid him to have intercourse; yet if she is not his wife he is then guilty of the crime of rape. And also he is guilty of the crime of abduction, for he takes a person under the



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age of eighteen years who is not his wife for the purpose of sexual intercourse or prostitution.

Now in this case we have this defendant taking the witness stand and admitting that he had already committed another crime. He admits that on the 4th day of October, 1902, he took this girl without any marriage ceremony and had sexual intercourse with her and that she was not his wife. He clearly committed then and there the crime of abduction; but with that he is not charged. He is charged with having taken her subsequently, without the consent of her parents, and having married her, which is the crime for which he is now on trial.

As we go along in this case it is shown that they are found in the city of Philadelphia. It only shows that violators of the law, those who have offended against the law, eventually come to grief. This little girl is found crying upon the streets of Philadelphia, infected with a disease. He denies that she contracted it in the manner in which it was suggested to him, but claims that he gave it to her himself. It is for you to determine whether he is to be believed. She became, from the 16th day of October, at the time of his arrest, hardly six months elapsed, an outcast. He took her to

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Philadelphia for what purpose? Was it an honest purpose?

Was his marriage an honest marriage? Did he have a motive in it at any time? Is there not all around about this case information enough to satisfy you gentlemen that this man simply took this girl and led her away from the paths of virtue for his own vicious purposes? Is there a bit of testimony in this case going to show but that she was as pure as the driven snow when he met her?

And in what condition do we find her today, after his relationship with her? She told you, and it is in evidence, that she was found in a hospital, or just after coming out of a hospital, wandering through the streets of a strange city; and only through the activity of her parents was she rescued and brought to her home.

And yet can anybody say that no crime has been committed, that no wrong has been done, with all this testimony in this case?

We sit here and we deliberately and impassionately send away to states prison a boy who may snatch an orange in the nighttime. And he perhaps sent away for ten years. We do not hesitate for a moment to punish

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quickly and severely one offending in a matter of that kind. Yet how does that compare, that sort of crime compare with the crime that you have in hand and with the case at bar, and with the consequences that may accrue and will accrue and must accrue to this young girl by virtue of the defendant's misconduct? They are untold and incalculable!

They not only affect her body and her person, but the question of her soul and her future we may guess. Therefore you can witness that it is a serious offense we are considering.

The Legislature, when they passed such a law, and when it received the approval of the chief executive of this state did it for the best of reasons, after a sound consideration and after the judgment of the people who had it under consideration. The law is for a good purpose, and every one who violates that law offends against the state and commits a crime of no little importance.

Now this girl, as you must have observed, is most illiterate, uneducated; she says there are three weeks in a month. Therefore there may be contradictory statements; there may be contradictions in her answers as to questions put by the Court or the District Attor-

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ney or some of you gentlemen of the jury. But yet, after all, what have they got to do with the main facts in this case?

There is no contradiction as to her age. There is no contradiction as to the marriage, and there is little contradiction as to whether or not there was consent on the part of the parents; and if you have those three elements existing, the defendant is guilty of the crime charged in the indictment.

The father, a respectable, well-appearing man, says that he holds a position in the post office. The mother, a well-appearing, decent, respectable woman, the mother of a large family, has given her testimony. And this girl, she appears too with a reputation unassailed and unimpeached for honest and purity, as I say, up to the time that she met this defendant; and if she is bad today, if she has become wicked in any way, if she has lost her virtue and her purity of character and of nature, I ask you, "Whose fault is it but that of the defendant at this bar?" And yet, with a sneering smile upon his face, he sits there and wants you to believe, gentlemen of the jury, that he has done no wrong!

This case you will of course look at in the ab-

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stract, and I do too, perhaps; but, oh, if we took this case home to ourselves; if such a situation and condition of affairs should happen in our homes, I venture to say not one of your gentlemen would sit quietly by, but with energy and with earnestness and with the conception of more force than those parents have exhibited here, you would deal right summarily with the defendant.

This man has come to these people's homes. This man has robbed them of their child. This man has taken their child away and wronged her, and this child today appears before you a wronged person, brought about through the infamy and misconduct of this defendant.

Do not let her inconsistent statements as to exactly how he met her in the first instance affect you. He admits that he met her upon the public highway and addressed her himself. He admits that he was not formally presented to her in her own home, but that he accosted her in the street, and from that time on, when he found that the parents, up to the 4th of October, would not allow him to marry her, he takes her away to his own home and commits then and there the crime of abduction. He therefore appears to you today upon his own statement as a confessed wrong-doer before we

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commence to consider the case at bar.

Therefore what consideration can he receive for a moment at the hands of an intelligent jury, men who are anxious to protect the fireside and the home, men who are anxious to see the laws of this great commonwealth enforced and enforced properly?

I ask you therefore, gentlemen, in the name of honesty and justice, in the name of purity, I ask you in the name of thousands of other homes, humble as this one that is represented by the complainant here, to properly dispose of this case, in order that an example may be made of this defendant, and in order that it may be a warning to others evilly inclined as to how far they dare go in the gratification of their evil propensities, and to show them that they cannot with impunity transgress our laws.

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The Peo. vs. Antonio Irone.

June 11th, 1903.

THE COURT'S CHARGE.

Gentlemen of the jury: The law which governs this case I will read for you: "A person who takes, receives, employs, uses, harbors or procures to be taken, received, employed or used a female under the age of eighteen years for the purpose of prostitution, or, not being her husband, for the purpose of sexual intercourse, or without the consent of her father, mother, guardian or other person having legal charge of her person, for the purpose of marriage, is guilty of abduction."

Now it is the last clause of this section that applies to this case, because the indictment charges abduction for the purpose of marriage of a female under the age of eighteen without the consent of her father and mother. That is the sole question you have to deal with.

Let no question of sympathy, no question as to the consequences to this man, or any other question than the one fact disturb your deliberations. Did he, without the consent of her father and mother, take this

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girl away and marry her? And was the girl under the age of eighteen years at that time?

If those conditions are fulfilled the definition of the statute is fully met.

He took the girl, it appears, on the 4th of October-- I believe that is the date-- from the house of her mother. When asked by the Court as to that date he gave the date and added that he took her because her father and mother did not consent to his marriage. That is the testimony of the defendant himself, brought out by himself and not responsive to the question of the Court, who simply asked him as to the date. But that is his statement.

The witnesses called for the People, the father and mother of the girl, state the same thing. It makes no difference whatever what occurred afterwards. It makes no difference whatever if they were reconciled subsequently to the marriage. With that neither of us have any concern. You are to determine the one fact whether he did violate the section of the law and did take that girl from her home and marry her, but without the consent of her father and mother, and was she under eighteen years of age?

Now you have the testimony of the father and the

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mother as to her age. If you are satisfied of that fact, and satisfied that he so took her and without the consent of her father and mother, then it seems to me that all of the conditions of the section that I have read to you are fulfilled. Each of these, however, is a question of fact for you, and you are not to be influenced by the opinions of the Court, if the Court were to express an opinion, nor are you to be influenced by any other extraneous circumstance; as the fact that the girl returned under peculiar circumstances home; the fact that her father sought her out in Philadelphia and brought her home; the fact that she was suffering from a loathsome disease, which he admits and says that he communicated to her. Let those circumstances not influence your judgment either for or against him. Consider solely the facts that I have mentioned, as to the age of the girl, the taking of her away, and whether her father and mother consented to it.

You are to remember, gentlemen, that the prosecution are required to prove their case beyond a reasonable doubt, because the law surrounds every defendant with a presumption of innocence, which presumption remains with him until the verdict of a jury removes it. But the doubt to which the law refers must be, as the words imply, a reasonable doubt; that is, a doubt

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based upon reasons, necessarily good reasons; such a doubt as an intelligent person could give a sufficient reason for entertaining; such a doubt as would influence you in the important affairs of your daily lives and control your action.

The case is in your hands.

MR. WALDHEIMER: One moment, if your Honor please. I ask your Honor to charge that the jury are not to be influenced to any extent against the defendant by reason of the court's denial of the several requests to acquit the defendant.

THE COURT: Most assuredly not; I charge as you request.

MR. WALDHEIMER: I ask your Honor to charge the jury that from all the circumstances and the proof adduced here, the consent of the parents can be presumed to have been given, for if the jury believe that the marriage was approved of, they, the parents, or either of them, had theretofore consented to the daughter being married to the defendant.

THE COURT: I decline to charge that.

MR. WALDHEIMER: Exception.

THE COURT: On the contrary, I charge that nothing which occurred subsequent to the abduction, the taking

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and the marriage, has any relation back.

MR. WALDHEIMER: I ask your Honor to charge that the defendant had a right to believe, from the age given by the complainant at the time of the marriage, that she was of the age of twenty-one, and the defendant relying upon such statement and believing it to be true, the jury must acquit the defendant.

THE COURT: I charge, on the contrary, just the reverse--

MR. WALDHEIMER: Exception.

THE COURT: One moment-- that it was his business to know the age of the child or girl, or he married her at his peril. The same is true of the other crime charged, that of rape in the second degree.

MR. WALDHEIMER: I ask your Honor to charge that, if the jury believe that the People have failed to establish the age of the complainant to their full satisfaction as being under the age of consent, they must acquit the defendant.

THE COURT: I charge the jury that, if they have any reasonable doubt as to any of the essential elements of the crime, they must acquit the defendant; and the age of the child is an essential element of the crime.

MR. WALDHEIMER: I respectfully except to the

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failure of the Court to charge as requested.

THE COURT: I charged stronger than you requested.

MR. WALDHEIMER: I ask your Honor to charge the jury that they cannot find the defendant guilty of the charge laid in the indictment solely upon the alleged confessions of the defendant, but that the material facts and circumstances must be satisfactorily substantiated by the complainant by satisfactory proof.

THE COURT: I charge in the language of the statute.

MR. WALDHEIMER: Exception.

THE COURT: Well, wait until I charge. That no conviction can be had in cases of this kind or in cases of rape in the second degree or rape of any kind or abduction upon the unsupported evidence of the woman or girl. There must be other evidence to corroborate it. It is for the jury to say whether there is in this case other evidence to corroborate the fact that the complainant was taken from her house without her parents' consent and subsequently did marry this defendant.

The case is in your hands, gentlemen.

The jury then retired.

The jury acquitted the defendant.

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