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CASE

COURT OF GENERAL SESSIONS OF THE PEACE,
TRIAL TERM, PART III.

.....
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

-against-

JACOB HOFFMAN, impleaded with ELISE
HOFFMAN,

Defendants.

: B e f o r e

: HON. THOMAS C. O'SULLIVAN,

: Justice.

.....
Indictment filed April 25th, 1911.

Indicted for abortion.

New York, May 15th, 1911.

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

For the People: Assistant District Attorney Edward J.

McGuire, Esq.

For the Defendant: Mr. August P. Wagener.

Peter P. McLaughlin,
Official Stenographer.

CASE # 1376

(Mr. McGuire, assistant District Attorney, opened the case on behalf of the People as follows):

May it please the Court, and Gentlemen of the Jury: The case that we are to try this morning arises on the indictment by the Grand Jury of the defendant Jacob Hoffman for the crime of abortion. The character of the crime has been recently read to you from the Penal Law of this State and I shall confine myself to a brief outline of the People's testimony.

The complaining witness is a young woman named Thora Jensen. She was unmarried. On the 18th of February last by employment she was a domestic servant, and she was pregnant something over four months on that day. She went to a house on East 53rd Street, the number will develop later, where this man Hoffman lived with his wife, Elise Hoffman, or Elizabeth Hoffman, and she will tell you the conversations and the things that were done at the call that she made to the house by this man Hoffman. She will tell you on her return some hours later meeting with Hoffman and also with the woman Elise Hoffman, and she will then tell you of the first operation upon her person. She will tell you of the events that followed that, her going immediately

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to a bedroom on the top floor of that house where she stayed nearly a week, just short of a week. She will tell you what this man Hoffman did to her during the time that she was in that room upstairs and she will tell you, gentlemen, of the facts in connection with the destruction of this foetus or the unborn child, in detail. I need not pause upon them now. Her story will bring us to Friday the 24th of February when as she was lying in her room on the top floor of that house a Detective Sergeant from Police Headquarters came in and took her in charge and arrested this man Hoffman and his wife. You will be told by the medical testimony, as well as by herself of what happened at Bellevue Hospital to which she was taken after she was taken in charge by the Police Officer at this house. From the facts brought out by the People's testimony and some other proofs that will come in, we will claim on the part of the People of the State of New York that we have established beyond a reasonable doubt the crime of abortion described in the Penal Code, or as defined in the Penal Code against the defendant Hoffman.

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THE PEOPLE'S CASE.

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T H O R A J E N S E N, a witness called for the People,
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MCGUIRE:

Q Your name? A Thora Emily Jensen.

Q Where do you live? A In Tuckahoe.

Q Now, Miss Jensen, how old are you? A Twenty-five.

Q Twenty-five years old? A Yes, sir.

Q Have you ever been married? A No, sir.

Q On the 14th day of February last were you in the house
No. 219 East 53rd Street? A Yes, sir.

Q New York County? A Yes, sir.

Q At what hour of the day did you first go there?

A Well, around seven o'clock at night.

Q Whom did you see there? A I seen the defendant, Mr.
Hoffman.

Q Did you see the man who sits at the table? A Yes, sir.

Q What did you say to him — where was he when you first
saw him? A He came to the door.

Q He opened the door for you? A Yes, sir.

Q Then did you have a talk with him? A I asked him if
a Mrs. Scharff —

Q After you asked for Mrs. Scharff what did you say?

A He said, he told me to come inside, and I came inside and
he told me to sit down and he told me that Mrs. Scharff was

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not there any more, but there was Mrs. Hoffman.

Q There was Mrs. Hoffman? A Yes, sir.

Q What else did he say? A He said, he ~~had~~ told me she was not home at the present time but she would be back in about two hours; I told him I wouldn't wait but I would come back; then I came back at nine o'clock.

Q What time did you come back? A About nine o'clock.

Q That same night? A Yes, sir.

Q Now, then, did you see him there? A Yes, sir.

Q Where was he when you first saw him? A He came to the door, opened the door for me again.

Q Who else was there besides the defendant ^{Hoffman} at this time?

MR. WAGENER: I object to that as immaterial and irrelevant.

A At that time he was there alone.

Q Now, while alone did you have any talk with him?

A No, sir; not exactly; he asked me if I lived around there then.

Q Where? A If I lived anywhere around there.

Q If you lived around there? A Yes, sir; and he asked me if anybody sent me there. I said, "No"; and he asked me where I got the address from and I told him I got it through the telephone directory.

Q Did you have any further conversation on that matter?

A He told me Mrs. Hoffman hadn't come back yet, but he was

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sure she would be there in a short while. A few minutes after —

Q Did you sit down at all? A Yes, sir, inside in the front room.

Q In the front room? A Yes.

Q Then what happened? A A few minutes after somebody knocked on the door; he went, the defendant went out, and I heard him talking to somebody in the hall and in a few minutes after Mrs. Hoffman, the lady, came in.

Q Came into the room, did she? A Yes, sir.

Q Was Hoffman with her? A No, sir. I asked her if she was Mrs. Hoffman —

MR. WAGENER: Objected to.

Q Now, don't answer this question until counsel has an opportunity to object. What did the woman say to you and what did you say to the woman who came in at that time?

MR. WAGENER: I object to that.

THE COURT: In the presence of the defendant.

MR. McGUIRE: No, sir, it was in the room while the defendant was in the hall.

THE COURT: If it is not connected it will be stricken out. You may move to strike it out if it is not connected.

MR. WAGENER: My objection is that it is immaterial, irrelevant, not binding upon the defendant.

he not being present. I take an exception to your Honor's ruling in order to keep the record straight.

(Exception).

Q Now, answer the question, Miss Jensen, what conversation did you have with the woman who came into the room?

A I told her my trouble, that I was in the family way, and I asked her if she thought that it was too late to do anything for me, and she asked me how far I was gone, and I told her I was between the fourth and fifth period, and she said it wasn't too late yet, but it had to be done soon, and that I had to come there and stay there for a week or two, I asked her if that was necessary and she said "Yes", because I had to go through just the same as if I gave birth to a full born child.

Q What did you say to her? A I told her I did not I hadn't left my place yet and that I might have to give a week's notice, and she said it would be all right then but to come as soon as possible.

Q After she said that what did you say to her? A I asked her how much she was going to charge me, and she mentioned something about a couple of hundred dollars.

MR. WAGENER: May I have the usual direction that the witnesses in this case during the trial be excluded from the Court room?

THE COURT: Yes.

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Q (Question repeated) I told her I couldn't pay that much and she told me she would do it for me for \$100, but she couldn't possibly do it any less than that, which I agreed to pay.

Q And what did you do? A I left then.

Q Did you see Hoffman again that night? A I don't remember.

Q Who let you out of the house? A Mrs. Hoffman let me out.

Q When did you go back there, Miss Jensen? A Well, I went back on February 18th, — no, February 17th.

Q What day of the week was that? A That was on a Thursday, on a Friday.

Q It was Friday, the 17th of February last, was it not? A Yes, sir.

Q At what hour did you go back to the house? A Well, I think it was late at night, around nine or ten o'clock.

Q Whom did you see? A Well, Mr. Hoffman opened the door for me.

Q Did you have any conversation with him? A I asked for Mrs. Hoffman and she came out to the hall then, and I told her that I —

MR. WAGENER: I object to any conversation between the witness and Mrs. Hoffman in the absence of the defendant, on the ground that it is immaterial.

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irrelevant, incompetent and not binding upon the defendant.

MR. MCGUIRE: I have not asked for it.

MR. WAGENER: I know, but the witness is continuing right on.

Q Mrs. Hoffman came out after Hoffman opened the door?

A She came out in the hall.

Q Was he there when she spoke with you? A Yes, sir.

Q What did she say? A I told her I would be there the next day to stay, and at first she did not remember me, but then Mr. Hoffman told her I was the girl that was there the other night and then she said she remembered me, that it would be all right to come to-morrow, that she would be ready for me.

Q Do you remember any further conversation at that time?

A No, sir, not that night.

Q Do you remember any other thing that happened ~~at~~ on that occasion, Miss Jensen? A No, sir.

Q Do you remember who it was that spoke first to Mrs. Hoffman, was it you or Hoffman? A I don't remember.

Q Did he go away from the door? A No, sir.

Q Did you hear him call out to anybody? A I couldn't say; I don't remember.

Q Did Mrs. Hoffman come into the hall where you and he were? A Yes, sir; she came out to the hall.

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Q Did anybody call her before she came out? A I don't remember.

Q Now, who opened the door to let you out? A Mr. Hoffman.

Q What did he say to you when he opened the door? A I suppose he said, "good night".

Q Is that your best recollection? He said "good night" to you, opened the door and shut it after you, did he? A Yes, sir.

Q Now, when did you go back there again? A Well, on February 18th.

Q That was the next day, Saturday, was it not? A Yes.

Q About what time? A Well, around one o'clock.

Q Who opened the door for you on this occasion? A Mr. Hoffman.

Q Did you see Mrs. Hoffman at or about the same time?

A Yes, sir.

Q How long after Hoffman opened the door for you did you see her? A I just got inside when she came towards me in the hall.

Q What did you do after they came out and after she came out into the hall, did you go to the front room? A Yes.

Q How many of you were there together in the front room? A Well, Mr. and Mrs. Hoffman and I.

Q And yourself? A Yes, sir.

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Q Anybody else? A No, sir.

Q Tell the Court the conversation that was had and what occurred at that time and place? A Mr. Hoffman asked me if I had my dinner; I told him I had not; I did not care for anything; he told me that he would get something for me, and I told him that I didn't want anything; he said that Mrs. Hoffman would give me the treatment first, and then he would give me something to eat afterwards.

Q What is that? A He would give me something to eat afterwards.

Q Miss Jansen, talk so that I can hear you clearly and then the jury can hear you. Now, after that was said what did Hoffman do? A I told him then that I wanted to pay him the money, and then I took my money out to pay, and Mr. Hoffman took my coat and my bag; he still remained in the room; then I started to count the money and Mrs. Hoffman told him to take my coat and things upstairs.

Q Who received the money from you? A Mrs. Hoffman.

Q How much money did you give her? A \$100.

Q After she got the money what did she say, if anything?

A She told me to sit down and she would get ready for me, then she went into the next room and a few minutes afterwards ---

MR. WAGENER: I object to what happened then because the testimony is that Mr. Hoffman was not

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there.

THE COURT: Same ruling.

(Exception).

Q She went into the next room, where was that next room?

A It was like in the middle of the house, back of the front parlor.

Q Between the front and back parlor, was it not? A Yes.

Q How long did she stay away? A Well, I think a few minutes.

Q Then what happened? A Then she came back and told me to come right in.

Q What did you do? A Well, I came in there and there was an examination table in the room.

Q What was done in regard to the doors of that room after you and Mrs. Hoffman went in there? A She turned the key in the door.

Q Did she lock the door? A Yes, sir.

Q How many doors were there in the room? A Well, I couldn't say.

Q Was there any door open after you and Mrs. Hoffman got in, after she had turned the key? A No, sir.

Q How was the room lighted? A I couldn't tell.

Q Was the room lighted? A Yes, sir.

Q Now, after you and she got into the room and the door was locked, as you say, what happened? A Well, she told me

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to get up —

(Same objection. Same ruling, and exception).

MR. WAGENER: It is understood that the objection applies to all this testimony.

THE COURT: Yes.

(Exception).

THE WITNESS: She told me to get up on this examination table and she inserted some instrument in my private parts.

MR. WAGENER: I move to strike out the word "instrument".

THE COURT: Yes.

Q She put some object, did she, in your private parts?

A Yes, sir.

Q Go on, Miss Jensen? A And then she told me that by to-morrow night, "You will be all right".

Q Did she leave the thing in your private parts that she inserted, as you state? A Yes, sir.

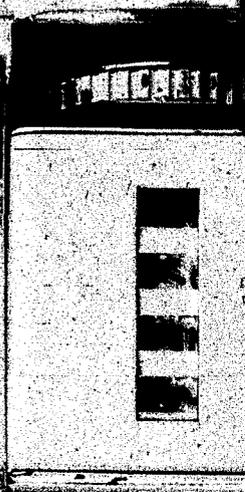
Q Then you say she said you would be all right by to-morrow night? A Yes, sir.

Q What did you say to her? A I don't know that I said anything.

Q Did you see the object that she inserted in your body?

A No, sir.

Q After she told you that what was done? A She told



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me to go upstairs and she took me out of the room.

Q Were you able to walk unassisted? A Yes, sir.

Q Tell us how? A Mr. Hoffman was outside and she told him to take me upstairs; he took me upstairs to a room at the top floor.

Q Mr. Hoffman, as you said, is this man sitting at the table? A Yes, sir.

Q You went upstairs with him, did you, to the top floor? A Yes, sir.

Q What did you see when you got there? A Well, there was a woman lying in the ---

MR. WAGENER: I object to that.

(Objection overruled. Exception).

THE WITNESS: There was a woman lying in one of the beds upstairs there.

Q Was the other bed empty? A Yes, sir.

Q Was Hoffman with you when you went into the room?

A Yes, sir.

Q What did he say, if anything, on the way upstairs or in the room? A He told me upstairs there to take my clothes off and to take my corsets off as quick as possible; he brought me a wrapper to put on; then Mrs. Hoffman came up and she told me to keep around, not to go to bed, and then Mr. Hoffman brought me some soup, something to eat, and he told me the same thing, to keep around and not go to

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bed.

Q What did you say to that? A I don't think I answered anything.

Q Did you go downstairs then? A Yes, sir.

Q Did you take your clothing off and put on the wrapper?

A Yes, sir.

Q Then what happened? A Then after that I got two or three weak spells and then I had to hold on to the bed or I would have fallen, and I went to bed.

Q Then what happened? A Well, it was only for a short while, then I felt better again, and I got up again and walked around the whole afternoon.

Q You walked around? A Yes, sir.

Q After that what happened? A Mr. Hoffman brought me up some pill and he said it was ---

Q Quinine? A 5 grains of quinine. Later in the evening he brought me ---

Q Did you take the pill? A Yes, sir.

Q What conversation did you have with him at that time?

A Well, I don't remember.

Q Did you say anything about the pill, tell me all you can recall at that conversation? A Yes, sir.

Q You say you don't remember anything more of the conversation you had with him at the time he gave you the pill?

A No, sir; I don't remember.

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Q Did he say anything to you as to why you ought to take the pill? A I think he said to keep the fever down.

Q You say you took the pill? A Yes, sir.

Q When did you see him again? A Later in the evening he brought me four red pills, small round pills and he told me to take them.

Q What did he say at the time he gave you those? *

A He told me to take them.

Q Did you take them? A Yes, sir.

Q Then what did he say? A Then he told me that if anything happened at night to knock on the floor with a shoe or something and he would hear me downstairs.

Q Well, what happened after he went away? A I woke up during the night and I had chills and very much fever and I had to call the girl in the bed beside me and ask her to call for somebody.

Q What did the girl do? A Knocked on the floor and after that Mr. Hoffman came up.

Q What did he do to you? A I told him that I felt very sick; he brought me --- I was frozen --- he brought me another blanket and a hot water bag and then he gave me a glass of hot brandy.

Q Then what happened? A I went to sleep after that and in the morning ---

Q Do you remember anything that Hoffman said to you at

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that time? A I don't remember anything.

Q Now, in the morning, the next morning, Sunday morning, was it not? A Yes, sir.

Q What happened then? A Well, in the morning when I woke up I felt very sick and upset.

Q Did you vomit? A Yes, sir; very much. Mrs. Hoffman came up to see me and asked me if I wanted any breakfast.

MR. WAGENER: I object to that.

(Objection overruled. Exception).

THE WITNESS: (Continuing) I said I did not want anything; she told me that she thought it would be better for me if I could take something, so then I said I would try to eat a little; she told me too that I ought to be up by this time and keep around; I told her I was very sick, that I wasn't able to, and she told me that I had to keep up, stay up, and keep around, until I got loose of the pain and it would be better for me.

Q Did you see Hoffman at that time? A (No answer).

Q Did you see Hoffman? A Yes, sir.

Q How long after his wife was there, about how long after his wife was there did you see Hoffman? A Well, they were there both at the same time.

Q Who brought up the breakfast that morning? A I don't

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remember.

Q Well, what happened after you had your breakfast?

A Well, I felt — I got up, kept around, but I felt worse; I got more and more cramps and around half past ten I was suffering terrible.

Q That was in the morning, was it, Miss Jensen? A Yes.

Q When you felt these pains and the suffering that you have described, what did you do? A I could not stay up any longer but I went to lay down.

Q Did you cry out? A Yes, sir.

Q Then what happened? A Then Mr. Hoffman came running upstairs.

Q He came running upstairs? A Yes, sir.

Q Did he go into your room? A Yes, sir.

Q What did he do? A He took the patient that was in the bed beside me and brought her out into the hall, into another room, through the hall into another room.

Q Did he have any conversation with that other woman whom you call the patient at that time, at the time he did this? A I don't remember that; when he came back he told me that they never let the smaller cases see the bigger cases.

Q Then you and he were alone in the room after he came back? A Yes, sir.

Q What did he do with regard to the door? A (No answer)

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Q Did he shut the door? A No, sir; the door was open.

Q Now, tell us exactly what he did and said after he came into the room? A He brought a bed pan into the room and then he put his hand up in my private parts; I felt as if he had hold of something and he twisted that right around in my stomach.

Q Who did that? A Mr. Hoffman.

Q After that what did he do? A He took out of me this instrument that Mrs. Hoffman had left in me.

MR. WAGENER: I move to strike out that word, "instrument".

THE COURT: Yes.

Q Well, he took out the object that his wife had put in you? A Yes.

Q What happened? A And a child about the size of that (indicating), this small child ---

Q Where was the child when you first saw it? A He held it up to ~~me~~ show me.

Q Did he show it to you? A Yes, sir.

Q After he showed it to you what did he do? A Then he told me that ---

Q Did he put the child on the bed pan? A Yes, sir.

Q Did you see this object that he took out of you? A He did not show it to me; I saw it lying in the bed pan afterwards.

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Q What was it you saw lying in the bed pan? A Some kind of a red rubber tube as it looked to me.

Q A red rubber tube? A Yes, sir.

Q After Mrs. Hoffman had put this up in your body at the time of your arrival for treatment, as you have stated, did you feel that object afterwards? A Yes, sir.

Q At the time you felt it was it in your body? A Yes.

Q Tell us what you felt? A Well, I felt as if my stomach was swollen up; it was very hard; at the time when I had these terrible pains I felt as if this instrument was coming out.

Q Was there anything protruding from your private parts, anything sticking out, I will use that word? A Yes, sir.

Q Did you feel anything? A Yes, sir.

Q Tell us what you felt? A Well, it was something hard.

Q Was it round or square? A It was round.

Q How large was it? A About the size of my little finger.

Q Of your little finger? A Yes, sir.

Q Now, after he had shown you this child, as you call it, and put it on the bed pan, what, if anything, did he say? A Then he told me there was only the afterbirth left; it didn't matter if he didn't get that because then he would take it out when he cleaned me up.

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Q Did he say anything else about that subject? A No, sir; later he took it out.

Q Did he say anything about it, about taking that away? A No, sir.

Q Did you see Mrs. Hoffman about the same time? A Yes, sir; she came up to the room and told me not to holler so much because it was terrible if anybody happened to come in.

Q When Mrs. Hoffman said that was Hoffman in the room? A Yes, sir.

Q What was he doing? A He take this thing out of me.

Q What did he do with the bed pan with the ^{red} rubber tube and this foetus on it? A Well, I don't know.

Q Did he take it out of the room with him? A Yes, sir.

Q How soon after he went away with these ~~xxx~~ objects was it that he came back? A Well, I couldn't say.

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Q You were present then, weren't you, Miss Jensen?

A Yes, sir.

Q Well, when he did come back did he give you anything?

A Yes, sir. He gave me --- no, I wouldn't say, I don't remember, I think he gave me some quinine, but I don't remember.

Q Will you tell us what next happened? A He told me that if I get very much pain he will clean me out in the afternoon, if I did not he would wait until the morning, but I was very much tired out and I went to sleep.

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Q Did you see him again until the next morning?

A Yes, sir.

Q About when? A Well, he and Mrs. Hoffman came up to see me off and on.

Q Through the night? A Yes; during the day and the night too, to see me and ask me how I felt.

Q Did they have any conversation with you at this time that you remember? A Yes, sir.

Q Conversations? A Yes, sir.

Q Tell us what they were? A Mr. Hoffman told me at one time that Mrs. Hoffman had been in the business for eighteen years, that they had not been at this 53rd Street house very long, they had the old house, and they took the 53rd Street after Mrs. Scharff, and they had the old house still, and her son is living there, he said, "We don't lose any of our old customers because they send them over to this house, and here we have Mrs. Scharff's customers too," he told me.

Q What happened the next morning, Miss Jensen? A He came and told me that he was going to clean me out.

Q About what time in the morning was that? A I guess about nine o'clock after I had my breakfast.

Q Who brought you your breakfast? A Mr. Hoffman.

Q Did he then tell you he was going to clean you out that morning? A Yes, sir.

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Q What did you say? A Well, I don't remember that I said anything.

Q After he had said that what happened? A He told me to come into his own room.

Q To come into his own room? A Yes, sir; and when I came in there there was some kind of a table in the middle of the floor; he lifted me up on this table.

Q Did he lift you up himself? A Yes, sir.

Q Where did he put you? A On this table.

Q How were you dressed at that time? A I had on only the wrapper.

Q That was all? A Yes, sir.

Q After he put you on the table what happened? A Then he inserted some instrument in my private parts.

MR. WAGNER: I object to that. I move to strike out the word "instrument".

MR. MCGUIRE: I haven't any objection to striking out the word instrument.

BY THE COURT:

Q Did you see what it was? A No, sir, I felt it.

BY MR. MCGUIRE:

Q When you use the word instrument you mean an object of some kind, is that it? A I don't know the word object.

Q It was some article or object that he put inside of you? A Yes, sir.

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Q What did he with it after he put it in? A He left it as if to stretch my private parts; then he used some object as if he was scraping my womb.

Q You felt him? A Yes, sir.

Q The contact up in your body? A Yes, sir.

Q You related it to your womb, did you? A Yes, sir.

Q Did he say anything? A He told me that he only found one small piece left in me.

Q What did he do? A Then he gave me a hot douche; then he lifted me down from the table again and he told me to go to bed and so I went back to bed.

Q You went back to bed? A Yes, sir.

Q In the room in which you had been previously, did you? A Yes, sir.

Q Did he go in there with you? A Yes, sir; then he brought me a glass of brandy.

Q What day of the week was that? A That was on Monday.

Q How often did you see Hoffman after that? A I don't remember.

Q Well, did you see him the next day? A Yes, sir; he was up there three or four times a day any way every day.

Q What did he do when he came in? A Well, he brought me my meals.

Q Did he do anything besides bringing the meals to your room? A Well, whenever he brought me medicine he brought

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me a glass of salts every morning, and then sometimes quinine pills.

Q Did you take the ~~xxx~~ medicines that he gave you?

A Yes, sir.

Q Did he do anything in regard to douching there?

A Every morning as long as I was there.

Q Did he douche you himself? A Yes, sir.

Q How often did you see Mrs. Hoffman after the stretching of your womb on the table, as you say, the stretching of your parts on the table as you have described? A (No answer).

(The Court admonishes the jury, calling their attention to Section 415 of the Code of Criminal Procedure, and the Court takes a recess until 2.15 o'clock).

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After recess.

T R I A L R E S U M E D.

T H O R A J E N S E N, a witness for the People, resumes the stand:

DIRECT EXAMINATION CONTINUED BY MR. MCGUIRE:

Q After the defendant, Hoffman, put you on the table and examined you, as you have stated, how often did you see Mrs. Hoffman? A She came up to my room about once or twice a day.

Q For how long? A Used to come up and ask me how I was, spoke a few words and left again.

Q Now, on what date was it that you left that house?

A On Friday.

Q About what time? A Well, in the morning, or around ten or eleven o'clock, I guess.

Q What was the hour at which you first saw Hoffman on that morning that you left? A I guess --- about, I could not say.

Q What is your best recollection, your best memory as to the time? A I believe he brought up my breakfast that morning.

Q About what time did he bring it up to you? A About eight o'clock.

Q Have any conversation with him at that time? A No, sir; not that I remember.

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Q Did he do anything to you that morning? A No, sir; I don't think so.

Q Did he go away after serving your breakfast? A I don't remember this.

Q He did leave the room after he served the breakfast, didn't he? A Yes, sir.

Q After he went away who was the first one who came into the room? A The servant girl, Annie.

Q Annie, a servant girl? A Yes, sir.

Q Do you know her last name? A No, sir.

Q Where were you sitting at the time that Annie, the servant, came in? A Sitting in a chair in the room.

Q Was anybody else in the room besides you and Annie? A No, sir.

Q Did you speak with Annie? A She told me that ---

Q No. What she said is not evidence. Did Annie and you talk together? A (No answer).

Q Let me put it in another way. Did Annie speak to you? A Yes, sir.

Q Annie spoke to you? A Yes, sir.

Q Describe the appearance of Annie at the time she spoke to you?

MR. WAGNER: I object to that as immaterial and irrelevant.

THE COURT: Objection sustained.

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Q After Annie spoke to you what did you do? A I followed her out to the hall; I did not understand what she was saying to me.

Q You got up and went out in the hall? A Yes, sir.

Q Well, what happened out there? A Well, I saw the officer, Mr. Von Twistern, standing there, and knocking on the door.

MR. WAGNER: I object to that unless the defendant was present.

THE COURT: Motion granted. Strike it out.

MR. MCGUIRE: This is not a conversation, this is what she saw.

THE COURT: She is telling what the officer was saying. I am directing that it be stricken out.

Q You say you went out in the hall after you had spoken to Annie, the servant girl there, and you saw a policeman?

A Yes, sir.

Q Who was with him? A There was no one with him.

Q Did you speak to Von Twistern? A No, sir.

Q What did you do? A When I saw him I went back to my room again.

Q Did you see any one after that? A No, sir.

Q When was the next time after that that you saw the officer? A Well, it was the day when I was bailed out from the House of Detention.



Q Can you fix the date of that, Miss Jensen? A No, sir; I could not.

Q About how long after you left the house was it. Let me put it this way. How long was it after that Friday you have been telling us about? A Well, I think it was about a week from the following Monday to that Friday.

Q About ten days afterwards, wasn't it? A Yes, sir.

Q Where was Hoffman when you saw him? A Outside on the street.

Q How near the House of Detention? A Maybe half a block or so.

Q Did you speak with him? A He came up to me and said, "How do you do", but I did not answer him.

Q You did not have any further conversation with him, did you? A No, sir.

Q When did you see him after that? A Then in the 57th Street Court House.

Q The Magistrate's Court, wasn't it? A Yes, sir.

Q After you went back into your room, when you saw Von Twistern, the policeman, in the hall, what did you do?

A I sat down again.

Q Then what happened? A Mr. Von Twistern came up to the room.

Q Von Twistern came into the room, didn't he? A Yes.

Q Then what did you do? A I had a conversation with

Mr. Von Twilster.

Q Don't tell us what you said to him or he to you. What did you do. Did you dress yourself? A No, sir; not after the first time he was in.

Q Well, after he talked with you did he go away?

A Yes, sir.

Q How long did you stay in the room before you saw him again, if he came back? A Maybe ten or fifteen minutes.

Q When he came back the second time what happened?

A He told me to get my things on and get ready.

Q You dressed yourself then, did you, Miss Jensen?

A Yes, sir.

Q You took all the belongings you had there, didn't you?

A Yes, sir.

Q Then where did you go? A I was taken to Bellevue Hospital.

In

Q the ambulance, weren't you? A Yes, sir.

Q Who was the doctor that you saw at Bellevue? A Dr. Bishop.

Q Who were the nurses that took care of you? A Miss McDonald ---

Q And Miss Garty? A Yes, sir.

THE COURT: It is understood that all the witnesses are, under the rule, out of the room.

Q Will you look at this gentleman who stands at the rail.

What is his name? A Von Twistern.

Q Is that the officer whom you say you saw in the house of Hoffman? A Yes, sir.

Q Will you look at this woman who appears at the Bar. What is her name? A Mrs. Hoffman.

Q Is she the woman whom you have called Mrs. Hoffman in your testimony? A Yes, sir.

Q Is she the woman called Mrs. Hoffman whom you saw at this house in East 53rd Street, Manhattan, at the times you have stated in your testimony? A I don't understand that.

Q (Question repeated as follows): Is she the woman called Mrs. Hoffman whom you saw at this house in East 53rd Street, Manhattan, at the times you have stated in your testimony? A Yes, sir.

CROSS EXAMINATION BY MR. WAGENER:

Q You remember the 24th of February, 1911, don't you?

A Yes, sir.

Q That was the day that you first saw Officer Von Twistern? A Yes, sir.

Q What time of day was it? A I guess around ten o'clock.

Q In the morning? A Yes, sir.

Q When you left the house on that morning where did you

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go? A Down to the ambulance.

Q Down to the street? A Yes, sir.

Q In the ambulance? A Yes, sir.

Q Who went with you, did Officer Von Twistern go with you --- any officer go with you? A Yes, sir; there was an officer with me.

Q Do you know the name of the officer? A No, sir.

Q Did he get into the ambulance? A The officer, he was sitting just on the edge of the ambulance.

Q He was sitting next to the driver? A No, sir.

Q On the back? A Yes, sir.

Q The same ambulance that you were in? A Yes, sir.

Q Then you were taken to what place? A Well, Bellevue Hospital.

Q On the same day? A Yes, sir.

Q You were put there in the ward? A Yes, sir.

Q Did the officer remain with you? A No, sir.

Q Any officer remain with you? A No, sir.

Q Any officer in the ward at all, policeman? A No.

Q You told the jury that before you left the house you had a conversation with Officer Von Twistern, did you?

A Yes, sir.

Q How long did that conversation last? A Maybe two minutes.

Q What is that? A Maybe two minutes.

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Q Was it about your being in that house, was that the conversation? A Yes, sir.

Q Do you remember this occurrence very distinctly, the occurrence of talking with this policeman in that house?

A I remember it.

Q Do you remember it very distinctly, I mean do you remember it? A Talking to the officer?

Q Yes. A Yes, sir.

Q What makes you think so long before answering my question when I asked you whether you spoke to the officer in reference to your being in that house? A (No answer).

MR. McGUIRE: Does the witness understand the question.

THE WITNESS: I did not know how to answer the question.

Q Did Officer Von Twistern put you under arrest at that time? A I don't know.

Q How long did you remain in Bellevue Hospital? A About ten days.

Q Do you remember up to what date? A No; I don't remember.

Q Were you a prisoner while in Bellevue Hospital? A I think so.

Q Then after you left Bellevue Hospital where did you go? A I was at the Court.

Q 57th Street Court? A Yes, sir.

Q The Magistrate's Court? A Yes, sir.

Q Who went with you? A Officer Von Twistern and two other officers.

Q One officer or two? A Three.

Q Three officers? A Yes, sir.

Q They went with you from Bellevue Hospital up to that Police Court? A Yes, sir.

Q How long did you stay in that Police Court on that day?

A I don't remember.

Q Do you remember the date when you went to the Police Court, what date it was? A No, sir; I don't remember.

Q Do you remember whether it was the 4th of April, 1911?

A I was there that day, but that was not the day when I was taken from Bellevue Hospital.

Q The 4th of April, 1911, was the first time you went to that Magistrate's Court in 57th Street? A Yes, sir; I think I made a mistake.

Q After leaving the Court on the 4th of April, 1911, where did you go? A I was taken to the House of Detention.

Q The officers going with you to the House of Detention?

A Yes, sir.

Q How long after that did you remain in the House of Detention? A Well, until the next day.

Q Do you know why you were taken to the 57th Street

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Magistrate's Court on the 4th of April, 1911?

MR. MCGUIRE: I object to that as immaterial and irrelevant, your Honor, no part of the cross examination — if she knows why she was taken to the Magistrate's Court.

MR. WAGENER: I withdraw the question.

Q On the 4th of April, 1911, while at the 57th Street Magistrate's Court, were you ordered by the policeman or one of them, to make a charge against this defendant?

A Yes, sir.

Q Did you refuse to make a charge? A Yes, sir.

Q Then on the day following, the 5th of April, 1911, you made the charge, did you? A I don't think it was the day after, no.

Q How long after do you think you made the charge, how long after the 4th of April?

MR. MCGUIRE: May I submit that if the object of the question is the fact that the witness's memory may be refreshed by the original papers that are here — if it is to test recollection.

THE COURT: I will allow it.

A I think it was two weeks after.

Q What is that? A I think it was about two weeks after.

Q Two weeks afterwards? A Yes, sir.

Q But you are sure it was on the 4th of April, 1911,

that you refused to make the charge against this defendant?

MR. McGUIRE: I submit that he ought to conduct this examination under the rules. Here is a question whether the witness is sure of the date and the matters which will refresh her recollection are here. If it is a desire to question her accuracy of memory I say I have no objection.

MR. WAGENER: This is the object.

MR. McGUIRE: He ought not to ask her whether she is sure of a certain date, that he, himself, has put into her mouth.

Q Will you answer the question? (Question repeated as follows): But you are sure it was on the 4th of April, 1911, that you refused to make a charge against this defendant? A No, sir; I am not positive.

Q Can you tell the jury with any positiveness at all the date when you refused to make a charge? A I refused to make a charge the first time when I was in Court, after quite I left Bellevue Hospital, but I am not sure of the date.

Q But you are not quite sure of the date? A No, sir.

Q Well, what do you say the date was?

MR. McGUIRE: Haven't we had enough on that, your Honor. The witness says she does not know. I submit we are losing time on these matters which are immaterial except so far as they go to the accuracy

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of the witness's recollection.

Q What is your recollection as to the date when you refused to make the charge? A What is "recollection", I don't know the word.

Q You understand the word remember? A Yes, sir.

Q Now, what date or month do you remember it was when you made the charge --- when you refused to make the charge?

A I don't remember any date; I remember I was in Court, called to Court on the 4th of April, but I don't remember the date that I refused to make the charge.

Q You were examined as a witness in the Police Court, were you not? A Yes, sir.

Q You testified as to that date in the Police Court, did you not?

MR. MCGUIRE: I object to that question as vague. It does not refer to any date; no previous date has been mentioned here.

THE COURT: You might amend it by supplying the date.

MR. WAGENER: I will add to that question, "on the 6th day of April, 1911".

MR. MCGUIRE: Now, I submit the question still remains vague, indefinite and impossible to answer. I object to it.

MR. WAGENER: I will put the question in a

different form, your Honor, and withdraw that question.

BY MR. WAGENER:

Q Did you on the 6th day of April, 1911, testify as a witness in the City Magistrate's Court of the Fourth District in a proceeding against this defendant? A I believe it was on the 6th, but I am not sure.

Q In 57th Street Court? A Yes, sir.

Q Did you testify there as a witness on the 6th of April, 1911, against this man here? A I don't remember what date that I testified.

Q Did you there, when you testified in that Court, say that you were in Court on April 4th, 1911, and that that was the date that you refused to make the charge, did you say that?

THE COURT: Was that an answer to a question?

MR. WAGENER: Oh, yes, sir.

THE COURT: If it was you had put it in the regular form, "Was this question asked you and did you make this answer on the 6th of April, 1911".

Q When you were a witness in the 57th Street Court were you asked this question and did you make the following answer? (No answer).

Q Were you asked these two questions and did you make these answers to them? "Q You were here on the 4th of April,

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that was the day before yesterday, were you not? A Yes.

Q Did you refuse to make a complaint against them then?

A Yes." Do you remember testifying to that? A Yes, sir, I remember.

Q That was true and correct?

MR. McGUIRE: Why, of course it was.

Q Was that testimony true and correct? A That I refused to? Yes, sir.

Q When you were taken from the house in the ambulance to the hospital did anybody talk to you? A No, sir.

Q No policeman? A I don't remember.

Q Do you mean to say you don't remember now whether at the time that they were taking you from the house to that hospital that you don't remember now whether anybody spoke to you about the house or about the case?

MR. McGUIRE: I object to that. She says she does not remember.

A No, sir; nobody did.

Q Nobody spoke to you? A No, sir.

Q After you got to Bellevue Hospital did anybody speak to you about the case? A Yes, sir.

Q Who was it? A The doctor.

Q Did any policeman speak to you about the case? A No; except he told me I would have to go to Court.

Q Who told you that? A The policeman that was on the

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ambulance.

Q While you were in the hospital did Officer Von Twistern come there? A Yes, sir.

Q Did he speak to you? A I suppose he did, yes, sir.

Q Well, don't you know whether he did or not?

MR. MCGUIRE: She said yes.

MR. WAGENER: She said, "I suppose he did".

BY MR. WAGENER:

Q Don't you know whether he did? A Yes, sir.

Q How often did he come there? A I think I saw him twice.

Q What is that? A Twice.

Q Did he talk to you about the case? A No, sir.

Q Did not talk about the case? A No, sir.

Q When you went from Bellevue Hospital to the 57th Street Court, in the company of the three officers, did they speak to you about the case? A Yes, sir.

Q What officer was it that spoke to you? A I don't know his name.

Q Did more than one speak to you? A I don't remember.

Q Do you remember what the officer said? A No, sir.

Q Now, after April 4th, 1911, when you said you would make no complaint did anybody speak to you about the case? A Not outside of the court.

Q What is that? A No, not outside the Court.

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Q Well, inside of the Court? A Well, not except when the case was put over and so on.

Q Who spoke to you inside of the Court? A Mr. Von Twistern and Mr. O'Brien, the attorney.

Q Anybody else speak to you about the case? A Yes, sir.

Q Who was it? A My friend, Mrs. De Wolf from Bellevue Hospital.

Q You said a lawyer spoke to you about the case? A No, sir; Miss Clara De Wolf from Bellevue Hospital.

Q But before that you mentioned Officer Von Twistern and some other name that I did not quite catch, what was it?

A O'Brien, a man from the --- I think it was O'Brien.

Q From what? A From the District Attorney's office.

Q A Mr. O'Brien from the District Attorney's office had a talk with you, is that right? A Yes, sir.

Q That was after you refused to make a complaint, before you made the complaint, is that right? A It was after I refused to make a complaint.

Q And before you made the complaint? A Yes, sir.

Q They talked to you? A Before I made the complaint, yes, sir.

Q A man from the District Attorney's office and an officer and somebody from Bellevue Hospital?

MR. McGUIRE: Is this repetition to stop, your Honor? Counsel has been repeating here for five

minutes.

THE COURT: We should not have repetition or the asking of questions which are repetitions of previous questions.

Q How long did the District Attorney speak to you about the case in the Police Court? A He did not -- he only asked me to sign the complaint.

Q Did he tell you at that time that you were under arrest?

A No, sir; I was not under arrest at that time.

THE COURT: That is enough. When you answer "No" to a question just leave it so and do not make any other comment.

BY MR. WAGENER:

Q You came to that Police Court with three policemen, didn't you? A Yes, sir.

Q After that you went back to Bellevue Hospital with the three policemen? A No.

Q To the House of Detention? A Yes, sir.

Q What? A Yes, sir.

Q You remained in the House of Detention after that?

A (No answer).

Q You remained in the House of Detention after that until you were bailed out? A Yes, sir.

Q Did the District Attorney tell you in the Police Court after you signed the complaint there, that you were dis-

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charged from arrest? A No, sir.

Q Did he tell you at that time that you could go?

A No, sir; he did not tell me nothing.

Q Did he tell you at that time that you would only be held as a witness? A No, sir.

Q How often since the time that you signed the complaint in the Police Court have you spoken to the District Attorney about this case? A Twice.

Q What is the name of the District Attorney to whom you spoke? A Mr. McGuire.

Q Both times? A Yes, sir.

Q You spoke both times to Mr. McGuire? A Yes, sir.

Q Any other gentleman from the District Attorney's office that you spoke to about this case? A Yes, sir.

Q Who was it? A I don't know his name.

Q More than one gentleman whose name you don't know?

A I think that is all.

Q What was that? A I think that is all.

Q You are not sure though whether that is all, are you?

A I am sure that is all since I made the complaint.

Q Since you made the complaint you are sure that you spoke to two gentlemen from the District Attorney's office, to one once and to one twice, is that right? A Yes, sir.

Q Did any District Attorney speak to you while you were in the House of Detention? A No, sir.

Q Any policeman speak to you in the House of Detention?

A No, sir.

Q How often did Officer Von Twistern speak to you about the case, all told, altogether? A I could not tell you;

I don't know.

Q Was it more than once? A I guess so.

Q Was it three times? A No, sir; more than that.

Q Five times? A I don't remember.

Q When Officer Von Twistern spoke to you the first time didn't he say that you had committed a crime? A No, sir.

Q You told him that you were a pregnant woman before you came to this defendant's house, didn't you? A No, sir.

Q Did nobody tell you that you had violated the law?

A No, sir.

Q Weren't you told by anybody that if you made a complaint against this defendant, or these defendants, that no charge would be made against you? A No, sir.

Q No such thing was said to you? A No, sir. I wasn't told that.

Q Will you tell the jury why you refused to make a complaint on the 4th of April, 1911, and made a complaint thereafter? A Because when I refused to make a complaint I said that it was my own fault, I went to this house myself and asked them to do this thing for me, asked Mrs. Hoffman, and when I made the complaint it was because I was sick and

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went to the hospital and was examined and the doctor told me that I had to go back to the hospital and have an operation performed.

Q Then because the doctor told you that you had to have an operation performed you made up your mind to make this charge? A Yes, sir.

Q You did go to this house voluntarily, didn't you? A Yes, sir.

Q You had not known the defendants before that time? A No, sir.

Q You went there for what purpose?

MR. McGUIRE: I object to that, if your Honor please.

MR. WAGENER: I withdraw the question.

BY MR. WAGENER:

Q You went there for the purpose of having an abortion performed, didn't you? A Yes, sir.

Q You knew that was wrong, didn't you? A Yes, sir.

Q Did you know it was criminal? A Yes, sir.

Q When you went there were you married? A No, sir.

Q Have you ever been married? A No, sir.

Q Where did you live at that time?

MR. McGUIRE: Objected to.

THE COURT: I will allow it.

MR. McGUIRE: I submit, your Honor, the witness

should be instructed that she has the privilege to refuse to answer any questions which may humiliate or degrade her. The early history of this girl is not in this case, I submit.

THE COURT: If there is any question that might tend to incriminate you, of course you need not answer it if you don't want to.

THE WITNESS: No, sir.

THE COURT: But your statement is now that you what knew you were doing at that time to have been a crime. Your condition at that time, you say, compelled you to do a thing which you knew to be wrong. Beyond that I don't see that there is anything which might go further than that statement there.

MR. McGUIRE: I submit that the girl has candidly answered these questions and that all these other matters are entirely irrelevant and immaterial.

THE COURT: Of course the defence has a right to cross examine as to her credibility and so on.

MR. McGUIRE: Subject to the limitations, your Honor, that the Court of Appeals has so eloquently declared, and so few of us find it possible to follow, that a man ought never to examine on a collateral matter unless he has something to back up his examination.



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THE COURT: He is bound by the witness's answer.

MR. McGUIRE: Exactly, but in the process he may do harm.

THE COURT: You may ask the question.

Q (Question repeated as follows): Where did you live at that time? A I do not wish to answer that question because I was a servant in that house; I do not wish ~~that~~ all my friends to know.

THE COURT: She does not wish to answer the question because she was a servant in a reputable house at that time; she does not wish her friends to know anything at all about it.

BY MR. WAGENER:

Q Well, as to the date. What time did you leave your service in that house?

MR. McGUIRE: I submit that that is within the same rule, your Honor.

THE COURT: She may answer.

A On the 18th of February.

Q Where have you lived since your release from the House of Detention? A In Tuckahoe.

Q Whereabouts in Tuckahoe?

MR. McGUIRE: I submit that is not proper.

(Objection sustained).

(Exception).

Q The man that was the father of your child was married or single?

MR. McGUIRE: I object to that as improper.

THE COURT: I will allow it. The witness will be instructed that she is not required to answer any question that may humiliate or degrade her. This is a question which may go to the veracity of the witness.

MR. McGUIRE: May she be instructed as to her privilege, your Honor?

THE COURT: Yes, she may be instructed as to her privilege.

MR. McGUIRE: That she is not bound to answer any questions which may humiliate or degrade her.

THE COURT: The commission of adultery is a crime. She may be asked if she committed the crime of adultery. She may refuse to answer if it tends to degrade or incriminate her. You may answer it as you please.

A He was married.

Q He is a married man? A Yes, sir.

Q You knew his wife, didn't you?

(Objected to. Objection sustained. Exception).

Q How long had you known this man?

(Objected to. Objection sustained. Exception).

Q Did you ever have an abortion performed before?

A No, sir.

Q Do you mean to tell the Court and jury that this name Thora E. Jensen is your real name?

(Objected to.)

THE COURT: It is not what she wishes to tell the jury or anything of the kind.

A Yes, sir.

MR. McGUIRE: She has answered it. Why repeat it.

Q Is your correct name Thora E. Jensen or have you been known by any other name? A No, sir; that is my own name.

Q The examination that was made of you in Bellevue Hospital, was that made before you made your charge or after?

A The examination of me?

Q Yes, the doctor's examination of you? A I was examined before and after. Which examination?

Q I mean the doctor's examination in the hospital, was that made before you made the charge in the Police Court or was it made after you made the charge in the Police Court?

MR. McGUIRE: I object to that as improper. The witness says she was examined both before and after the first Police Court hearing. The question is ambiguous, in that it is directed to either one of two events.

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THE COURT: How many examinations were made of you at Bellevue?

THE WITNESS: I think three or four.

Q Three or four? A Yes, sir.

Q He wants to know whether you made the complaint before the examination at Bellevue Hospital. Did you make your complaint before or after? A I made the complaint after the doctors in the hospital had examined me and told me that I had to go back for the operation.

Q Then you were examined several times after that?

A Yes, sir; twice after that.

BY MR. WAGNER:

Q You saw the defendant Hoffman last on what day, I mean in the house, not outside of the house? A In 53rd Street?

Q Yes. A On the 24th.

Q Of February? A Yes, sir.

Q When was it, as to date, that you say he removed this foetus from you, on what date was that? A What was the question?

MR. McGUIRE: May I ask that counsel make his question more definite. I am trying to shorten the trial. If the day of the month is important I submit that we can fix it in five or six ways here. is If it not important, or goes to the question of credibility and of correctness of recollection, that



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she cannot fix the day of the week, I will note an objection to the witness's testimony. I submit that asking it necessarily counsel takes this case.

MR. WAGNER: I would like to ask the District Attorney why he cuts in on my examination.

THE COURT: I think the suggestion is a timely one as to the direction of the trial, but you have a right to ask the question.

Q You understand the question. You called it a little child. I will withdraw the question and put it in a different form. When was it, on what date, in what month, that you say this defendant took something from you, up in your room? A It was on the 19th of February.

Q The 19th of February? A Yes, sir.

Q Was that a Sunday? A Yes, sir.

Q What time was that, morning or afternoon? A It was around eleven or half past eleven.

Q In the forenoon? A Yes, sir.

Q How long did he take to do all this? A I believe an hour.

Q An hour? A Yes, sir.

BY THE COURT:

Q You say that some object was inserted into your womb, or your private parts. Was that on the 19th, the day that you say this matter was removed from you or was it the day

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before that he inserted this object? A It was inserted on the day, Saturday, and this defendant took it out on Sunday.

Q So that you say that this matter came from your body on the Sunday? A Yes, sir.

Q But there was the insertion of some object on the day before? A Yes, sir.

Q And Sunday you say was the 19th? A Yes, sir.

Q And the insertion of which you spoke was the 18th?

A Yes, sir.

MR. McGUIRE: Saturday was the 18th.

RE-DIRECT EXAMINATION BY MR. McGUIRE:

Q Tell us what Von Twistern said to you when he came into the room at the 53rd Street house where you saw him the first time? A He asked me how long I had been there; I told him that I had been there since Saturday; he asked me who performed the operation on me, and I told him Mrs. Hoffman did; he asked me how much I paid.

THE COURT: Will you inquire into her condition, how she felt, what was her health?

Q He asked you how much you paid? A Yes, sir.

Q Did you tell him? A Yes, sir.

Q Then what was said? A At first I told him I only paid \$50, but I answered the question afterwards and I told

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him I paid \$100.

Q What did he say? A He told me that my trouble was all over; he went downstairs.

Q Then did he come back again? A Yes, sir; and he told me to get on my clothes.

Q To get on your clothes? A Yes, sir.

Q What else? A Well, I didn't wish to go to the hospital but he told me I would have to go to the Court if I didn't go to the hospital.

Q Anything else that you recall? A No, sir.

Q Now, on the day that you came, on that Saturday when you came to Mrs. Hoffman's house and saw her and the defendant, what was the condition of your health?

MR. WAGNER: I object to that.

A I was very nervous.

THE COURT: How she felt.

Q Tell us how you felt, how did you feel that day? A I was very nervous.

Q Very nervous? A Yes, sir.

Q Was your digestion good?

MR. WAGNER: I object to that. I do not see that she is competent on that question.

MR. McGUIRE: I think she can state the facts as to her general health.

THE COURT: Yes.

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(Objection sustained).

Q Except for the nervousness were you suffering from any disease or disorder of any kind? A No, sir.

BY THE COURT:

Q What was your general condition of health, did you feel well or otherwise? A I felt very nervous; I was kind of run down; I had worked very hard.

Q You had been working pretty hard? A Yes, sir.

BY MR. MCGUIRE:

Q Do you remember the first day that you were in the Police Court? A No, sir; not for sure.

Q I ask you to look at that paper. Does that bear your signature? A Yes, sir.

Q Will you look at the writing inside it there. Look at that writing. Are you able to say when was the date that you signed that paper?

MR. WAGENER: That paper speak for itself.

THE COURT: Objection overruled.

(Exception).

Q Did you sign that paper on the 5th of April? A Yes.

Q Now, looking at that paper that I have just shown you are you able to say whether or not it was on the 5th day of April, 1911, that you signed this complaint? A No, sir; I can't say for sure the date, I don't remember the date.

Q You don't remember the date? A No, sir.

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MR. McGUIRE: I will have this paper marked for identification.

(Paper referred to is marked People's Exhibit 1 for identification).

BY MR. McGUIRE:

Q What is Miss De Wolfe's full name? A Clara E. De Wolfe.

Q What is her position at the hospital? A She is in the Social Service Bureau.

Q She is in charge of the Social Service Bureau, is she? A Yes, sir.

Q That is, she takes care of the girls that come to the hospital, doesn't she? A Yes, sir.

Q You have been in her charge since you were treated in the hospital, after you left the Hoffman's house? A Yes.

Q Isn't that so? A Yes, sir.

Q You are still in the care of Miss De Wolfe, are you not, Miss Jensen? A Yes, sir.

Q The Mr. O'Brien you referred to as being in the Police Court, was that Mr. O'Brien a Deputy Assistant District Attorney at the 57th Street Magistrate's Court? A Yes, sir.

Q You say that all he asked you to do was to sign the paper after it was prepared? A Yes, sir.

Q After you were bailed out from the House of Detention where did you go? A I went to Bellevue Hospital, to Miss

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De Wolfe.

Q Now, you say you had seen me twice? A Yes, sir.

Q When was the first time you saw me, Miss Jensen, last Thursday, wasn't it? A Yes.

Q That was the first time you had ever seen me, wasn't it? A Yes, sir.

Q We had a talk for about an hour, didn't we? A Yes.

Q You never saw me again until this morning? A No, sir.

Q On the occasion this morning you did not talk about your evidence here at all, did you? A No, sir.

Q Except to tell me of something that you had forgotten to tell me on Thursday? A Yes, sir.

RE-CROSS EXAMINATION BY MR. WAGENER:

Q Now, when Officer Von Twistern came to that house did he speak first to you or did you speak first to him? A He spoke to me first.

Q What did he say? A Well, he told me, asked me how long I had been in the house.

Q Did he tell you he was a Police Officer? A No, sir.

Q Did he show you his shield? A No, sir.

Q Did he ask you how long you had been in the house?

A Yes, sir.

Q You told him? A Yes, sir.

Q Then what did he say? A Well, he asked me who per-

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formed the abortion on me.

Q Did he ask you was there an operation performed on you? A Yes, sir.

Q Did he ask you had anything been done to you in that house? A No, sir.

Q Did he say to you at that time that he was going to have you examined by a doctor? A Yes, sir.

Q Before he said that he told you he was a police officer? A No, sir.

Q Did he tell you he was a police officer after that? A He did not tell me he was a police officer.

Q You did not tell him that you had an operation performed in that house until after he said he would have you examined by a doctor, did you? A Yes, sir, I think so.

Q Did I understand you aright --- do you mean to say that you did not tell him that until he said, "I will have a doctor examine you", is that it? A Yes, sir; I think so.

MR. WAGENER: That is all.

M A R Y J. M C D O N A L D, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McGUIRE:

Q Where do you live? A Bellevue Hospital.

Q Miss McDonald, you are the chief nurse of one of the

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wards of Bellevue Hospital, are you not? A Yes, sir.

Q Were you such in the month of February or March last and April of this year? A Yes, sir.

Q Do you know Thora E. Jensen? A Yes, sir.

Q You have seen her in Court to-day? A Yes, sir.

Q You know she is the complainant in this case? A Yes.

Q Was she an inmate of Bellevue Hospital, or a patient at Bellevue Hospital in the ward of which you were in charge? A Yes, sir.

Q Can you tell me during what time she was under treatment there? A I don't exactly remember, but it was in the month of February, along the latter part.

Q Who was the physician in charge of that ward? A Dr. Bishop.

Q Did you make the bedside notes of the treatment that Miss Jensen received? A Some of them I did.

Q Who was the other nurse who was with you? A Well, I am responsible for the notes that were made; I have charge of the ward, the head nurse of the ward.

Q Have you got those notes with you? A I haven't them; not mine.

Q Are they here in the Court House --- A I think Dr. Bishop has them.

Q Did you give them to Dr. Bishop? A Why, they are records that we make there; they are the ward records of

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the patients.

Q The ward records of the patients? A Yes, sir; the charts.

Q The charts are in Dr. Bishop's possession, are they?

A Yes, sir; I think so.

Q Did you give them to him? A Did I give them to him?

Q Yes. A No; I did not give them to him.

Q Well, what do you do with them after they are prepared?

A Why, they are collected afterwards.

Q And they go into the custody of the office, don't they, at Bellevue? A Yes, sir; they are filed.

Q You did not give any medical treatment yourself, Miss McDonald, did you? A No, sir, only what was ordered.

Q You simply noted the course or progress of the patient?

A Yes, sir.

Q Making your clinical notes, didn't you? A Yes, sir.

CROSS EXAMINATION BY MR. WAGENER:

Q When did this woman come to the hospital, on what date? A I did not catch that question.

Q (Question repeated) A Well, I think it was February 24th.

Q And remained up to what date? A I don't remember the date that she was discharged.

Q Do you know the date when she was discharged? A No,

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sir, I don't remember.

Q During the time she was in Bellevue Hospital she was a prisoner there, was she not? A Yes, sir.

Q You know Officer Von Twistern? A (No answer).

Q Do you know Policeman Von Twistern, a detective?

A No, sir.

Q You don't know him? A No, sir.

D.R. ERNEST S. BISHOP, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McGUIRE:

Q Your address? A Bellevue Hospital.

Q Dr. Bishop, are you one of the resident physicians of Bellevue Hospital in the County of New York? A Yes, sir.

Q Were you such in the months of February and March last?

A I was.

Q Do you know Thora Jensen, this complaining witness in this case? A I do.

Q Was she a patient at that Bellevue Hospital in the month of February last? A She was.

Q Can you tell me of your own recollection what date she entered the hospital? A I cannot; may I consult the memorandum?

Q Can you by refreshing your recollection? A Yes, sir.

Q Will you kindly do so? A Yes, sir; she entered

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the hospital on the 24th of February.

Q How long did she stay there? A She was discharged on March 5th.

Q At the time of her admission or shortly afterwards, did you make an examination of her? A I did.

Q How long have you been a physician, Doctor? A Three years.

Q How long have you been practicing in the diseases of women? A Well, I was house gynecologist in Bellevue, and of course, all the time in Bellevue you coming in contact with gynecology all over the hospital.

Q For the last three years, can you state, that you had been connected with the treatment of women's diseases?

A I have.

Q Now, what did you find on your examination of Thora Jensen? A Her uterus was enlarged; there was a discharge of blood from her vagina and her breasts contained milk; that is the condition I found.

Q From your knowledge of medicine and surgery, and the knowledge derived from your experience in the treatment of women, and in the treatment of women as a gynecologist, are you able to state what was the cause of the condition in which you found Thora Jensen, the complaining witness at the time you made your examination of her as stated?

A A recent pregnancy.

Q Referring to the facts observed regarding the secretion of milk in her lacteal glands, Doctor, can you state what stage of pregnancy she had reached? A I believe it is rare under two months.

Q What is that? A I believe it is rare under two months; often it does not occur until much later.

Q So that in your opinion the pregnancy had endured for more than two months? A I should say so.

CROSS EXAMINATION BY MR. WAGENER:

Q What date, Doctor, did you say she was discharged from the hospital? A She was discharged on March 5th.

Q March 5th? A Yes, sir; March 5th.

Q Can you tell when the first examination took place, on what date? A The examinations are not noted; she was examined on admission, of course, and examined a number of times since; I can't tell you just the dates of all the examinations; they are always examined on admission.

W I L L I A M H. V O N T W I S T E R N, a witness for the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MCGUIRE:

Q What is your position in the Police Department of the City of New York? A I am a Sergeant of Police, detailed to the Detective Bureau as a detective.

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Q The place of your duty is Police Headquarters, isn't it, Sergeant? A 29th Precinct.

Q Where is that station house? A East 51st Street, between Third and Lexington Avenues.

Q Now, in the month of February last was that your position? A Yes, sir.

Q Do you know this defendant in this case, Jacob Hoffman? A Yes, sir.

Q Do you know his wife, Elise Hoffman? A Yes, sir.

MR. McGUIRE: (To a Court Attendant) Will you produce Elise Hoffman.

Q On the 24th of February last do you remember being at No. 219 East 53rd Street, Manhattan, New York City? A Yes.

Q About what time of the day was it, Sergeant? A About nine o'clock in the morning.

Q Did you see the defendant Jacob Hoffman there? A Yes.

Q Where was he when you first saw him? A Well, on the top floor in the rear room.

Q Tell us what you said to him and what he said to you at the time you first saw him? A Well, I went through the house and saw the defendant, Mr. Hoffman, on the top floor in the rear room, and I asked him who he was and he told me he was Mr. Hoffman.

Q Had you previously seen Mrs. Hoffman? A Yes, sir.

Q Is the woman at the Bar Mrs. Hoffman? A Yes, sir.

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MR. WAGENER: There is no question about that.

I will admit that.

Q Had you talked to Mrs. Hoffman before you saw her husband? A Yes, sir.

Q Where did you see her? A I saw her on the third floor in the rear room.

Q Tell us what you said to her and what she said to you?

MR. WAGENER: I object to that on the ground it is incompetent, immaterial and irrelevant, not in the presence of the defendant and cannot bind him.

MR. McGUIRE: I submit that this is within the same rule as the previous testimony as to the acts of these two people.

THE COURT: With regard to the matters under inquiry here you may tell us.

(Exception).

THE WITNESS: I asked her who she was; she told me she was Mrs. Hoffman. I asked her what kind of a house she was running; she said she had a furnished room house. I said, "Who occupies it?" She said, "My husband and myself, three servants and two or three women roomers." I then went through the house, found three women --- two women on the second floor rear and one woman on the top floor.

MR. WAGENER: I object to this testimony on the

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ground that it is not connected with the defendants.
There is no proof that this defendant ----

THE COURT: This was a conversation with the
woman.

MR. McGUIRE: Yes, sir, and observing the facts
at the house at the time of the arrest.

THE COURT: In other parts of the house aside
from where this woman was. That cannot be consid-
ered competent.

MR. McGUIRE: I will consent that that go out.

BY MR. McGUIRE:

Q Don't tell us what you saw in the rooms that were ^{not} oc-
cupied by either the defendant or Mrs. Hoffman.

THE COURT: What took place in parts of the
house a distance away from the part of the house
occupied by the complaining witness here cannot be
allowed in evidence.

MR. McGUIRE: I want to be careful not to vio-
late the rules.

THE WITNESS: I went to the top floor and
found Mr. Hoffman there in the rear room. I told
him I was a police officer and I wanted him to come
downstairs. I brought him down and I ----

Q Did you bring him down to where Mrs. Hoffman was?

A No, I brought him down to the second floor, rear room.

And then I called Officer McIntosh up and I said, "You stay here with this man until I give you further orders."

Q Then what did you do? A I then telephoned for an ambulance.

Q Did you at that house see Thora Jensen that day? A I did.

Q Where was she? A She was on the top floor in the front room.

Q Was she in bed? A No; she was sitting in a chair reading a book.

Q Did you have a talk with her? A I did.

Q You may tell us what she said to you and what you said to her? A I asked her who she was and she told me that she was Miss Jensen; I asked her what she was doing there, and she said she was a roomer; I said, "I am a police officer, I want you to tell me the truth, and if you don't tell me the truth I am going to call in a doctor from the Board of Health to have you examined to find out what is the matter with you." She then told me that she had been pregnant, and that she came there to Mrs. Hoffman's house and that Mrs. Hoffman had performed an operation upon her.

BY THE COURT:

Q Where was this conversation? A This was upstairs in her room.

MR. McGUIRE: This was the conversation brought

out by counsel on the other side in the cross examination of Miss Jensen.

THE COURT: Proceed.

THE WITNESS: I asked her when this operation took place and she said to me, "Last Saturday"; that was six days previous to the time that I had visited this house. I asked her what Mr. Hoffman and she told me that a day and a half or two afterwards, I won't be positive just about the time, that he had taken her to a room upstairs in the rear and had taken something from her.

BY MR. McGUIRE:

Q Do you remember anything else of the conversation, Sergeant? A I told her then that she had better dress herself, that I was going to send her to the hospital.

Q What happened after that? A Why, I sent her to the hospital, the Flower Hospital, and later in the afternoon or evening she was transferred to Bellevue.

Q Did you have any conversation with ~~sixxxx~~ the defendant Jacob Hoffman that day? A No, sir.

Q Did you go downstairs to see him after you had talked with Miss Jensen? A Yes, sir; I did.

Q What did you say to him about what Miss Jensen had said, if anything? A I didn't say anything to him.

Q Did he say anything to you? A He wanted to know if

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he was going to be arrested, and I said, "Yes".

Q What did he say? A He didn't say anything, but I then sent him over to the station house with Detective McIntosh.

Q Then what did you do? A After I had the woman removed to the hospital I went to the station house and had the pedigrees of Mrs. Hoffman and Mr. Hoffman taken. I then arraigned them at the Fourth District Court before Magistrate Barlow.

CROSS EXAMINATION BY MR. WAGENER:

Q How long have you been a police officer? A About fifteen years and a half.

Q Attached to the Police force in this City? A Yes.

Q During that fifteen years how long have you been attached to Police Headquarters as a detective? A Four years last April.

Q When you went to this house did you have a warrant?

A No, sir.

Q How did you come to go there? A Well, from a letter that was sent by the District Attorney to the Police Commissioner.

Q And the Police Commissioner instructed you to investigate that letter? A No, sir; the Police Commissioner sent it to the Inspector of the Detective Bureau, who in turn,

sent it to me for investigation and report.

Q That letter was an anonymous letter? A Well, it was not an anonymous letter; it was signed by some person.

Q Do you know the name that was signed to it?

MR. McGUIRE: I object to that as immaterial and incompetent, your Honor, who signed the letter to the police.

MR. WAGENER: I withdraw it.

Q Now, when you went to the house, that is you say, in the morning? A Yes, sir.

Q About eight o'clock? A Nine o'clock.

Q Nine o'clock? A Yes, sir.

Q When you entered the house whom did you first see?

A Well, I saw a servant girl.

Q After that whom did you see? A Mrs. Hoffman.

Q In what part of the house did you see her? A On the parlor floor.

Q Front? A She was coming from the rear parlor; I met her in the hall.

Q What I mean is you saw her on the parlor floor, in the front parlor or in the rear parlor? A No, sir; I told you I saw her coming from the rear parlor, in the hallway.

Q Did you go into any room with her? A I did; I went to the rear room.

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Q The rear room? A Yes, sir.

Q On the parlor floor? A Yes, sir.

Q Was anybody with you at that time? A No, sir.

Q No officer? A No, sir.

Q When you went into the rear room with Mrs. Hoffman you had a talk with her? A I did.

Q Then did you leave the room? A Not immediately, no, sir; I waited until another detective had come in.

Q What was his name? A Detective Bruckman.

Q How long did you wait? A Perhaps five minutes.

Q Then you left this rear room that Mrs. Hoffman was in? A Yes, sir.

Q Did she go with you? A No, sir.

Q Was she placed under arrest? A Not at that time.

Q Did you put an officer in that room? A I did, yes.

Q Officer Bruckman? A Yes, sir.

Q Did you give him instructions not to let the woman out — out of that room? A Yes, sir.

Q You did? A Yes, sir.

Q Didn't you consider that an arrest? A I did not specify that room in particular; I said, "Look out that this woman don't get out."

Q You mean to tell the jury that you did not consider that an arrest? A Not until I made an investigation to see what I was going to charge the woman with; I didn't

make an arrest until I saw whether I had a case against the prisoner or not.

Q Up to that time you had made no investigation?

A No, sir.

Q Up to that time you didn't know what you were going to charge her with? A No, sir.

Q You put Officer Bruckman there and told him, "Don't let this woman out of that room"? A Yes, sir.

Q Now, after you did that where did you go? A I went through the house.

Q This woman, Thora Jensen, did you go to her room again?

A Yes, sir, I went to her room.

Q Where was that room? A The top floor front.

Q Did you talk to her? A I did.

Q How long did that conversation with her last? A Quite a few minutes.

Q Five minutes or ten or fifteen minutes? A Why, not as long as that, counsel, I should judge perhaps five minutes.

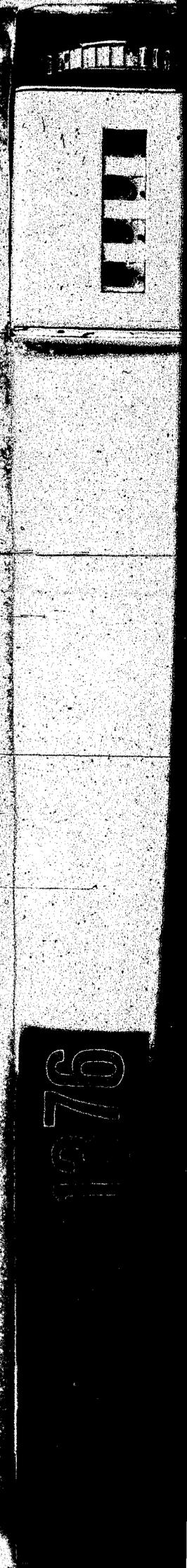
Q Had you seen Mr. Hoffman, the defendant, before you saw this girl or after? A Afterwards.

Q Afterwards? A Yes, sir.

Q When you went into this girl's room did you tell her you were a policeman? A I did, yes, sir.

Q Immediately when you came in? A Yes, sir.

Q Did you show her your shield? A No, sir.



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Q You were not here in the Court room to-day while the girl was being examined and cross examined, were you? A No, sir, I was not.

—Q You were outside in the hall? A Yes, sir.

Q Now, what was the first thing you asked the girl?

A Why, I told her I was a police officer. First, I asked her her name and she told me her name was Jensen; I asked her what she was doing there and she said she was a roomer. I said, "I want you to tell me the truth, young lady, I am a police officer, and if you don't tell me the truth I am going to call in a physician from the Board of Health and find out what was the matter with you and what you are doing here."

Q That is what you told her? A Yes, sir.

Q It was after that that she said that something had been done upon her? A Yes, sir.

Q Now, did you consider that a threat? A Why, no, sir, I did not.

Q Did you consider that you had the authority to call in the Board of Health doctor and have this woman examined?

A I did, if I thought a crime had been committed, yes, sir.

Q You did think so? A Yes, sir, I thought so, yes.

Q Wren't it before you said that, "I will call in a doctor from the Board of Health and have you examined", that she denied that any operation had been committed upon her?

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A Yes, sir, she did.

BY MR. McGUIRE:

Q What was in that letter that the Police Department Inspector got through the District Attorney? A It stated --

MR. WAGENER: I object to that.

MR. McGUIRE: Counsel has just asked about it.

THE COURT: How is that relevant?

MR. McGUIRE: Just to develop the fact that my friend has brought out, the fact of a letter sent by the District Attorney to the Police Commissioner, and conveyed through an inspector to the Detective Bureau.

THE COURT: Reference was made to the letter by the defence?

MR. McGUIRE: Yes, sir.

THE COURT: Objection sustained.

MR. WAGENER: I have no objection to the letter going in evidence if they have got it. On the contrary I will make no objection to it.

THE COURT: Objection sustained.

MR. WAGENER: If you produce the letter I will consent that it go in.

MR. McGUIRE: I don't know what counsel is talking about. How can I put in incompetent evidence.

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MR. WAGENER: I don't want this man to testify about it.

THE COURT: I sustain the objection.

MR. WAGENER: I am willing ---

MR. McGUIRE: I would not think of charging a gentleman of Mr. Wagener's standing with having blundered ---

MR. WAGENER: I am a little sensitive on criticism.

OFFICER HENRY BRUCKMAN, a witness called for the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McGUIRE:

Q Your address? A 1419 Crotona Avenue.

Q Mr. Bruckman, what is your position in the Police Department? A I am a police officer, detective of the first grade.

Q A first grade detective assigned from the uniformed force of the Police Department, are you not, in the City of New York? A Yes, sir.

Q To what precinct are you assigned? A 29th.

Q Is Sergeant Von Twistern your superior officer in that precinct? A He is.

Q On the 24th of February last did you see the defendant, Jacob Hoffman? A I did.

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Q Where? A He entered a room that I was in in the premises 219 East 53rd Street.

Q Is that in the Manhattan Borough, New York County?

A Yes, sir.

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

A I didn't have any conversation with him.

Q Who was there besides you and he? A Mrs. Hoffman and another young lady.

Q Did Sergeant Von Twistern come into the room at that time? A Well, he was in and out of that room.

Q You say you don't remember anything that Hoffman said?

A He didn't say anything to me.

Q What did the others say in his presence that you heard?

A There was not any conversation; he simply came in from upstairs and he had something to do, I don't know what it was, then he went right out.

Q Who did? A The defendant.

Q Hoffman? A Yes, sir.

Q Did you see him later that day? A Well, I did.

Q Where was that? A I saw him at the station house.

Q Did you have any talk with the defendant? A No, sir, I did not.

Q Did you have any talk with him at any time that day?

A No, sir, I did not.

Q Did you ever have a conversation with him regarding

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the matters that we are inquiring into now? A Only that one day after the hearing in the Magistrate's Court; he was taken to the Police Court and he wanted to know what it meant and I told him it was simply he would have to give a bail bond. Mrs. Hoffman and assistant District Attorney Wilmot were there.

Q Is that all you can recall of the conversation with him? A Yes.

Q What, if anything, was said at that time about the employment or business that this man Hoffman was in? A Well, it wasn't anything said, not by me.

Q Did he say anything? A No, sir; he was taken to the station house by Detective McIntosh.

Q Did you see the witness Thore Jensen at that house on that day? A I saw her leaving the premises.

CHARLES MCINTOSH, a witness called on behalf of the People, being duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. McGUIRE:

Q Your address? A Headquarters.

Q Mr. McIntosh, what is your position in the Police Department of New York City? A Attached to the Detective Bureau.

Q What is the precinct? A 29th Precinct, East 51st Street station.

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Q Sergeant Von Twistern and Mr. Bruckman are your associates in that duty, are they not? A Yes, sir.

Q Was that so in the months of February and March last?

A Yes, sir.

Q Do you know Jacob Hoffman, the defendant? A Yes, sir.

Q Did you make an arrest in this case on the 24th of February last? A Yes, sir; I was ordered by Sergeant Von Twistern to bring the defendant to the station house.

Q Did you take him to the station house? A I did.

Q While you were taking him to the station house did you have any conversation with him? A Yes, sir.

Q Tell us what he said to you and what you said to him?

A I asked him if he was a doctor or a physician and he said "No", he was not; he says he had never told anybody he was a doctor.

Q Did he say what his business was? A No, sir; he said he had no particular business at that time.

MR. WAGNER: No questions.

MR. McGUIRE: That is the People's case, your Honor.

MR. WAGNER: Your Honor, I now move to strike out the conversations that were allowed in evidence in the absence of the defendant between Mrs. Hoffman and others.

THE COURT: Have you rested?

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MR. McGUIRE: Yes, sir.

THE COURT: Then we will adjourn until tomorrow morning. Gentlemen of the jury, you are admonished not to discuss any matters connected with this trial among yourselves or with others and not to form or express any opinion upon it until it is finally submitted to you.

Adjourned to May 15th, 1911, at 10.30 a. m.

New York, May 15th, 1911.

T R I A L R E S U M E D.

MR. WAGNER: I move to strike out all the testimony as to conversations had with the defendant, Elise Hoffman, in the absence of the defendant Jacob Hoffman which the District Attorney agreed to connect. I move to strike those out on the ground that they have not been connected.

THE COURT: Motion denied.

(Exception).

MR. WAGNER: I ask your Honor to take from the jury the first count of the indictment on the ground that there is no proof of any act by the defendant, Jacob Hoffman, on the 18th day of February, 1911, tending to establish the commission of the crime charged in the indictment.

THE COURT: Motion denied.

(Exception).

MR. WAGNER: And on the further ground that there is no proof that the defendant, Jacob Hoffman, on the 18th day of February, 1911, feloniously used or caused to be used on Thora E. Jensen, a certain instrument by then and there forcing, thrusting and inserting the same, or causing the same to be forced

or inserted against and upon and into the private parts of the body of the said Thora E. Jensen, as charged in that count.

THE COURT: Motion denied.

(Exception).

MR. WAGNER: I ask your Honor to take from the jury the second count in the indictment on the ground that there is no proof whatever tending to show the same to have been committed by this defendant.

THE COURT: Motion denied.

(Exception).

MR. WAGNER: I move the Court to direct the jury to find a verdict of not guilty for the defendant Jacob Hoffman.

THE COURT: Motion denied.

(Exception).

MR. WAGNER: I ask your Honor to advise the jury to find a verdict of not guilty as to this defendant Jacob Hoffman.

THE COURT: Motion denied.

(Exception).

MR. WAGNER: And the defendant Jacob Hoffman now asks the Court to direct the District Attorney to elect upon which of these counts he will go to

the jury.

MR. McGUIRE: I do not think this a case, on the facts, where we should be compelled to elect. I think we ought to go to the jury on the indictment as it is claimed.

(Motion denied. Exception).

(Mr. Waganer opens the case on behalf of the defendant).

DEFENCE.

J A C O B H O F F M A N, the defendant being duly sworn in his own behalf, testified as follows:

DIRECT EXAMINATION BY MR. WAGENER:

Q Where do you live? A 219 East 53rd Street.

Q Now, you are one of the defendants in this case?

A Yes, sir.

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Q You are one of the persons charged in this case?

A Yes sir.

Q The other defendant, Elise Hoffman, is your wife?

A Yes sir; she is.

Q How old are you now? A 45 .

Q Do you know this girl that was on the stand here yesterday? A Yes sir; I know her.

Q The Jensen girl? A Yes sir.

Q Did you see her in your house at any time? A Yes sir I saw her.

Q Your house is where? A Number 219 East 53rd Street.

Q When did you see her in this house? A I can't exactly remember the date.

Q About? A About when she stated yesterday---that was right what the girl said.

Q How often did you see her in your house? A Twice.

Q Now can you tell was it this year? A Yes sir, it was this year.

Q What month? A In February.

Q Can you tell the jury, as near as you can get at it, the day it was in February? A I think the 14th of February.

Q Did she speak to you? A No sir.

Q Did you speak to her? A No sir.

Q Where did you see her? A She rang the bell; I opened the door.

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Q Did she say anything? A No sir, she said "Is Mrs. Scharf here".

Q What did you say? A I said "Mrs. Scharf don't live here any more".

Q What did she say? A She said could she see the lady of the house.

Q What did you say? A She said could she see the lady of the house and I said "She is not home". She said "When will she be home" and I said "around 9 o'clock". Then she said "I will be back again".

Q Now at that time was there anything else said by you or by her? A No sir; no sir.

Q When did you see her next? A Around 9 o'clock again the same evening. I opened the door again for her and she asked me if the lady is in now and I said "Yes she is in now". "Can I see her?" "Yes, you can see her." I let her into the front room and I went down stairs into the kitchen and I told Mrs. Hoffman, my wife, "there is a lady wants to see you". That is all.

Q Did you go into that front room at that time? A No sir.

Q Was this all the conversation that you had with this girl? A Yes sir; that is all the conversation.

Q You heard what this girl testified to on the witness stand yesterday? A Yes sir; as much as I could understand.

Q She testified that on the 19th of February 1911 you went into her room, that evening a foetus with an instrument from her private parts, is that so? A I didn't do anything of that kind.

Q On the 19th of February 1911 was a Sunday, was it? A Yes, sir; I remember that.

Q Were you in your house on that morning, in the forenoon? A No, sir; I was not.

Q When did you leave? A Around nine o'clock.

Q In the morning? A Yes, sir.

Q When did you come back? A About half past twelve when dinner time was.

Q Then from nine o'clock until half past twelve where were you? A Where I was? I was over to see a friend of mine.

Q Give me the name of your friend. A Mr. William A. Pitt.

Q Where was he, what is the address where you went? A 337 East 50th Street.

Q In this City? A Yes, sir.

Q New York City? A Yes, sir.

Q On that day, the 19th of February 1911 did you touch the body of this girl at all? A No, sir, I did not.

Q You have heard the testimony of the girl that on another occasion you lifted her up on your table? A I

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don't know anything about that.

Q Did you do any such thing? A No, sir.

Q Lift her on the table? A No, sir; I did not.

Q And take from her any arter birth? A No, sir.

Q Touch her private parts at all? A No, sir; never.

Q Did you give her any pills? A No, sir.

Q Five little red pills? A No, sir; I don't know what you mean; I don't have any pills in my house.

Q Did you ever give her any? A No, sir.

Q Any pills, any quinine pills? A No, sir; I did not.

Q When she came into your house and went up stairs did you take her up stairs? A Yes, sir; I showed her the room.

Q You showed her a room? A Yes, sir.

Q When you showed her the room did you give her a wrapper?
A No, sir.

Q Did you tell her not to go to bed, to walk around the room? A No, sir, I didn't tell her anything.

Q Simply showed her the room and came down again? A
That is all I did.

Q Did you ever tell this girl you gave her quinine pills for the purpose of keeping the fever down? A No, sir.

Q Did you ever give her brandy? A No, sir.

Q Or apply a hot water bag to her? A No, sir, I did not.

Q Or give her medicine? A No, sir.

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Q Or do anything else to her? A No, sir.

Q Did you ever say to this girl that you would let the smaller cases, meaning the cases in the house go; and that the bigger cases you have to look out for, or words to that effect?

A No, sir; I don't know anything about cases; I don't know what that means.

Q Did you have a conversation with this girl in which you told her that you and your wife were in that business for so many years? A No, sir, I did not.

Q Did you ever scrape this girl's womb or do anything to the inside of her womb? A No, sir.

Q Did you ever give her a glass containing salt or any other substance? A No, sir.

Q Were you present in the Police Court when this girl was examined in this case? A Yes, sir, I was.

Q Did she say anything in the Police Court about pills?
Objected to.

Q Did you hear this girl's testimony in the Police Court, or did you hear all of her testimony that she gave in this action from beginning to end, yes or no? A Yes, sir.

Q Now in that testimony in your presence -- that and testimony examination/was had in the City Magistrate's Court Fourth District in this City? A Yes, sir.

Q On the 6th of April 1911? A Yes, sir.

Q Before City Magistrate R. C. Butts? A Yes, sir.

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Q Now don't answer this question until the Court rules upon it. Did this girl testify in that examination being in this case, in giving her testimony, say anything about pills? A No, sir.

MR. MC GUIRE: I object to that.

THE COURT: Do not answer.

MR. WAGENER: I told him not to answer.

THE COURT: Do not answer when the District Attorney objects. Your attorney has advised you not to answer the question until there is an opportunity for the District Attorney to object.

Q Did she say anything about lifting her on the table and lifting her from the table?

Objected to, objection sustained, exception.

Q Did she say one word about scraping of her womb?

Objected to, objection sustained, exception.

Q Have you ever been arrested before? A No, sir; I never was arrested.

Q Never in your life? A No, sir; never in my life.

Q How long have you been in this Country? A Eighteen years or nineteen years.

CROSS EXAMINATION BY MR. MCGUIRE:

Q When did you marry Elise Hoffman? A (No answer.)

Q (Repeated) Do you hear me? A Yes, sir, on the 3rd of October 1891.

Q Have you been living with her ever since? A Yes, sir.

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Q There were times when you were not living with her, is that not so? A Yes, sir.

Q She was imprisoned in the Penitentiary, wasn't she?

MR. WAGENER: I object to that and I take an exception.

THE COURT: Objection sustained.

MR. WAGENER: Here is a question that was put for the purpose of influencing this Jury, by the District Attorney.

THE COURT: The Jury are instructed to disregard it.

MR. WAGENER: I know, but the damage is done.

THE COURT: Proceed.

MR. MC GUIRE: If Counsel will get through I will get something. I submit when a man says to me in cross examination, that he has lived continuously with his wife, I am entitled to show that he is not telling the truth by proving that for a certain period she was not in a position where he could live with her.

THE COURT: It would be well to proceed by other methods first.

MR. MC GUIRE: I am submitting the matter on the question which my friend is so troubled about.

THE COURT: Now that his memory is refreshed

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you may ask him the question.

BY MR. MCGUIRE:

Q There were times when you did not live with your wife, weren't there? A Yes, sir.

MR. WAGENER: I object to that question.

Q Why did you tell me you had always lived with her?

Objected to, objection overruled, exception.

Q Repeated: Why did you tel me you always had lived with her since you were married? A I did not think of that.

Q You did not think of it? A No, sir.

Q Well now, during what time was it you did not live with your wife?

MR. WAGENER: I object to that as immaterial.

THE COURT: Objection overruled.

MR. WAGENER: Exception.

Q Did you hear me? A Yes, sir.

Q Will you answer me? A I don't understand so very well English. You must excuse me.

Q What don't you understand about that question? A I ain't so sure well enough in English.

Q What is it about the question you don't understand?

A Would you please repeat it again.

Q (Repeated as follows: Now during what time was it you did not live with your wife?) A It was on January 4th 1907 to November 4th the same year.

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Q Well where were you living at that time? A I was living at 337 East 50th Street.

Q Where was your wife living?

MR. WAGENER: I object to that as incompetent, irrelevant and immaterial.

MR. MC GUIRE: I submit that is a proper question.

THE COURT: I will allow it.

MR. WAGENER: I take an exception.

A It was at that time she was in the Penitentiary.

Q The Penitentiary on Blackwell's Island? A Yes, sir.

Q What business were you in in January 1907? A I kept a furnished room house.

Q Your wife lived with you there, didn't she? A No, sir.

Q Where did she live? A Before she was there she lived with me then.

Q You had boarders there too, didn't you? A Yes, sir.

Q What was your wife's business?

MR. WAGENER: I object to that as immaterial.
Objection overruled, Exception.

A She was a midwife.

Q You had no other business than living there in that house did you? A Yes, sir.

Q What was your business? A I done the housework there.

Q You were a house servant? A Yes, sir.

Q You had no other business? A No, sir.

Q Did you nurse the people that were in the house? A No, sir.

Q Did you bring meals to the people that had meals there? A Sometimes I did.

Q Well weren't all the people that had rooms there women? A No, sir.

Q Give me the name of a man who lived in your house in January 1907? A William A. Pitt.

Q Is that the man who is to be a witness here today? A Yes, sir.

Q Did he live there before the 4th of January 1907? A Yes, sir.

Q How long before that had he lived there? A About eight months.

Q Was he the only man in that house besides the women? A There was more men.

Q Who were the others? A There was a Mr. Appleman; who worked in Lambert's the jewelry store.

Q You had no other business than living in that house and keeping furnished rooms, is that all? A I had no other business.

Q When did you leave the Brewery where you had worked? A About a year before that time.

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Q Had you ever had any other business since you stopped working in the Brewery in 1905? A No, sir.

Q Your wife has been a midwife ever since, hasn't she?
A I don't know.

Q You have lived with her right along except this period and you don't know what her business is, is that so? A I know she is a midwife.

Q Hasn't she carried on the business of midwife in the house where you have been keeping furnished rooms? A I don't know that.

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

Q What do you mean by that, tell me. A I don't know what my wife does.

Q You see the women that she takes care of, don't you?
A No, sir.

Q Never saw a woman in that house? A No, sir.

Q Don you understand my question? I ask you whether you have ever seen a woman in that house where your wife carried on the midwife business? A I had rented rooms to women too.

Q Do you want to be understood as saying you never saw a woman in the house where your wife carried on the midwife business?

MR. WAGENER: I object to that.

THE COURT: Objection overruled.

MR. WAGENER: Exception.

There is no proof that she carried on that busi-

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ness in this house.

Q Do you hear me? Please answer. A I had a room rented out to ladies too.

Q Then you did see women in the house where she carried on the business of midwife? A But they wasn't on midwife business there.

Q Whether they were on midwife business or not they had rooms there. You saw them there, didn't you? A Yes, sir.

Q How do you know they were not there on midwife business? A Well, they simply boarded there.

Q How do you know they were not there on midwife business? A I don't know.

Q Why did you say that you knew nothing at all about your wife's business as a midwife, why did you say that just now. Tell me. Give me the reason. A I thought you meant if she had roomers there.

Q Now do you really mean to have that answer go to the Jury, that you thought I meant if you had roomers there? A Yes, sir.

Q Is that your answer? A Yes, sir; that I understood.

Q Now, did you live with your wife continuously from the 4th of November 1907 down to the time of your arrest on this charge? A Yes, sir; I did.

Q Right straight along? A Yes, sir.

Q Are you sure? A Yes, sir.

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Q You have not lived in the East 53rd Street house at all, did you? A I lived there.

Q Did you live there continuously? A Yes, sir.

Q From November 1907 down to your arrest in February 1911?

A I lived there from --

Q Will you answer me. Did you live continuously in this 53rd Street house from November 1907 to the time of your arrest in February 1911? A I can't remember the date exactly.

Q When did you move into the 53rd Street house? A On September 11th last year.

Q Where did you live before that? A 50th Street; 337 East 50th Street .

Q What is your son's name? A Max Hoffman.

Q Did he keep on living at 337 East 50th Street? A Yes, sir.

Q What is Max Hoffman's business? A He is a musician.

Q Doesn't he keep a furnished room house too? A No, sir.

Q Doesn't he look out for the house there in 50th Street?

A Yes, sir; he looks out sometimes for the house.

Q What is the name of the woman that lives in that house in 50th Street? A Mrs. Ingerson.

Q Is she a midwife? A No, sir.

Q Who is Mrs. Schraff? A Mrs. Schraff is the landlady of that house where I am living now.

Q She has not been there in some time, has she? A Well after I took possession of the house then she left the house.

Q Was she a midwife?

MR. WAGENER: I object to that, what she was.

Q What is Mrs. Schraff's first name? A Anna Schraff.

Q How long has she been a midwife? A I don't know.

MR. WAGENER: I object to that as immaterial and irrelevant.

Q Your wife bought out Mrs. Schraff?

MR. WAGENER: I object to that as immaterial and irrelevant.

THE COURT: Objection sustained.

Q Were you at this house when -- or rather when VanTwisterna arrested you at this house in East 53rd Street, who else was there? A There was a woman there.

Q Who else was there. Will you give me the names?

MR. WAGENER: I object to that as immaterial and irrelevant.

MR. MC GUIRE: I supposed that the cross examination went into a man's story --

THE COURT: Objection overruled, exception.

Q Did you hear the question? A Yes, sir.

Q Well, who were there? A There was two girls there.

Q What were their names? A Mosby and Jensen-- not Jensen-- Harris.

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Q Miss Jensen was there too, wasn't she? A Yes, sir; she was there too.

Q What room did she have? A She had a room on the top floor.

Q Where was your room? A My room was on the second floor front.

Q Yours was on the second floor front? A Yes, sir.

Q Where was the Mosby girl? A She was on the second floor rear.

Q Where was the Harris girl? A She was in the second floor rear.

Q Near the Mosby girl? A Yes, sir.

Q They were colored women, weren't they? A Yes, sir.

Q You saw an ambulance take these three women away? A No, sir.

Q What is that? A No, sir.

Q How many ambulances did you see in front of the door?

A I didn't see any ambulance.

Q Didn't you see Miss Jensen go away in the ambulance?

A No, sir.

Q Where were you at that time? A I was taken away by the detective.

Q before were you? A Yes, sir.

Q The three girls were taken, weren't they?

MR. WAGENER: I object to that.

Objection overruled; exception.

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A I don't know if they were sick or not.

Q You don't know? A No, sir.

Q Listen a minute witness. You say you had charged of that house as a furnished room house, did you? A Yes, sir.

Q You did the housework? A Yes, sir.

Q Had you been in the room where Stella Mosby was? A Maybe I was in.

Q Were you in the room. Answer me yes or no. A I can't remember.

Q Who did the chamber work, do you know? A I did not.

Q Who did it? A Nobody.

Q How long was she there? A One was there for twelve hours and another one was there for eighteen hours.

Q The time. A Well they came the day before.

Q Is that the way you measure the time? A Yes, sir.

Q Who bailed them out? A I don't know.

MR. WAGENER: I object to that as immaterial and irrelevant.

Q Who bailed those girls out?

MR. WAGENER: I object to that.

Objection overruled, exception.

A I don't know.

Q Didn't you do it? A No, sir.

Q Didn't you bail the Jensen girl out of the House of Detention? A No, sir.

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Q Who did?

MR. WAGENER: I object to that.

THE COURT: Objection sustained.

Q Was there a Richardson girl in ^{bed} too?

MR. WAGENER: I object to that.

Q I mean a Harris girl in bed?

THE COURT: You want your objection to apply to all questions of that character. It will be noted.

MR. MC GUIRE: I wish Counsel would sit down.

MR. WAGENER: Counsel has a right to stand up when he makes an objection and the District Attorney has no right to tell him to sit down.

Q When had you last seen the Jensen girl before they were taken away by Von Twistern A The Jensen girl? I had seen her the night before.

Q When had you seen the Mosby girl before you were taken away by Von Twistern?

MR. WAGENER: I object to that on the ground that it is immaterial and irrelevant and not part of the People's case.

Objection overruled; exception.

Q Now may I put the question?

THE COURT: That was the colored girl?

MR. MCGUIRE: Yes, sir.

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THE WITNESS: I saw her the same morning.

BY MR. MC GUIRE:

Q Where did you see her? A Walking about, passing the room.

Q What room? A The room where she was sleeping in.

Q You werewalking past the room? A Yes, sir; and the door was open.

Q Did you see the Harris girl in there too? A Yes, sir.

Q Were they dressed or undressed? A They were sitting, they weresitting dressed in a chair.

Q Were they fully dressed for the street? A No; they had a wrapper on them.

Q Wrappers on them? A I don't know what they had on exactly.

Q Hadn't you been bringing them their meals? A No, sir.

Q Who brought them their meals? A Maybe Mrs. Hoffman brought them up, I don't know.

Q Were you in the room there at any time with either the Mosby or the Harris girl? A No, sir.

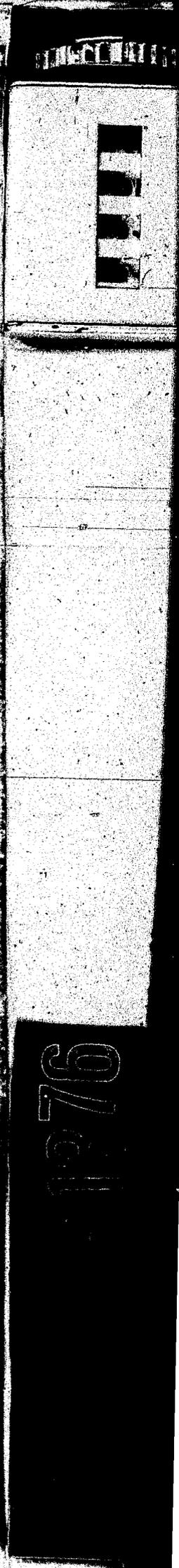
Q Tell me what time did the Harris girl come to the house?

MR. WAGENER: I object to that as immaterial and irrelevant to this issue.

THE COURT: The question is allowed.

Exception.

A I can't remember the date; it was the day before the Mosby



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girl came.

Q What time of the day? A In the evening.

Q What time? A In the evening.

Q When did the Mosby girl come? A She came after.

Q What time? A About, I guess it was around eight o'clock.

Q Who was there eighteen hours? A The Richardson girl.

Q Who was there twelve hours? A The Mosby girl.

Q Was the Harris at the house before the Mosby girl? A I can't exactly remember that.

Q You said so just now. You said one was there twelve and the other eighteen hours.

A The Richardson girl maybe was there.

Q Didn't you just say that? A Yes, sir; I said that.

Q Now, as a matter of fact, Witness, hadn't the Mosby girl been there some days before your arrest. Look at me and answer me now. Was not the girl there some days before her arrest?

A No, sir.

Q When did she come? A She came --

Q Honestly, when did she come? A She came about eight o'clock.

MR. WAGENER: I object to this method of examining the witness.

THE COURT: That question is objectionable.

Q She came when? A She came at eight o'clock.

Q The night before? A Yes, sir.

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Q You did not see her taken away in an ambulance? A
No, sir.

Q What time did the Richardson girl come? A I can't re-
member.

Q Six hours before the other, wasn't it? A It was
longer.

Q It was six hours before the other girl wasn't it?
A I can't remember if it was the night before or if it was in
the morning; I really can't remember.

Q Why did you say it was the night? A Because you
mixed me up so.

Q You are making your statement, Witness, not I. Now,
as a matter of fact had not the Richardson girl been in the house
for some days? A Not longer than twenty four hours.

Q She wasn't there you think but twenty four hours? A
Yes, sir.

Q That is your best opinion? A Yes, sir.

Q Did you see her taken away in the ambulance? A No,
sir.

Q Do you know a girl named Anna Crane? A Yes, sir; I
do.

Q How long had she been in the house?

MR. WAGENER: I object to that as immaterial.

Objection overruled; exception.

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Q How long had she been in the house? A She was in the house a week.

Q When did she go away? A I can't remember the date.

Q About how long before you were arrested? A About two weeks before.

Q Had you been in the room where she was? A No, sir.

Q Never in your life? A I maybe was in, just brought up some meals.

Q Did you serve her her meals? A Sometimes.

Q Was she sick in bed? A I did not see her in bed.

Q What is that? A I did not see her in bed.

Q Why did you bring her her meals? A Well she asked me if she could have board --

Q Did you serve board in the rooms? A Yes, sir.

Q Always? A Yes, sir.

Q Where was your dining room? A Down stairs in the basement.

Q In your front basement? A Yes.

Q You were serving meals to the girls in this furnished room house up in the rooms? A A very small dining room.

Q They did not come down to the dining room at all, did they?

A No, sir.

Q And the girls got their meals brought in the rooms, didn't they? A Yes, sir.

Q And you served them? A Not always.

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Q But usually, didn't you? A Yes, sir, usually.

Q What is the name of your servant girl that was in that house? A Anna Wirt.

Q Is she a witness in the case? A No, sir.

Q Were you present when Anna Wirt told Miss Jensen to stay -- to tell you when the police were there -- to say she was a roomer in the house? A No, sir, I was not.

Q Did you tell Anna Wirt to go up stairs and tell the girls that they were to say they were roomers if anybody asked them any questions? A No, sir, I did not.

Q When were you admitted to practice medicine? A I never practiced medicine.

Q You never studied medicine, did you? A No, sir.

Q Were you ever a nurse? A No, sir.

Q How long have you been keeping a furnished room house in which your wife carried on the business of a midwife? A I don't know anything about Mrs. Hoffman's carrying on the business.

Q Do you honestly say that? A Yes, sir.

Q You don't know anything about her carrying on the business? A No, sir.

Q Don't you know that she was sent to the Island for carrying on the business of a midwife improperly? A I don't know that.

MR. WAGENER: I object to that.

THE COURT: Objection overruled; exception.

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MR. WAGENER: I object to that on the ground that question is only put by the District Attorney for the purpose of influencing this Jury.

Objection overruled; exception.

Q But don't you know about it? A That she was convicted on midwife?

Q You know she went to the island, don't you? A I know that.

Q What is your recollection of why she went to the island?

MR. WAGENER: I object to that.

THE COURT: Objection overruled; exception.

MR. WAGENER: The Judgment is the best evidence.

THE WITNESS: As much as I know she was convicted of keeping a house of nuisance.

Q Wasn't it a nuisance because -- by reason of the people who went there to have abortions performed? A I don't know.

Q You don't know? A No, sir.

Q You lived in the house with her? A I did live there but I was working all day at that time.

Q You were working in the house weren't you? A No, sir; not at that time.

Q Not at that time? A No, sir.

Q Didn't you just testify you left your business as a worker in a brewery in 1905? A No, sir; 1906.

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Q Well your wife didn't go away until January 1907, did she? A Yes, sir.

Q Then you were working there before she went away? A I was before she was convicted; I was working in the brewery.

Q Do you remember the testimony that you gave in the beginning of the cross examination? A (No answer).

Q Do you remember it, yes or no? A Yes, sir.

Q You do? A Yes, sir.

Q Do you remember saying anything about the time when you stopped working in the brewery? A I stopped work in the brewery?

Q Don't you remember giving evidence about it this morning? A Yes, sir, I remember.

Q Now, what year was it that you said you stopped working in the brewery. Do you remember or don't you remember? A I remember.

Q Well what did you say? A I don't remember exactly the time I was giving.

THE COURT: That is not what he is asking you.

He is asking you what you said about it this morning.

THE WITNESS: I said --

BY MR. MC GUIRE:

Q Well tell us what. A Well I stopped working in the brewery after I --

Q What did you tell about it this morning is the question?

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A I kept a furnished room house.

Q Is that an answer to my question, that you kept a furnished room house? A At that time when she was convicted,

Q Didn't she carry on the business in your house? A I don't know.

Q Didn't she have her sign up as a midwife on your house?

A No, sir.

Q Didn't she advertise from your house? A I don't know.

Q You don't know? A No, sir.

Q She was your wife, is that so? A She was my wife.

Q You knew she was a midwife, didn't you? A Yes, sir.

Q You knew she did business as a midwife, didn't you? A I don't know that.

Q You don't know? A No, sir.

BY MR. WAGENER:

Q Did you understand the questions put to you by the District Attorney, the last three or four questions? A No, sir, I did not.

Q When did you stop working in the brewery? A I stopped working in -- my papers will show.

Q What papers? A My books will show it there.

MR. MC GUIRE: I move to strike out the answer.

The question was when did he say he stopped working.

I think possibly if we turn back to the stenographer's minutes we will find out.

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Q What time did you leave the brewery, stop working in the brewery? A On June 1, 1906.

Q 1906? A Yes, sir.

MR. WAGNER: That is all.

W I L L I A M A . P I T T., a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WAGNER:

Q Where do you live? A 337 East 50th Street.

Q Mr. Pitt, what is your full name? A William A. Pitt.

Q Where do you live? A 337 East 50th Street.

Q How old are you? A Well I am over twenty one years of age.

Q Answer the question. A Well I am fifty years of age.

Q Do you know Jacob Hoffman, the defendant? A I do, sir.

Q How long have you known him? A Between four and five years, sir.

Q Have you been a tenant of his? A I have, sir.

Q How long? A Since March 1907, I think it was, sir, I went there first.

Q In what house? A 337 East 50th Street.

Q With this defendant? A Yes, sir, with this defendant.

Q Do you know the general reputation of Jacob Hoffman in the neighborhood where he lived?

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MR. MC GUIRE: I object to that.

THE COURT: Objection sustained; exception.

Q Do you know any person -- or do you know where Jacob Hoffman lives? A I believe he lives in 53rd Street, now, sir.

Q In your neighborhood? A Yes, sir; in my neighborhood.

Q Have you heard persons speak of him in that neighborhood? A Why limitedly.

Q Limitedly? A Yes, sir.

Q About how many persons have you heard speak of him?

Objected to, objection sustained.

THE COURT: We must have an answer to show that this man is acquainted with people who know the defendant. The answer "limitedly" may be one or maybe a thousand, I don't know.

BY MR. WAGENER:

Q Are you acquainted with people who know Jacob Hoffman?

A Well I presume I am.

Q Tell us whether you are or not. A In a measure, yes, sir.

MR. MC GUIRE: I object to that.

THE COURT: That answer is stricken out.

Q You said "in a measure" do you know or do you not know people who know Hoffman? A Yes, sir; I have seen

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people and I know people that know Mr. Hoffman.

Q How many people do you know that know Hoffman?

MR. MC GUIRE: I object to that as immaterial.

THE COURT: I do not want to hold Counsel to the strict rule because the rule in communities of this character is different from the rule in sparsely settled places, small places. But there is a rule and it is applicable here and I shall ask Counsel to follow that rule.

Q Do you know where this man lives? A Yes, sir.

Q The defendant? A Yes, sir.

Q Do you know other people in that neighborhood who know him? A Yes, sir.

Q Do you know his reputation in that neighborhood?

MR. MC GUIRE: I object to that. Reputation for what?

THE COURT: Exactly.

MR. WAGENER: General reputation.

THE COURT: Come to something that refers to the case involved in this case. A man may tell the truth, a man may not steal, a man may not do a great many things and still the traits involved here would not be concerned. I suppose the traits here would be a moral, law abiding citizen.

MR. WAGENER: If he knows his reputation in regard to that.

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Q Do you know what the defendant's reputation in your vicinity is as to leading a clean and moral life? A Well, yes, sir, I have had conversations with people who generally held it to be pretty good.

Q Your answer must be yes or no? A Yes, sir.

Q What is that reputation? A Good.

Q Well, do you remember the 19th of February 1911? A I do, sir.

Q Was that a Sunday? A Yes, sir.

Q Did you see the defendant that day? A I did, sir.

Q Where? A 337 East 50th Street.

Q That is the place you live at? A Yes, sir.

Q When did he come up on that day? A About half past nine, sir.

Q In the morning? A Yes, sir.

Q How long did he remain with you? A He remained until about the time he went home to dinner.

Q About what time? A It was about the neighborhood of twelve o'clock.

Q Noon? A Yes, sir; about noon.

CROSS EXAMINATION BY MR. MC GUIRE:

Q Do you know this man's family as well as himself? A Well I know his son, and I know his wife, yes, sir.

Q Do you know what his wife's business is? A I believe she was a midwife.

Q Did you know that she was convicted of crime and sentenced to serve a term in the Penitentiary?

MR. WAGENER: I object to that.

THE COURT: Objection sustained.

Q Did you know that this man was the husband of a woman who had carried on the midwife business in a house where he kept furnished rooms?

Objected to; objection overruled; exception.

A Yes, sir.

Q You did? A Yes, sir.

Q Did you know that? A I knew he was her husband, yes, sir.

Q I asked you whether you knew this man kept a furnished room house where his wife carried on the business of a midwife?

A At 337 East 50th Street?

Q At 337 or anywhere? A Yes, sir.

Q Why didn't you say so? A I am saying so now.

Q Did you know that while they kept that house where she carried on the business of a midwife, she was convicted of conducting a public nuisance at that place and was sent to the Island to serve a term of imprisonment?

Objected to; objection overruled; exception.

A No, sir.

Q You don't know that? A No, sir; I was not there.

Q Don't you know it? A I heard so afterwards; yes, sir.

Q Yet you come here and say that the man is a man of good moral character?

MR. WAGENER: I object to the question. An examination carried on in this style is intimidating the witness.

Q Knowing that fact do you come here and say that this man is a man of good moral character? A I have known that man to be of good character ever since I have known him.

Q Notwithstanding those facts, the knowledge that he kept a furnished room house in which his wife carried on the business of a midwife where she was convicted for keeping a public nuisance --

MR. WAGENER: I object to that question.

Objection overruled; exception.

MR. WAGENER: It is done for the purpose of biassing the Jury.

Exception.

THE WITNESS: I was not aware that she was keeping a house for a midwife or for any purpose or anything of the kind; I know she was a midwife and lived there.

Q Did you think that that was what I asked you? A
(No answer.)

THE COURT: Why don't you want to answer?

THE WITNESS: I am trying to answer.

BY MR. MC GUIRE:

Q Did you know what crime Mrs. Hoffman was convicted of when she went to the Island?

A Yes, sir.

Q What was it? A Keeping a place of nuisance, I believe.

Q Where did she keep the nuisance? A She was in 337 East 50th Street.

Q Where you lived?

A Where I live now.

Q Did she live there before this time? A At the time she was convicted, no, sir, I did not.

Q You went to live there afterwards? A Yes, sir.

Q The question is did this man live there at that time? A Yes, sir; I know that perfectly well.

Q You knew he lived there with his wife?

A Not before.

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Q Did you know he lived there with his wife? A After-
wards, yes sir, he came---

Q Yet you come here and say that he is a man of
good moral character? A As far as I am concerned he is
or know anything about him. I always found him a man of good
reputation.

Q Do you suppose that was the question that was asked
of you "as far as you were concerned", did you think that
was what you came here to testify to? A I cannot testify to
anything else.

Q Don't you understand that you swore that you knew
this man's reputation in the community in which you lived? A
I did not say that entirely? A No sir.

Q You limited it? A Yes sir.

Q Very carefully limited it? A Yes sir. I couldn't
do otherwise.

M A X C O H A N a witness called on behalf of the defend-
ant being duly sworn, testified as follows:

Q Your address? A 1712 Bathgate Avenue, Bronx; business
885 First Avenue.

Q Mr. Cohan, do you know Jacob Hoffman, the defendant?
A Yes sir.

Q How long have you know him? A About five years;

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since in the neighborhood.

Q Do you know where he lives? A In 53rd Street now, but he lived in 50th Street before.

Q Do you know other people that know him? A Yes sir; I do.

Q In the neighborhood where he lives? A Yes sir.

Q Do you know what his reputation is as to morals and clean living? A Yes sir.

Q In the community where he lives? A Yes sir, I can say that--

Q What is it, good or bad? A Always good; always has been good.

CROSS EXAMINATION BY MR. MCGUIRE:

Q Do you know Mrs. Hoffman? A Mrs. Hoffman, not much, no sir.

Q Do you know her? A No sir.

Q Never saw her? A I have seen her but I never had any conversation with her.

Q Do you know what her business is? A Well, I heard something that she is a ~~xxxx~~ "hedamme" a midwife.

Q Does she carry on business in the house where Hoffman lived? A This I could not tell you.

Q But you knew Hoffman you say? A Yes sir; but I don't know whether she carries on business or not.

Q I didn't ask you that? A I understand.

Q You don't know where his wife carried on the midwife business? A No sir.

Q You lived in the house he lived in? A Yes sir.

Q Did you know that he kept a furnished room house? A A boarding house, yes sir.

Q (Question repeated) A I know there were boarders in there.

Q In how near the neighborhood do you live, to his house? A Well, about just around the corner between 49th and 50th Street.

Q How often did you meet Hoffman? A Used to meet him just as I passed by.

Q What is your business? A I am a plumber.

Q A plumber? A Yes sir.

Q Are you an associate of Mr. Hoffman? A Just simply met him when he would call on me and wished me to do some work for him and I did it.

Q That is all you know of him? A Yes sir; simply before I started to do the work, found out if the man is good for the money; I heard people say he is all right, a good man.

Q That is all you know of him? A Yes sir.

Q You have never spoken to his wife? A I couldn't recollect.

Q As far as your recollection goes you have never spoken to his wife, have you? A No sir, I don't think so.

Q Do you know his family? A No sir; I don't know particularly the family.

Q What do you know by particularly? A Well, I know Mr. Hoffman is the one, he is the gentleman I mostly met; I made any sociable visits to the people.

Q Why did you come here and swear that you knew his reputation in the community? A Of course I knew Mr. Hoffman and that is the reason I swore that I know him as an honest and honorable man.

Q Did you know what the question meant when you were asked what his reputation in the community was for good moral character? A Yes sir.

Q Do you know what that meant? A Yes sir.

Q What was it. Tell us what you understood? A I understand the word character, if a man is a good man.

Q What did you understand reputation for good moral character in the community to mean? A That the man is an honest man; that is what I understood.

Q Does it mean that you were asked to tell what your judgment of him was? A It is not my own judgment personally but the judgment which I have just from the talk of other people.

Q But you say you don't know anybody but Hoffman?

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didn't ask the family; I asked other people outside.

Q Who else outside of the family did you ask about him? A Well, Mr. Geis, the owner of the house.

Q Where he lives? A Yes sir.

Q His landlord? A Yes sir; he told me he is an honest man.

Q How long have you lived with that landlord? A Well he has this landlord five years;

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Q Was ^{he} the landlord when Hoffman went to the Island? anything

A I don't know ^{about} Mrs. Hoffman going to the Island.

Q You don't? A No sir.

Q How long have you known this man? A I have known this man for five years.

Q Do you know his landlord? A Yes sir.

Q And you never heard of Mrs. Hoffman having gone to the Island? A No sir.

Q Will you wait until you hear the question. Has that come into your mind? A No sir; it has not come into my mind. I simply state what I know.

Q Will you wait until I ask you a question, and then you can properly answer it? A Yes. Go ahead.

Q You know that Hoffman lived in this house at the time that his wife went away? Don't you? A I don't know anything about when his wife went away.

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Q You knew Geis who owned the house for the last five years? A Yes sir, I know that.

Q You knew Hoffman lived in this house more than five years, did you? A I can't recollect about five years.

Q Yet you don't know that his wife went away? A No sir.

Q Never heard of it? A No sir.

Q And you are talking about his character in the neighborhood and you never heard of it? A All what I know is

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Q In talking about his character in the neighborhood

A There is no use getting excited.

Q Will you wait a minute. Don't talk while I am trying to ask you a question? A What I know I answer. What I know---I don't know about his family affairs; I am not going to find out that.

Q What did you come here and testify to his reputation?

A About this man's character.

Q Why did you do it? A His personal character, I don't know his family affairs.

Q You don't know? A How did I come to know his family affairs.

Q You don't know that his wife was sentenced for keeping a public nuisance at the house where he lived, where you knew him to live, which was owned by a man whom you say told you

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he was a good man? A According to my own ideas, I don't believe a house like this in this neighborhood should be a disreputable house; it is too fine a neighborhood, to respect people living over there, just in that neighborhood.

Q That is the reason why you think this man is a good man because he lives in a respectable neighborhood? A I done work for him and he treated me good.

Q You never saw Mrs. Hoffman in the house? A I can't say yes or no on account of---

BY THE COURT:

Q You did plumbing in the house? A Yes sir.

Q You have been up and down through the rooms in the house? A Yes sir.

BY MR. MCGUIRE:

Q How recently have you been up and down through the house? A Well, let me see, I should say sometimes, perhaps three or four months; I have been there not long ago, twice in succession.

Q Do you understand the English language? A Yes sir.

Q What does recently mean? A Not long ago.

Q Was it March or February? A I was in March there, I was in March there twice.

Q There in March? A Yes sir.

Q Were you there in February? A Well, I could not recollect myself on account of---

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Q You don't remember? A Let me explain.

Q I don't want your explanations. Stop.

Q Were you there in February? A Then I have nothing to say if I have to stop.

Q Were you there in January? A I probably have been there or my men have been there.

Q You told the Judge you had been there? A I go there sometimes when it requires my own personal attention. To see what was done.

Q Were you there in January? A I can't recollect.

Q February? A I can't recollect.

Q March? A Yes sir., I was there.

Q What time in March? A Well, I couldn't say the date, I could tell you the date by looking up the books.

Q You can't tell me now? A No sir.

Q Was the house empty? A No sir; I think there were people in there.

Q Did you see them in the rooms? A Yes, sir, I saw them in the rooms.

Q How many rooms were there in the house? A I have been all through the building---

Q How many rooms are there in the house, will you listen to my questions? A I never counted them.

Q (Question repeated) A I did not count them.

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Q Do you know? A I have been through the rooms.

Q Do you know how many rooms there are in the house?

A No sir.

Q How many rooms used as bedrooms? A I couldn't say.

Q How many rooms have operating tables in them? A I haven't seen any, I don't know.

Q Have you seen the little room between the front and the back parlor? A Yes sir; I passed by.

BY THE COURT:

Q Do any work in that little room. You are under oath?

A No sir; I did not.

Q Did you see any operating table in it? A No sir.

Q What was in it? A Just a parlor and back parlor, that is all, I passed by.

Q You said just now there was a room in between the front and back parlor? A Parlor and back parlor.

Q Is there anything between? A No sir; I did not notice that.

Q Did you see people in bed there? A No sir; I did not.

BY MR. McGUIRE:

Q You knew this man lived in that house? A Yes sir, Mr. Hoffman.

Q Yes, did you speak to Mrs. Hoffman? A No sir; I

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did not; not to my recollection.

Q Was she in the house then? A No sir, she was not in the house.

Q Where was she? A I don't know; I did not inquire about her.

T E S T I M O N Y C L O S E D.

MR. WAGENER: I renew the motions made at the time when the people rested. I do not need to repeat them now to the Court. I make the same motions, your Honor, and I suppose there will be the same ruling.

THE COURT: Yes.

MR. WAGENER: And I take an exception.

(Mr. Wagener closes the case on behalf of the defendant)

Mr. McGuire closes the case on behalf of the People)

During the closing address of Mr. McGuire the Assistant District Attorney, Mr. Wagener stated "I object to that statement of the District Attorney. There is no such evidence that thousands of lives were sacrificed in that house.

MR. MCGUIRE: I am discussing the inferences that the jury may draw.

PEOPLE AGAINST JACOB HOFFMAN.

THE COURT'S CHARGE
O'SULLIVAN, J.

Gentlemen of the jury, the defendant at the bar is charged with the crime of abortion.

The indictment alleges, in substance, that Jacob Hoffman and Elise Hoffman, both of the County of New York, Borough of Manhattan, on the 18th day of February, in the year 1911, did with intent to produce and procure the miscarriage of a woman, - the complaining witness in this case, named Thora E. Jensen, feloniously use or caused to be used some instrument unknown to the Grand Jury for the purpose, as it is said, of producing a miscarriage upon the complaining witness in this case. It is further charged that there was then no necessity for such an operation to save the life of the woman pregnant, or necessary to save the life of the embryo child which she was said to be bearing at that time.

Those are the allegations of the indictment in the first count.

The second count alleges the same intent on the part of the defendant here and Elise Hoffman to produce and procure the miscarriage of this woman who, it is said, was then pregnant, and that they did feloniously by some

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means unknown to the Grand Jury, produce and procure the miscarriage of this woman, the complaining witness in the case, when at the time, there was no necessity for such an operation to save the life of the woman or to save the life of the embryo child which it is alleged she was bearing at that time.

In the first place it must be said to you that the two persons charged in this indictment, as Elise Hoffman is charged and as Jacob Hoffman is charged, may be guilty as principals of the same crime. The indictment does not distinguish between them by any allegation at all. It says they did it. If you find that to be true from the evidence in this case you would find this defendant guilty. You have not tried the case of the other person named herein for the reason that it is the privilege of defendants named together in an indictment like this to have separate trials; that is their privilege and they have had separate trials.

There are in law certain terms, like that of accomplice, but it is not for the court to say that a certain person has been proved an accomplice of another, that is for you to determine from the evidence. Whether one acted in concert with another accused with him. Whether they had the same design in doing the same thing. Whether there was a common enterprise to be worked out. Was there an enterprise between Jacob Hoffman and Elise Hoffman

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procure and produce the miscarriage of Miss Jensen? If so then they are accomplices, and one is equally guilty with the other. Was there a design on the part of this defendant, and also a like design on the part of somebody else to produce and procure the miscarriage upon the person of this complaining witness, and did they according to that design act in concert to produce that result. If they did, without any regard to the other person, you will find this person guilty and that would be your duty under your oaths. Now, again, as to accomplices---a woman who submits herself to that illegal sort of operation, namely abortion, is herself guilty of a crime; but she is not an accomplice of the one that performed that operation upon her with her own consent. She is guilty of another and a separate crime, which the one who performed it is guilty of abortion; therefore the rule that compels the court to direct the jury that unless you can find her story corroborated by other evidence does not apply; nevertheless the court is going to say to you that because a person takes the stand and admits having committed a crime, that that admission may be considered in measuring the amount of credence that you will give to that person's story. It is well and it is just, and, therefore I sat it is desirable that you should look through all the

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testimony to see whether the story told by this complaining witness is corroborated by other evidence in the case. If you find it to be corroborated, and if you find that all the circumstances satisfy your mind beyond reasonable doubt of the guilt of this defendant, you have only one duty to perform, and that is to call him guilty of abortion.

In every criminal action the defendant is presumed to be innocent. He comes to trial with that presumption in his favor and through the trial it is favorable to him, and it must remain with him to the very end and until guilt is proved; and unless guilt be proved beyond a reasonable doubt he is entitled to an acquittal. We have talked about reasonable doubt, gentlemen, and there may not be much necessity for my repeating the advice already given to you in other cases; but I will say this that a reasonable doubt is a doubt which remains in the mind of a reasonable man after he has heard all the testimony and measured it and weighed testimony against testimony. Would you have, with testimony of this character before you concerning any other matter in which you were interested, testimony of such a probative character, if it be of probative character, would you have, after considering such testimony concerning any important matter in which you were interested, any

reasonable-doubt about the conclusion at which you would arrive. For instance it is said to you that a certain man is engaged in a certain calling. How would you determine that? You would determine that by evidence showing what that man did, where he was, the place of his occupation. Now we come to the place at which it is said that this man operated and I say to you, gentlemen, that it is laid down in our cases that an indictment which charges a defendant with doing an act constituting a crime is sufficient, although the proof shows that he was absent at the time the crime was committed, if he counselled, induced or procured its commission. That is one of the standards in our State, *The People against Bliven*, 112 N. Y. It simply means that if one counsels and advises and helps, even though he was absent when the principal act occurred, and if that were proved against him, he would be guilty of the principal act and is a criminal himself.

It is a rule of law that character evidence may engender a reasonable doubt when nothing else might do it in the case. It is for you gentlemen to determine what is the weight of all the evidence, character evidence and the evidence of any other facts, because character evidence is like the evidence of any other fact. If you

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are satisfied from such evidence that a man was of such a character as to make it doubtful that he would do such a thing, why then there is a reasonable doubt to the benefit of which he is entitled. Now talking about character evidence--there was something said about the imprisonment in the penitentiary of the person named here as the accomplice. That was brought out by the prosecution for the purpose of reducing the weight of character evidence. Even though the person named in this indictment, with this defendant is guilty of dozens of other crimes it is no proof of the guilt of this defendant of the charge stated against him in this indictment here. You want to understand that, gentlemen. It may go with all the other facts to the matter concerning his character. When you are considering the statement that the accomplice, the alleged accomplice named here was imprisoned before, that fact is no proof of this charge against the present defendant.

You were should certain conditions about this house, the alleged place of the alleged criminal operation. You were allowed to hear evidence concerning things about this house, but only such evidence as tended to connect the transaction with this charge, that is to say, the room in which these women slept, and that this defendant

brought food to those rooms. The character of the place and its layout and so forth were brought to your attention. Now if you have gleaned from any such testimony the idea that previous operations of the criminal character alleged had taken place there, you should remember that this man on trial for no other charge than the one named in the indictment. While you have the right and it is your duty to consider all the circumstances---the circumstance of place, what kind of a place it was, does that lead you, by any rule of judgment or reason, to find out anything as to the particular kind of place? The circumstances of the time when and manner of doing things in the place---are all matters for your consideration. That is why the circumstances of time, place, manner of action and conduct were brought up for you to determine whether all the circumstances in the case point to guilt or otherwise.

It is not for the court to say anything to you about the enormity of the charge or the heinous character of the crime.

Abortion is committed, as the law declares, when a person, with intent to procure the miscarriage of a woman unless the same is necessary to preserve the life of the woman or of the child with which she is pregnant

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prescribes supplies or administers to the woman or advises or causes the woman to take any medicine, drug or substance, or uses or causes to be used any instrument or other means.

Can you say, gentlemen, on the testimony here, whether the unknown means of which the indictment speaks is now known to you, and whether the unknown instrument referred to in the indictment is now known to you, or whether such an instrument was used upon this complainant for the purpose of procuring a miscarriage. Now about the necessity of saving the life of the mother or saving the life of the child--the prosecution is not bound to give you any direct evidence of any such necessity or absence of such necessity. You can judge of that, gentlemen, from all the facts in the case. The woman herself testifies that she was a hard working woman, that she was a nervous person at the time. She tells you she had had intercourse with a married man and then desirous of concealing the place where she lived she would not tell, and the court allowed her to go without telling, where she lived. You can judge from all the circumstances the facts in this case whether it was for the preservation of her life that there was such an operation performed, if there was such an operation. And whether

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it was for the preservation of the life of the embryo child if there was such an operation performed. Or whether it was for the preservation of her own reputation. You can judge of all that without any direct evidence. You may take that from all the circumstances in the case and judge whether or not there was any such necessity. And then having determined that, gentlemen, your duty is as plainly before you as the Court can possibly make it. It ought not to be befogged by any ideas that you may have of this girl's questionable conduct with any man. She committed a crime if she submitted to such an operation, but whether or not this man committed a crime is the thing which you are to determine. If you find from the evidence beyond a reasonable doubt that he did as the indictment charges you will find him guilty of abortion; if you have any reasonable doubt of his guilt he is entitled to acquittal.

MR. WAGNER: I ask your Honor to charge the Jury on the presumption of the innocence of this defendant; that the defendant comes into court with the legal presumption of the innocence of this crime.

THE COURT: I think I charged almost in those words.

MR. WAGNER: I beg your Honor's pardon I did

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not hear you. I ask your Honor to charge one more thing, that the crime that this complaining witness was guilty of was a felony under the Penal Law of this State in submitting to the operation.

THE COURT: I so charge.

(The Jury retired and after deliberating for ten minutes returned a verdict of guilty of abortion.)

THE COURT: You may make your motions to-day or reserve them until the day of sentence.

MR. WAGNER: I think I will wait until the day of sentence and make my motions.

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