

START

1527

CASE

7

INDEX.

	D.	C.	R-D.	R-C.
Jennie Johnston	2	31	54	58
Arthur Camnitzer, M.D.	62	64		
Louis Bossak	66	71		
Annie Randell	73	75		
James M. Cummings	75			
Alfra Pister	81	82		
George M. Bilaffer	84	92		
Stanley F. Gorman	94			
William S. Donnelly	100	101		

1527
CASE

-: I N D E X :-

	Direct.	Cross.	Re-D.	Re-G.
Nettie McGuire,	102	104		
James M. Cummings, Rold.	105			
Jacob Siegelman,	106			
Michael F. Clifford,	113	114		
Harry A. Dieter,	117	119		
John F. Sheehan,	122	122		
The Court's Charge,	128			

CASE # 1527

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

-----X
THE PEOPLE

against

REBECCA MERCURY, indicted with
THEODORE H. LEHNHOFF.
-----X

Indictment filed March 15, 1912.

Indicted for Violation of Section 2,460 Penal Law.

A P P E A R A N C E S:

For the People, ASSISTANT DISTRICT ATTORNEY WELLER

For the Defendant, EDWARD CARPPEL, ESQ.

Tried before HON. THOMAS C. T. GRAIN, Judge, and
a Jury, on the 11th day of April, 1912.

(A jury was only impaneled and sworn).

Thomas W. Osborne,
Official Stenographer.

CASE 1527

JENNIE JOHNSTON, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 161 Manhattan Avenue).

DIRECT EXAMINATION BY MR. WELLER:

Q How old are you? A Nineteen.

Q And when were you nineteen? A April 21st last.

Q You will be twenty on the next 21st day of April? A Yes.

Q Are you married? A No.

Q prior to February, 1912, with whom did you live?

A With my mother.

Q Whereabouts? A Bergenfield, New Jersey.

Q Where did you work in the month of January of this year?

A 19th street and 5th avenue.

Q What is the name of the firm? A John F. Patching & Company.

Q How long did you work for them? A About three and a half years.

Q What did you do for them? A Made lace curtains.

Q And what did you earn a week there? A \$8. a week.

Q Any over-time? A Yes.

Q Do you know the defendant, Mercury? A Yes.

Q Is she any relation of yours? A My aunt.

Q And did you see her on or about the 25th of January of this year? A Yes.

CASE # 1527

Q Whereabouts? A She came down to my place and got me.

Q Place of work? A Yes.

Q Did you get a day off? A Half a day off.

Q Where did you go with her? A Went up to another lady's house in 42nd street, and then we went home to her home.

Q Where did she live? A 113 West 106th street.

Q Was anything said that day about your going to live with her? A She asked me to come and live with her.

Q Will you state the conversation that was had on the 25th of January, with reference to your living with her? A She told me if I would come and live with her, that she would -- that I would make more money by staying with these men.

Q What do you mean by staying with these men? A Having sexual intercourse.

MR. CARPIL: I object to that.

THE COURT: If it is objected to, I will strike it out.

BY MR. WELLS:

Q What was said about staying with these men?

BY THE COURT:

Q You tell us as nearly as you can, the words that this defendant used to you in the talk on January 25th; where did the talk begin? A In her home.

Q Who spoke first? A She did.

Q What did she say? A She asked me to come and live with her and if I would come and live with her, that I would make more

CASE # 1527

money by staying with these men.

BY MR. WELLER:

Q Give the conversation in detail, right from the beginning; what did she say when she got up there? A She told me if I would come and live with her, that I would make more money by staying with these men and that it would be easier made money and it would be an easy life in it, and she said I would live like a lady and she would buy me lots of clothes and jewelry.

Q What did she want you to do?

Objected to. Sustained.

BY THE COURT:

Q Have you told us everything that you can recollect, that she said to you on January 25th, in her home; do you remember anything else she said to you on that day? A All I can remember is she told me she would buy me lots of clothes and jewelry and that if anything happened to me or anything at all, she would stick by me and do anything for me.

BY MR. WELLER:

Q Was anything said about your mother that day?

Objected to as leading. Objection sustained.

BY THE COURT:

Q Now, have you told us everything that you remember that she said to you on January 25th? A Yes.

BY MR. WELLER:

Q Was anything said about your mother that day? A No, sir, not that day.

CASE 1527

Q When did you next see her that day? A February 2nd.

Q February 2nd -- on January 25th did you agree to come and live with her? A No, sir.

Q February 2nd, where was it that you saw her? A In her home, 106th street.

Q What had occurred at your place of business at that time?

A They were moving at that time.

Q You had a couple of days off? A Yes.

Q Was Lehnhoff there that day, on the 2nd? A Yes, sir.

THE COURT: You need not mind about Lehnhoff now.

BY MR. WELLER:

Q What did Mercury say to you that day at the house in reference to coming and living with her? A She said that day the same thing, only she said if I come and live with her, that she would write a telegram to my mother.

Q For what purpose was the telegram?

Objected to.

Q What would she say in the telegram?

MR. CARPTEL : I object. The telegram is the best evidence.

MR. WELLER: I will produce the telegram.

MR. CARPTEL: No.

THE COURT: They are entitled to the entire conversation.

BY MR. WELLER:

Q What --

CASE # 1527

A She said she would send the telegram so that my mother would think I was married, and would not find out.

Q How long were you there that afternoon, on the 2nd?

A For the whole day.

Q Did you agree to come and live with her then? A Yes.

Q On the 2nd? A Yes.

Q That would be on Friday? A Saturday.

Q Did you agree on Saturday to come and live with her?

A Yes.

Q Did you stay there all day Saturday? A Yes.

Q And Monday did you stay there? A Yes.

Q And Tuesday? A Yes.

Q What was said on the 6th, what was the conversation on the 6th of February? A Do you mean the whole thing?

Q The whole thing, yes. A Well, she said the same thing over again, she would buy me fine clothes if I would come and live with her and the jewelry, and if anything happened to me at all, she would stay by me and always be with me to help me in any way.

Q Was that a constant topic of conversation while you were there these three or four days? A Yes.

Q What was said, if anything, about moving to another house?

A She said she would move, if I would come and live with her, to another apartment, so that my mother would not find me.

Q What did you say to that? A I said all right, I would

CASE # 1527

live with her.

Q What was said with reference to any money being paid, what was to be done with it? A She was to get half and I was to get half.

Q What was said about it, give me the conversation, how was the money to be obtained?

Objected to. Sustained.

Q Give me the conversation, Jemie, with reference to the money end of this, what she said about money, and what you said?

A These men that came there was to give us the money.

Q For what? A For staying with them.

Q What do you mean by staying with them? A Having sexual intercourse with them.

Q What amount did she specify, if any? A She said some of them gave one dollar and some two dollars, and some of them five dollars.

Q Was this an apartment in which she lived at that time? A Yes, sir.

Q What did she say would be done with the money? A She would have half and I would get half.

Q Now, was anybody else present that day, on the 6th, when you were talking this over? A I don't remember if there was anybody present.

Q Towards the end of the conversation, was there anybody present? A Yes, sir.

CASE # 1527

Q Who? A Robert Maynes.

Q What did the defendant say to Robert Maynes? A She asked him to write this telegram to my mother.

Q What telegram? A Telegram saying that I was married.

Q What did she say to write to your mother, what were the contents he was to write? A To tell them that he and I were married.

Q And where did your mother live at that time? A Bergenfield, New Jersey.

Q What is your mother's name? A Gassner.

Q Where does she live? A Bergenfield, New Jersey.

Q The name of the house? A The Grange House.

Q Your mother has married since you were born? A Yes.

Q What name did this man sign? A Robert Eric.

Q or Eric Roberts? A Eric Roberts.

MR. WELLER: I ask that this telegram be marked for identification.

(Paper is marked for Identification, People's Exhibit 1).

BY MR. WELLER:

Q After he wrote out the statement with reference to your being married and going up the State, what did he do with the statement?

BY THE COURT:

Q What did he do with the piece of paper upon which he wrote

CASE # 1527

something? A He put it in his pocket for a little while, and then he went out.

BY MR. WELLER:

Q What time of the day or evening was this that he went out? A I guess it was a little after eight. I don't know really what time it was.

Q You stated a little while ago it was a little after seven? A When he wrote it.

Q When he wrote it? A Yes.

Q What did you do next day with the defendant Mercury?

BY THE COURT:

Q Where did you sleep on the night of February 2nd?

A Home.

Q Where did you sleep on the night of February 3rd?

A Home.

Q On the night of February 4th? A Home.

Q On the night of February 5th? A Home.

Q On the night of February 6th? A Home.

BY MR. WELLER:

Q Did you go home the night that this telegram was sent-- the night the telegram was sent, February 6th, did you go home that night? A Yes.

Q Was the telegram received that night by your mother when you got home?

Objected to.

CASE # 1527

MR. WELLER: If she knows.

BY THE COURT:

Q What time did you reach your mother's home that night; what time, on the night that Maynes wrote on a piece of paper, what time that night did you get home to your mother's home?

A About 7 o'clock or half past seven. I don't think that telegram was sent that night.

BY MR. WELLER:

Q Listen, Jennie -- do not get excited or confused -- you have testified that all this occurred on February 6th, and that was Tuesday, and that the telegram was sent that evening, Tuesday evening, now did you go home after that telegram was sent?

A No, sir, I did not go home the night the telegram was sent.

Q After the telegram was sent that you were married and had gone up State, you did not go home, did you? A No.

MR. CARPIL: I move to strike that out.

THE COURT: I will allow it to stand.

BY MR. WELLER:

Q The night of February 6th, into February 7th, was the first night that you spent in Mercury's house, is that right?

A Yes.

MR. CARPIL: I object as leading the witness.

THE COURT: Yes, Mr. Weller, do not lead her.

BY MR. WELLER:

Q What did you do on February 7th, that is Wednesday, with

CASE # 1527

Mercury, where did you go? A I stayed in her house.

Q Stayed in the house a good part of the day, but what did you do, did you go out with her? A No.

Q Did you go looking for an apartment with her? A She sent her husband to look for the apartment.

Q She sent Lehnhoff? A Yes, sir.

Q Did you go out that day? A No, sir.

Q Did you go to the new apartment that day? A No, sir.

Q When did you go to the new apartment? A On Thursday.

Q That is February 8th? A Yes, sir.

Q That was the first time you went to the new apartment?

A Yes.

Q Where was the new apartment? A 161 Manhattan Avenue.

Q What floor was that on? A One flight up.

Q That is in the county of New York? A Yes, sir.

Q How many rooms were there in that apartment? A Five rooms and bath.

Q That is to say, there was a parlor; is that right?

A yes, sir.

Q Dining room? A Yes.

Q Two bedrooms? A Yes.

Q Kitchen and a bath? A Yes, sir.

Q Is that right? A Yes.

Q Was this apartment in the front or rear of the house?

A Front of the house.

CASE 1527

Q Was the parlor in the front of the house or rear of the house? A The front of the house.

Q Off the parlor what room was there? A Bedroom.

Q And behind the parlor what room was there? A Dining room.

Q And off the dining room what was there? A A bedroom.

Q And behind the dining room what room was there? A Bath room and hall.

Q And behind the bathroom what room? A Kitchen.

Q When did you move in there? A On February 8th.

Q That is Thursday? A Yes.

Q When did you get settled there, I mean the furniture to rights, and things placed around? A Three or four days later.

Q Did any men come to that house? A Yes.

Q In the 106th street house, did any men come there while you were there, those four days, Friday, Saturday, Monday and Tuesday? A Yes.

BY THE COURT:

Q Did any men come to the apartment occupied by the defendant Mercury during those days? A Yes.

BY MR. WELLER:

Q What, if anything, was done by you during those days, that previous Friday, Saturday, Monday and Tuesday? A I did not do anything, only stay with these men that came there.

Q Did not do anything else but stay with the men? A No.

7
CASE 152

Q The first day that you were there, what was said when a man came in the house?

MR. CARPES: What do you mean by the first day?

MR. WELLER: The first Saturday.

MR. CARPES: In February?

THE COURT: That would be February 3rd -- yes.

BY MR. WELLER:

Q February 3rd -- she went there first on Friday and Saturday and then on Monday and Tuesday.

THE COURT: Yes, February 3rd.

BY MR. WELLER:

Q Did you have intercourse with men? A Yes.

Q Tell the jury all about it -- take for instance the first man that you had intercourse with in that house, tell the circumstances of that intercourse, tell all about it, and do not be afraid and speak right up.

BY THE COURT:

Q In the first place, you slept in that house -- did you sleep in that house on Friday night? A No.

Q Did you sleep in that house on Saturday night? A No, sir.

MR. WELLER: This was during the day time.

BY THE COURT:

Q You were there during the day on Friday? A Yes.

Q From what time until what time? A From about quarter to eight until about between half past five and six o'clock at night.

CASE 1527

Q During that time, if you know, where was the defendant Mercury? A In her home there.

Q Was she in the same suite of rooms that you were in?
A Yes, sir.

Q Those rooms were the rooms on 106th street? A Yes, sir.

Q How long were you in that house with the defendant Mercury, after you arrived there on Friday, before anybody came, before anybody else came to the house? A I was there most of the day with her.

Q Did any men call at those apartments while you were there that day, Friday? A I don't remember if any called on Friday.

Q What hours were you there on Saturday? A From about quarter to eight until 5 o'clock.

Q Where was the defendant Mercury during those hours on Saturday? A In the home.

Q In the same suite of rooms that you were in? A Yes.

Q Did any men call at those rooms while you and the defendant Mercury were there on Saturday? A Yes.

Q About what hour did the first man call on Saturday?
A I don't remember the hour. It was in the afternoon.

Q In the afternoon? A Yes.

Q Was it after your lunch or dinner? A After dinner.

Q You had dinner at what time on Saturday? A Between 12 o'clock and one.

CASE 1527

Q Who was at the dinner with you on Saturday, who ate dinner in those rooms besides yourself, on Saturday? A My aunt and I.

Q That is the defendant Mercury? A Yes.

Q How long after dinner was it that the first man called on that Saturday? A I think it was somewhere around between 3 and 4 o'clock.

Q Do you remember what name that man gave? A No.

Q Who opened the door of the apartment when that man came in? A My aunt.

Q The defendant Mercury? A Yes.

Q Had you ever seen, so far as you know, that man before?
A No, sir.

Q Into what room of the apartment did that man first come?
A Into the bedroom.

Q When he came into the bedroom, who besides the man was in the bedroom. A My aunt.

Q The defendant Mercury? A Yes.

Q Where were you when the man came into the bedroom?
A In the dining room.

Q How long was the man and your aunt, the defendant Mercury, in the bedroom, while you still remained in the dining room?
A Just a few minutes.

Q After the lapse of a few minutes, what happened? A My aunt came out and got me, and took me into the bedroom.

CASE 1527

Q When your aunt took you into the bedroom, was there any person in the bedroom? A The man was in the bedroom.

Q After you had come into the bedroom with your aunt, as you say, and the man was there, was anything said by anybody; did anybody speak? A My aunt spoke.

Q To whom did your aunt speak when she spoke first? A She first introduced me to this man, and then she told the man that I knew nothing about it, that he would have to show me what I had to do.

Q What did the man say, if anything? A He said all right.

Q What did your aunt do then, if anything? A She took me out of the bedroom into the bathroom and undressed me.

Q After your aunt had undressed you in the bathroom, what did your aunt do next? A She took me back into the bedroom.

Q When you got back into the bedroom with your aunt, were you dressed or undressed? A I had a long chemise on.

Q Anything else? A No, sir.

Q When you got back into the bedroom with your chemise on, and nothing else, and your aunt was there, was there anybody else in the bedroom? A That man was in there.

Q What, if anything, was then said? A Well, all that was said, my aunt told the man that he was to do -- to tell me and show me what to do, that I knew nothing about it, and that he was not to hurt me, she said.

CASE # 1527

BY MR. WELLER:

Q What was the condition of his clothing, what clothing did he have on, the man? A His suit of clothes on.

Q Was he fully dressed? A Yes.

Q What happened then, did your aunt stay in the room? A No.

Q What happened, go ahead? A The man had sexual intercourse.

Q Did he undress? A Yes.

Q Fully? A Yes.

Q What did you do, did you get on the bed? A Yes.

Q Tell the jury, when you got on the bed, what did he do?

THE COURT: I think that is sufficient.

BY THE COURT:

Q About how long did that man remain in that bedroom with you on that Saturday? A About half an hour.

Q At the end of the half hour, what did you do? A I got up and got dressed.

Q After you got dressed, did you see the defendant Mercury?
A Yes.

Q Where was she? A She came into the bedroom then while I was dressing.

Q Did she come in before or after the man went out? A Before the man went out.

Q When she came into the bedroom before the man went out, and while you were dressing, what, if anything, was said? A I

CASE #1527

don't remember what was said.

BY MR. WELLER:

Q What was done -- did the man do anything? A He gave her the money.

Q What money? A I don't know how much it was.

Q Was it in silver or bills? A Bills.

Q How many bills? A I don't know.

Q Was there more than one bill? A I don't know if there was more than one.

Q But you saw him hand a bill to her? A Yes, sir.

Q Did any other men call that afternoon? A Yes.

BY THE COURT:

Q We are talking about Saturday afternoon? A Yes.

BY MR. WELLER:

Q Did any other men call that afternoon, Saturday afternoon? A Yes.

Q How many others called? A One.

Q What did that one man do -- who met him at the door?

A My aunt.

Q What did she do with the man when she met him? A She brought him into the bedroom.

Q What bedroom? A The same bedroom that I was in before.

Q Off the parlor? A That is in 106th street.

Q Brought him into the bedroom, and what was done? A I had sexual intercourse with the man.

CASE 1527

Q He went in, and did you undress and he undress? A Yes.

Q What was done after you had sexual intercourse with him, did you see any money? A He gave me a dollar.

Q Did anybody else call that Saturday afternoon? A No, sir.

Q Now, Saturday night you went home? A Yes.

Q To your mother? A Yes.

Q And Sunday did you go over to the defendant's house?

A No, sir.

Q Now on Monday, what occurred on Monday, did you go to the defendant's house then? A Yes.

Q What time? A About quarter to eight.

Q And did any men come there that morning? A I don't remember if there was any came in the morning.

Q Did any come in the afternoon? A Yes.

Q Can you remember how many came that afternoon? A I guess two.

Q Did you have sexual intercourse with them? A Yes.

Q And did they pay you or pay the defendant? A I don't remember if they paid me or the defendant.

Q Do you remember however they did pay some money? A Yes.

Q Now, on Tuesday, that is the 6th, what time did you go there? A Around quarter to eight.

Q And did any men come in that day? A Yes.

Q Was it in the morning or afternoon? A I don't remember what time it was.

CASE # 1527

Q Did you have sexual intercourse with men that day?

A yes, sir.

Q Do you remember how many? A I don't remember how many.

Q That was the day the telegram was sent; do you remember how many you had intercourse with that day? A Two or three, I guess.

Q Do you remember whether they gave you any money that day?

A I think two of them gave me money.

Q Two gave you money and how about the third, did he give you any money? A No.

Q Did he give the defendant any money? A I don't know.

Q Then that was the day, Tuesday, that you have testified that you agreed to live with the defendant?

Objected to.

THE COURT: She said that already.

MR. WELLER: Very well.

BY MR. WELLER:

Q Now, Thursday you moved? A Yes.

Q You moved to 161 Manhattan Avenue? A Yes.

Q That is right around the corner, is it? A Yes.

Q How many blocks away? A I do not know how many blocks.

Q 106 was the last house? A Yes.

Q 161 Manhattan Avenue is what street? A I think it is between 107th and 108th streets.

Q Now, did you have sexual intercourse with any men during

CASE # 1527

the remainder of that week, Friday or Saturday? A I don't remember.

Q The first two or three days that you moved into the new apartment? A I guess Sunday.

Q Sunday, that was the first? A Yes.

Q Was that the first? A Yes.

Q What was said by the defendant on that Saturday or Sunday, about telephoning? A She called different ones up on the telephone and told them that she had moved, and gave them her telephone number and her address so that they could come up there

Q Did her husband also do that? A Yes.

Q What would she say when she telephoned these people, give the substance of the conversation she would have? A She would tell them to come up, she had got a new girl.

Q Go ahead? A That is all I can remember.

Q On that following Monday, did men come to the house?

A Yes.

Q Did they come all during that week? A Yes.

Q How many men on the average would come a day? A About four or five.

Q Would they always pay you? A No, sir.

Q Who would they pay? A Sometimes would pay me and sometimes my aunt.

Q How much money would you collect during a day, what would be the average? A About four or five dollars, but --

CASE # 1527

Q Four or five dollars on the average? A Yes.

Q What was the highest sum you ever collected? A \$9.

Q Now, when you received this money, what did you do with it? A Gave it to my aunt.

BY THE COURT:

Q When you say your aunt, whom do you mean?

BY MR. WELLER:

Q Do you mean the defendant? A Yes.

Q Was Lehnhoff there these days? A Yes, sir.

Q There all day or part of the day? A For a couple of days he was there part of the day and then the rest of the time he was there all the time.

Q Now, did you have any sickness or illness during that first week that you moved into 161 Manhattan Avenue? A Yes, sir, I was sick.

Q What day was that, can you remember? A No, sir, I cannot remember.

Q Approximately what day was it, about what day? A About Friday or so.

Q And what was the matter with you?

Objected to. Objection sustained.

Q What feelings did you have?

Objected to.

THE COURT: She may describe -- any pains.

CASE # 1527

BY MR. WELLER:

Q What pains did you have, what feelings did you have?

A Well, I was all pains like -- my whole body ached and I was sick at my stomach.

Q What did you do? A My aunt told me she would take me to the doctor and she kept putting it off and in the end she did take me.

Q She did take you to a doctor? A Yes.

Q Did the doctor prescribe for you? A Yes.

Q Did the doctor diagnose your condition?

Objected to. Sustained.

BY THE COURT:

Q What was the name of the doctor, do you know?

A Cannitzer.

Q Do you know his first name? A No.

Q Where was his office; to what place did your aunt take you. A 86th street I believe it is, between 1st and 2nd avenue.

BY MR. WELLER:

Q What did the doctor do when you got to the office; what did the defendant say and what did the doctor do, tell all about that trip to the doctor's office? A My aunt told him I was her niece and I was just married, and she said that every time I stayed with my husband that it hurt, and that if he would examine me.

Q Did the doctor examine you? A Yes.

CASE 1527

Q Did he put you on the table? A Yes.

Q Were your clothes lifted up? A Yes.

Q And he made an examination of your private parts? A Yes.

MR. CARPES: I object. She does not know.

MR. WELLES: I think she ought to know.

BY MR. WELLES:

Q Did the doctor give you medicine? A Yes.

Q What was said by the defendant with reference to you --
by you
what was said to you by -- what was said to the defendant about
your continuing sexual intercourse after going to the doctor?

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

THE COURT: It is leading. You may ask her if she had
any further talk with the defendant regarding sexual inter-
course.

BY MR. WELLES:

Q Did you have any talk with the defendant after leaving
the doctor's office, about having any further sexual intercourse?

A The doctor told my aunt she was not to let me stay with my
husband at all. I was not to have anything to do with him and
my aunt said it would not hurt me.

Q Did your aunt say that in the doctor's office or when you
got home? A No, sir, when I got home.

Q What did your aunt do when you got home? A She did
not do anything, only she told me that it would not hurt me, to
stay with these men that came there.

CASE 1527

Q When you got home that afternoon, did anybody call?

A Yes, sir.

Q None A Yes, sir.

Q What was said and what was done after you got back from the doctor's office; what did the defendant say to you about staying with a man? A She told me it would not hurt me to stay with them.

Q I knew that, but when you got home, you say a man called, a customer -- a man called when you got home, is that right?

A Yes.

MR. CARPIL: I object, and move to strike out the word customer.

THE COURT: A man came.

MR. WELTER: All right, a man.

BY MR. WELTER:

Q What did the defendant tell you to do when you got home and this man called? A I had to stay with that man.

Q And you had sexual intercourse with him? A Yes.

Q Did he pay you or did he pay the defendant? A I don't remember when he paid.

Q Did it hurt you? A Yes.

Q On the first Sunday after you were there, or rather the second Sunday after you moved in, who came that morning? A A man came.

Q What kind of a man? A A Chinaman.

CASE 1527

Q What did the defendant say about this Chinaman? A He stayed with my aunt.

Q He did not stay with you? A No.

Q Those men that came in there, would they all stay with you or did they sometimes stay with the defendant? A Sometimes they would stay with my aunt.

Q Sometimes with you and sometimes with the defendant?

A Yes, sir.

Q Now, with reference to an elderly man with gray whiskers-- objected to as leading.

MR. WELLES: I am not leading her, I am just directing her attention to something.

BY MR. WELLES:

Q What was done or said about that old man, tell it all -- you had a man stay with you, A Yes.

Q An elderly man? A Yes.

Q What did the defendant say when she brought him in?

A She did not say anything only that I was to stay with him.

Q What did he do?

THE COURT: I do not think it is necessary to go into that.

BY MR. WELLES:

Q After you got through, what did the defendant say, did you tell the defendant about it? A Yes.

Q What did she say? A She did not say anything, only she

CASE 1527

said that was not anything.

Q That was not anything? A Yes.

Q Didn't she say anything else?

THE COURT: I do not think it is necessary to go all through this.

BY MR. WELLER:

Q How much did he give you? A \$5.

Q Was he an old man? A Yes.

Q Well, did you stay there constantly from the 8th of February until the 20th of February, having sexual intercourse with men each and every day? A Yes.

Q And receiving money? A Yes.

Q And giving it to the defendant? A Yes.

Q Now, what occurred on the 20th of February, in the afternoon? A There was different men came to the house that afternoon and I stayed with them.

Q How many men were there, say about 3 o'clock in the afternoon? A There was only one man.

Q At about 9 P.M., how many men were in there? A There was quite a number, but I don't know how many.

Q We do not know what you mean by quite a number, were there two or three or half a dozen? A Somewhere around a half a dozen, I guess.

Q Where were they all sitting? A In the dining room, there was one man in the parlor.

CASE 1527

(A man giving his name as Louis Bossack now arises in the court room).

BY MR. WELLER:

Q Do you know that man? A Yes.

Q Did you have sexual intercourse with him? A Yes.

(Dr. Camnitzer now arises in the court room).

BY MR. WELLER:

Q Is that the doctor you visited in company with your aunt?

A Yes.

Q About 9 P.M. there were about half a dozen people in there, all men? A Yes.

Q Was the defendant there? A Yes.

Q Was Lehnhoff, the husband, there? A No, sir, he had just gone out.

Q He just went out? A Yes.

Q How many men had you had sexual intercourse with prior to 9 o'clock that evening? A About two men.

(Officer Bilaffer now arises in the court room).

Q Do you remember the officers being in there that evening?

A Yes, sir.

Q What time did he come in? A I do not know the time.

Q When did you first see him, what time was it? A Between half past --

Q Was it when he was brought into your room, the first time that you saw him? A Yes -- no, the first time I saw him in

CASE 1527

the apartment all alone with my aunt.

Q With your aunt? A Yes.

Q In what room? A In the dining room.

Q What did she do, your aunt? A She introduced me to the man and then she told the officer to get busy.

Q To get busy? A Yes.

Q Were you dressed at the time? A Yes.

Q Or did you have only a chemise? A No, I had a short kimino and flannel petticoat on.

Q You were standing in the dining room? A Yes.

Q Where were the rest of these five or six men that were in the apartment? A They were not there at the time.

Q They had come and gone? A No, they came after this officer came.

Q They came after? A Yes.

Q What did you do to the officer, did you go in the bedroom together? A Yes.

Q Go ahead and state just what occurred -- you exposed your person for the purpose of sexual intercourse, did you?

Objected to. Sustained.

Q What did you do, did you get on the bed? A Yes.

Q Then say so -- then what occurred after you got on the bed, did the officer arrest everybody?

Objected to. Sustained.

Q What happened, were you arrested? A Not right there.

CASE 1527

MR. CARPPEL: I object. Let her say what took place in the bedroom.

BY THE COURT:

Q You tell us in your own words, what, if anything, took place in the bedroom after you went into the bedroom and the officer went in, tell the jury just briefly? A The officer stayed with me in the bedroom and then he went out and had a talk with my aunt and he brought in two more, two officers.

BY MR. WELLER:

Q Two other officers? A Yes.

Q When you say the officer stayed with you, do you mean he had sexual intercourse? A He did not have sexual intercourse.

Q He did not? A No.

Q He stayed with you a few minutes in the bedroom? A Yes.

Q And then brought in --

MR. CARPPEL: I object to the few minutes.

BY MR. WELLER:

Q How long did he stay with you in the bedroom? A A few minutes.

Q What other officers were brought in, do you remember?

A Officer Gorman and Officer Donnelly.

BY THE COURT:

Q In what part of the bedroom were you when the officer brought in the other two officers? A In the bedroom off the dining room.

CASE 11327

Q In what part of that room were you when the officer brought in the other two officers? A In the bed.

Q When you say you were in the bed, what was your position?

A Undressed.

BY MR. WELLER:

Q You were naked in bed? A Yes.

Q After the officer called in the other two officers to see you in that position, what occurred next? A Placed us under arrest.

Q What did the defendant say? A She asked them if they would let her go, she would give them \$50. a piece, because I was her niece and it would make a lot of trouble for her, she said.

Q Who did she make that offer to, which one of the officers? A Officer Belaffer I think.

Q Then you were all taken to the station house, were you?

A Yes.

CROSS EXAMINATION BY MR. CAMPBELL:

Q You had several conversations in the District Attorney's office with Mr. Murphy, the gentleman sitting right here?

A Yes.

Q How often have you spoken to him, how often have you been upstairs in consultation with him, how many times would you see him; how often were you upstairs in Mr. Murphy's office and went over this case, how often did you do that, you need not be

CASE 1527

afraid of me? A Two or three times, I think.

Q And how long would you remain upstairs in Mr. Murphy's room discussing the trouble between you and your aunt and the men and the officers? A I don't know.

Q What? A I don't know.

Q Would you say an hour every time or half an hour -- look at me -- do not look at Mr. Murphy?

MR. WELLER: I object. That is improper.

THE COURT: Yes. No comments of that kind.

BY MR. CARPES:

Q How long would you stay?

MR. WELLER: This case has been on the calendar seven or eight times --

THE COURT: He is examining the witness. No interruption unless you make an objection.

MR. WELLER: I do object.

THE COURT: Your objection is overruled.

BY MR. CARPES:

Q How long would you stay? A I guess two or three hours.

Q You and Mr. Murphy would discuss what you were to testify here against your aunt, and also what took place in the house; that is, you and Mr. Murphy would discuss this case and talk about it. A Yes.

Q Now, will you kindly tell his Honor and these gentlemen of the jury, what Mr. Murphy said to you in relation to the offi-

CASE # 1527

cers, when they came into the room, what you were to say; what was said about the officers, when one of them went into the room?

MR. WELLER: I object. That is not the question.

THE COURT: Objection is taken to the question as originally framed. If the District Attorney objects to the question as originally framed, I will sustain the objection.

MR. WELLER: I do.

BY MR. CARPTEL:

Q Do you recollect Mr. Murphy telling you to say that the officers did not have intercourse with you, that they simply came into the room? A He did not say that to me.

Q Was there anything discussed about the intercourse between you and the officer? A No, sir.

Q What? A No, sir.

Q Now, when you said under direct examination that the officer came in your room and stayed, what did you mean by the word stayed, do you mean that he had intercourse with you? A He did not have intercourse with me.

Q You used the word stayed, what did you mean by that?
A He just got on the bed with me, but he did not have any intercourse with me.

Q Kindly explain when you used that word, what you meant by that, stayed? A He just stayed in the room a few minutes with me.

Q Now, I remember distinctly your saying something about

CASE 1527

the 25th day of January, 1912, that you and your aunt, the defendant, had some conversation about your coming to live with her; that is right. A Yes, sir.

Q You were then living home in Bergenfield, New Jersey?

A Yes.

Q And also employed by John Patching & Company, no. 22 East 20th street, is that right? A Yes.

Q And you knew fully and intelligently what this defendant, your aunt, meant when she said to come to live with her? A Yes.

Q You understood that? A Yes.

Q You agreed to that? A Yes.

Q And you also agreed on the 2nd day of February, 1912, to come and live with her? A I did not agree with her the first day.

Q I understand you -- you did not agree with her on the first day? A No.

Q But you did agree with her on the second day, on the 2nd of February? A Yes.

Q And you were frank enough to come there and willing to come there? A Under certain circumstances, I was to have fine clothes and things.

Q But you were willing to comethere? A Yes.

Q You had some fine clothes before you went there also, didn't you. A No.

Q You knew a girl by the name of Bessie, a French girl by

CASE # 1527

the name of Bessie Wiley, who was employed with you at Patching & Company? A No. I do not know her.

Q Didn't you have a little companion there in the employ of Patching & Company, a girl friend? A Yes.

Q What is her name, do you know her name? A Grace.

Q Grace what? A Bates.

Q Was she German or French? A I do not know what she was.

Q You and her would frequently go out together and have luncheon and go to little theatre parties? A No.

Q Never been to a theatre party? A No.

Q What? A Only went once or twice to a theatre, and that was with a young man I went.

Q Do you know his name? A Yes.

Q What is his name?

Objected to as immaterial. Sustained.

Q Now, suppose we get down to the 2nd day of February; did I understand you to say that you left your home on the 2nd day of February, Bergenfield, New Jersey, on your way over to New York? A Yes, sir.

Q And were you employed by Patching & Company on February 2nd? A They were moving at that time.

THE COURT: we will suspend now.

The jury are admonished in accordance with Section 415 of the Code of Criminal Procedure, and a recess is taken until 2 o'clock.

CASE # 1527

AFTER RECESS. TRIAL RESUMED.

JENNIE JOHNSTON resumes the stand:

CROSS EXAMINATION CONTINUED BY MR. CARPIL:

Q I want to freshen your memory and recollection, about when was the first conversation that was had between you and the defendant in relation to your living with her; when was that? A Well, every day I stayed there she had conversation.

Q Before you went to her house 161 Manhattan street, before you went to live with her, when was the first time any discussion took place between you that you were going to live with her?

BY THE COURT:

Q When was it that she first talked to you about your going to live with her. A On February 3rd.

BY MR. CARPIL:

Q And where was this conversation? A In her house.

Q In her own house. A Yes.

Q If possible, will you kindly tell these gentlemen the exact conversation that was had between you and your aunt on February 3rd at the defendant's house. A All she said was if I would come and live with her that I would have fine clothes and jewelry and if anything happened to me at all, that she would stick by me.

Q And you were perfectly satisfied and agreeable to come and live with her. A yes, sir.

CASE 1527

Q You are sure that was all that was said? A Yes.

Q Positive -- now, before February 3rd, 1912, you were living with your mother at Bergenfield, New Jersey, is that right?

A I beg your pardon.

Q Up to February 3rd, 1912, you were living with your mother in Bergenfield, New Jersey? A I was living with my mother until -- every night of those three or four days I went home.

Q I mean up to February 3rd, you were staying home, living home? A No, February 6th it was.

Q I mean before you went to your aunt's house?

THE COURT: She said up to February 6th she continued to live with her mother.

BY MR. CARPIL:

Q Did you at any time before February 3rd or before February 6th contemplate leaving your home, that is to say, did you think about leaving your home before February 6th? A Yes, sir.

Q When was that? When did you first think about leaving home? A About February --

Q Any time, last year or --

THE COURT: Give her a chance.

MR. WELLMER: She wants to think to be sure.

THE WITNESS: This year.

BY MR. CARPIL:

Q When was it the first thought entered your mind that you

CASE # 1527

were dissatisfied with your home, and that you wanted to leave your home to come to New York City to live? A During those days that I was going to my aunt's house.

Q Do you know Harry Dieter? A Yes, sir.

Q Do you recollect telling him in November 1911, when you and he left Bergenfield, New Jersey, that you were tired living at home, and you wanted to get a room over in New York City?

A No, sir, I did not tell him anything of the sort.

MR. CARPIL: Stand up, Harry Dieter.

(A man arises in the court room).

BY MR. CARPIL:

Q Do you know that boy there? A Yes.

Q You and he had been coming over to New York City every day for how many years? A Three years.

Q Do you recollect on February 3rd and February 4th Harry Dieter carried your bundles from Bergenfield, New Jersey over to New York City? A Yes, sir.

Q He took you to the door of your aunt's, the defendant? A Yes.

Q Do you recollect the conversation that you and Harry Dieter had in October 1911, when you told him "Harry, I am tired staying home, I want to get a room of my own"? A I did not say anything about getting a room of my own.

Q What did you say about leaving home, if anything? A I told him I was tired of living home.

CASE # 1527

Q You were tired of living home? A Yes.

Q You were quarreling with your mother, is that right?

A My mother was always quarreling with me.

Q That you wanted to live in New York City? A Yes.

Q At that time you thought of coming to New York City; you were thinking of leaving home then; weren't you thinking then of leaving home? A I was not thinking of leaving home.

Q What did you mean by saying that you were tired of living at home, you were quarreling with your mother?

THE COURT (to the witness) Answer as promptly as you can if you understand the question, and if you do not understand it, say so; you have been asked a question. Are you able to answer it.

A I was not really thinking then of leaving home.

BY MR. CAMPBELL:

Q Are you prepared to swear now that you did not say to Harry Dieter in November 1911, that you were tired of living home and you wanted to leave home? A I don't remember saying that to him.

Q You don't remember that -- is your memory as good now as it was in November, as to that particular occurrence -- what do you say to that? A I do not know.

Q What? A I do not know.

Q Now, how long before January 25th, 1912, did you see your aunt, the defendant; how long before that period? A I don't remember.

CASE 1527

Q Would you say a month? A It was more than that.

Q Would you say six months? A Yes, more than that.

Q What? A More than that.

Q Would you say a year? A Somewhere around that time.

Q Somewhere around a year; it was about a year before January 25th, 1912, you saw the defendant. A Yes, sir.

BY THE COURT:

Q That is to say, on January 25th, 1912, when you saw the defendant, you had not previously seen her for about a year?

A Yes.

BY MR. CARPIS:

Q You said something that you were willing to live with your aunt under certain circumstances; will you kindly explain to these gentlemen here what you meant by under certain circumstances? A Getting the fine clothes.

Q What else? A And having lots of money and jewelry.

Q And you were perfectly satisfied and willing? A Yes.

Q You said sure -- what did you say, yes or sure -- what was said, if anything, by you, when she made that proposition to you? A At first I said I did not know.

Q When was that? A I don't remember the day.

Q What month would you say? A In February.

Q What year? A 1912.

Q That was the first time -- was that the first time she intimated to you about your living with her? A Yes, sir.

CASE 1527

Q In February? A No, January 25th was the first.

Q January 25th -- now, are you in a position, if possible, to tell these gentlemen here, exactly the conversation that you and your aunt had on January 25th, 1912? A All that I can remember is that she told me that if I came to live with her, that I would have lots of money and it would be easy made money, and that I would have fine clothes and jewelry and that if anything happened to me, she would stick by me during that time.

Q What did you say to that? A I said I did not know.

Q Was there any other conversation besides that? A That is all I can think of.

Q She asked you only one time? A Every day I say she asked me.

Q I mean on January 25th, did she ask you once only ~~it~~ to come and live with her? A Yes.

Q When did you next see her after January 25th?
A February 2nd.

Q Was the same language used by the defendant when she asked you to come and live with her? A Yes.

Q She asked you to come and live with her and you would have fine clothes? A Yes.

Q And lots of money, A Yes.

Q What did you say to that? A I said all right, I would come.

Q Did she ask you once? A Yes.

CASE 1527

BY THE COURT:

Q On February 2nd?

BY MR. CARPEL:

Q On February 2nd? A Yes.

Q Once only -- and you said all right -- did you say anything else besides saying all right? A No.

Q Sure of that? A Yes.

Q Now, when was the next time the conversation, if any, was had between you and the defendant about your living with her? A The same thing next day.

Q That was February 3rd? A Yes.

Q And same language and same conversation? A Yes.

Q She asked you once and you said all right? A Yes.

Q When was the next time after February 3rd, A February 5th.

Q The same thing took place? A Yes.

Q What? A Yes.

Q The same conversation? A The same conversation. I cannot remember any more.

Q The substance of the conversation -- will you kindly tell these gentlemen in the box here, these jurors, how is it you can remember the conversation that took place about fine clothes and lots of money, and you cannot remember the other part of the conversation? A That is all I can remember.

Q Because you discussed this case over again -- because

CASE # 1527

that thing was discussed with you? A I never thought of the other conversation.

Q Was your memory refreshed by anybody? A No.

Q Did Mr. Murphy, the Deputy Assistant District Attorney refresh your memory, did he read to you what your testimony is ?

A No.

Q Upstairs in his office? A No, sir.

Q What were you doing for two and three hours at a time in his office, if no conversation was had between you and Mr. Murphy in relation to this case?

THE COURT: She does not say that, counsel.

MR. CARPIL: I think she said something about two hours at one time.

THE COURT: She did not say that during that time no conversation had taken place between her and Mr. Murphy regarding this case. You may proceed and ask something else.

BY MR. CARPIL:

Q Did you have any conversation with Mr. Murphy in relation to what your testimony is?

MR. WELIER: "What your testimony is?"

BY MR. CARPIL:

Q In relation to what you testify to now, as to fine clothes and lots of money. A I don't understand you.

BY THE COURT:

Q Did you talk with Mr. Murphy in Mr. Murphy's office and

CASE 1527

tell Mr. Murphy the conversation that you say that the defendant had with you when she asked you to come and live in her house?

A Yes.

BY MR. CARPTEL:

Q How often was that discussed between you and Mr. Murphy?

A I don't remember.

Q Would you say half a dozen times? A Well, no, not half a dozen times.

Q How many times would you say, three times? A Once or twice, I guess.

Q And did you know, at the time, when the defendant conversed with you on January 25th or February 2nd, and on February 3rd, 1912, for what purpose you were to come and live with her, what you were to do there? A Yes.

Q You knew that? A Yes.

Q And it was perfectly agreed and understood, was it?

A Yes, sir.

Q You knew what she meant by it?

Objected to as having been already answered.

THE COURT: Yes, it is answered.

MR. CARPTEL: I will withdraw it.

BY MR. CARPTEL:

Q Then you went to live with the defendant about when -- when you took your clothes and went to live at her house?

A About February 6th.

CASE 1527

Q You lived with your aunt up to February 20th? A The 20th.

Q The time of your arrest? A Yes.

Q A period of fourteen days, and there was a phone in the house? A Yes.

Q You had access to the phone? A Yes.

Q You could have gone there and spoken to anybody you wanted to? A Yes.

Q Did you use the phone? A No, I did not use it, but if anybody called me up, I could speak.

Q You were called up? A Yes.

Q And you spoke to them? A Yes.

Q To how many people did you talk on the phone, that is, your friends, about how many? A I don't know.

Q Who are they? A Harry Dieter and Mr. Brown.

Q Who is Mr. Brown?

Objected to as immaterial.

MR. CARPEL: I shall not press the question. I shall not urge it.

BY MR. CARPEL:

Q You had a chance to ~~im~~ leave that house, that is, to go out on the street, didn't you?

BY THE COURT:

Q While you were in that house, that is to say, between February 6th and February 20th, did you go out at any time on

CASE 1527

the street? A Not alone. My aunt was always with me.

BY MR. CARPIL:

Q Do you recollect being alone at home on February 19th when your aunt was not home? A Yes.

Q When the officers came to the house?

MR. WELLER: That was February 20th.

BY MR. CARPIL:

Q February 20th, is that right? A My aunt was home.

Q Was she home on February 19th? A No.

Q You were alone at home then? A My uncle was home then.

Q You could have left the house? A I suppose so.

Q Nobody stopped you from leaving the house? A No.

Q And did you tell any of your friends, Harry Dieter or Mr. Brown, when they called you up, what you were doing in the house? A No, sir.

Q Were you ashamed? A Yes, sir.

Q You were not afraid -- what is your answer? A I was afraid of my mother hearing of it.

Q Did you have good clothes then, did you get good clothes, when you spoke to your friends? A What do you mean?

Q You said fine clothes, did you get fine clothes while you were living with the defendant? A She brought me one dress but I have not worn it.

Q Did you pass many people on the street when you and your aunt would leave the house and walk in different parts of the

CASE 1527

city? A Yes.

Q Did you complain to anybody that you were leading a life of immorality, to anybody, when you passed the persons? A No.

Q Were you ashamed? A Yes, sir.

Q You were not afraid? A I said before I was afraid of my mother hearing of it.

Q Your mother was not familiar with the location where you and your aunt went out quite often? A I was not in the habit of talking to people that came along.

Q Now, how often would you remain away from Patching & Company, while you worked there; did you take afternoons off with the consent of Miss McGuire, the forelady? A I don't understand what you mean.

Q How many afternoons, how many times would you ask Miss McGuire to let you go off in the afternoon, that you were tired working and you wanted to go some place? A I don't know how many afternoons.

Q How many afternoons would you say before January 25th, 1912 -- between November and January 25th, 1912? A One or two.

Q Sure of that? A It may have been more.

Q Would you say a dozen times? A No.

Q How many times would you say, since you say it might have been more? A I guess about four.

Q Then it is more than two -- now, you and a little French girl would leave the place together? A What did you say?

CASE # 1527

Q A little French girl who worked there, would leave the place with you when you would get the consent of Miss McGuire to leave the place? A No.

Q Did you have a companion? A Harry Dieter, and I went out with him.

Q Who else did you go out with when you asked Miss McGuire to let you off? A Nobody else.

Q Do you recollect going to 11 West 42nd street with a girl that worked at Patching & Company's, a little French girl, who lives at 11 West 42nd street?

MR. WELLER: What is the girl's name?

MR. CARPEL: Bussey.

MR. WELLER: That does not sound like a French name.

THE COURT: Call her by that name.

BY MR. CARPEL:

Q Bussey? A No, sir.

Q Do you know her name? A No, that is not her name.

Q Do you know a little French girl whom you visited at 11 West 42nd street? A Nobody in 11 West 42nd street.

Q What number was it?

BY THE COURT:

Q Were you acquainted while you worked for this firm, with any young woman whom you visited at any house in New York?

A There was one in 42nd street.

Q What was the name of that one? A Antoinette Budagoue.

CASE # 1527

Q What number did she live at? A I think it was either 508 or 510 West 42nd street.

BY MR. CARPEL:

Q Would you go there at night time? A I did not go to visit her but I had her as a friend and she used to come home with me at night to 42nd street.

BY THE COURT:

Q That is to say, you went back to your home in Jersey by the West 42nd street ferry? A Yes, sir.

Q And she went with you to the ferryhouse, is that so?

A Yes, sir.

BY MR. CARPEL:

Q What is that friend's name?

Objected to as immaterial.

THE COURT: She has already given you the name.

BY MR. CARPEL:

Q Where did she live?

MR. WELLER: 508 & 510 West 42nd street.

BY MR. CARPEL:

Q How often did you stay at the house and drink wine during the three hours while you were working with patching & Company?

MR. WELLER: What house?

MR. CARPEL: At this little girl's house.

MR. WELLER: 508 & 510.

MR. CARPEL: Yes, the French girl's house.

CASE 1527

A Only once.

BY MR. CARPEL:

Q When was that? A I don't remember when that was.

Q How long would you stay there? A I only stayed about five or ten minutes.

Q Have anything to drink? A Yes, sir.

Q Wine? A Yes.

Q When was that? A I don't remember I told you.

Q What year? A I don't remember the year.

Q Three years ago? A No, sir.

Q Four years ago? A In 1911.

Q What month? A I don't know the month.

Q Now, I want to freshen your memory; about how often during the year 1911, say from January 1911 up to December 1911, would you ask leave of Miss McGuire to let you have your afternoons off?

Objected to as having been already testified to.

THE COURT: The objection is sustained. She has answered that.

BY MR. CARPEL:

Q Where would you go in the afternoon, when you would meet Mr. Dieter and Mr. Brown? A I did not go out with Mr. Brown.

Q Did he present you with some silk stockings? A No.

Q What did he give you? A He did not give me anything.

Q Did you expect something? A No, I only got to know him

CASE 1527

during the time I was with my aunt.

BY THE COURT:

Q That is to say, you met Mr. Brown after you had gone to live in your aunt's house, is that so? A Yes, sir.

Q You met the Mr. Brown you have spoken of for the first time after you went to live at your aunt's house, is that so? A Yes.

BY MR. CARPIL:

Q How often would you leave the house with Mr. Brown, when you were living with your aunt? A I did not leave the house at any time with Mr. Brown.

Q Did you leave the house with Mr. Dieter? A Mr. Dieter did not come to the house.

Q You were never out alone, as you say, between the month of February 3rd and February 19th?

THE COURT: February 6th and February 20th.

BY MR. CARPIL:

Q February 6th and February 20th -- be truthful? A No, sir.

Q You are sure of that? A Yes.

Q How often would you go out with your aunt between February 6th and 20th? A Two or three times.

Q What time would you leave the house when you would go with her? A I do not know the time.

Q What? A I do not know the time.

Q How long would you stay out? A About three or four hours.

CASE # 1527

Q Where would you go? A Go to the store or go to somebody's house.

Q What do you mean, what kind of store would you go to?

A Drygoods store.

Q Right near the house? A No, sir.

Q Downtown? A Yes.

Q That is in the shopping district? A Yes.

Q You would be gone for three or four hours? A Yes.

Q That happened about how often would you say that you would leave the house with your aunt, during those fourteen days?

A Two or three times.

Q And you would be gone for how many hours?

THE COURT: You have that. You have been over it time and time again.

BY MR. CARPIL:

Q Do you recollect meeting Mr. Brown outside and ~~xx~~ staying at some friend's house instead of meeting him at your aunt's house? A Yes, sir.

Q Then you did not meet him at your aunt's house as you testified to a little while ago?

MR. WELLES: That is an ambiguous question.

THE COURT: She testified that she met him after she went to her aunt's house, for the first time.

BY MR. CARPIL:

Q Do you recollect staying out with him all night? A No,

CASE 1527

sir, I never stayed out with him all night.

Q How long would you stay out with him, A I only stayed out for a couple of hours or so.

Q Whereat? A At this lady's house, she was a friend of my aunt's.

Q Where? A On Manhattan Avenue, I don't know the number.

Q When was that? A I don't know when it was, but it was during the time I was staying with my aunt.

Q Then you did leave the house alone? A No, my aunt took me there. I did not leave the house alone.

Q Did your aunt stay there during those two or three hours when you were there with Brown, A No.

Q She left you? A No.

Q You went home alone? A No, she came to look for me again and she was on the street while I was on the street.

Q You were at liberty yourself, you had your own liberty then, when you left that house with Brown?

CASE 1527

MR. VELLER: I submit that she hasnot gone that far.

THE COURT: We will find out.

BY THE COURT:

Q At the time you left the house that ^{your aunt} took you to on the occasion that you met Mr. Brown, did you leave that house alone or with anyone, when you started to go back to your aunt's house from that house, did you start alone or did you start with anyone? A Mr. Brown took me home to the door.

Q That is to say when you went from that house back to your aunt's you were accompanied by Mr. Brown? A Yea.

BY MR. CARPIL:

Q Do you recollect saying to your mother in November and December, 1911, that you were tired going home because it was cold weather and that you wanted to live in New York City?

A No, sir.

Q Did you ever have such conversation with your mother?

A I don't remember.

Q You don't remember? A No.

Q Would you swear that you did not have such conversation?

MR. VELLER: She says that she doesnot remember.

THE WITNESS: I would not swear but I don't remember.

REDIRECT EXAMINATION BY MR. VELLER:

Q Now, this Mr. Brown, who introduced you to Mr. Brown?

A This lady friend of my aunt's.

CASE 1527

Q When and where? A I don't remember the day, but it was in her house.

Q In your aunt's house? A No.

Q In the friend of your aunt's house? A Yes.

BY THE COURT:

Q What is the name of that friend, what is the name of the person in whose house you were introduced to Mr. Brown?

A Nellie Howe.

BY MR. WELDER:

Q When was that with reference to the date you went to live with your aunt?

BY THE COURT:

Q In other words, how long had you been living with your aunt when you met Mr. Brown in the house of Nellie Howe? I think it was on Wednesday.

BY MR. WELDER:

Q The Wednesday following? A Yes.

Q That would be ^{the} a week that you moved in? A No, that was the Wednesday I was in 106th street.

Q It was the day before you moved then? A Yes.

Q The day before you moved from 106th street house to 161 Manhattan avenue? A Yes.

Q This time that you drank wine at 508 or 510 West 42nd street, what kind of wine did you ~~drink~~ drink? A I don't know what kind it was. It was only a little bit I had.

CASE # 1527

Q Show us how much? A Just about that much (indicating).

Q Who gave it to you? A This girl.

BY THE COURT:

Q What hour of the day was it when you had it? A It was between half past six and seven.

BY MR. WELLER:

Q On your way home? A Yes.

Q Is that the only time you were ever in her house?

A Yes.

Q This Harry Dieter that has been referred to here, does he live in Bergenfield? A Yes.

Q He used to come in every morning with you on your way to work? A Yes.

Q Was it he who carried your things in that day that you went from your mother's house to the 106th street house?

A Yes, sir.

Q He carried your clothes? A Yes.

Q You say you went out with Harry once? A I went out with him quite often.

Q Did you have sexual intercourse with him? A No, sir.

Q Did you ever have sexual intercourse with any man previous to this inquiry we are inquiring about here? A Yes, with one, but he really did not get into me.

Q He could not get into you? A No.

CASE 1527

Q How long after you were in Mercury's house was it that a man could get into your private parts, how many days?

MR. CARPEL: I object to that.

THE COURT: I will sustain the objection. We have been all through that.

MR. WELLER: I was not aware that I had covered that particular point. My recollection is there is nothing in the evidence upon that particular point.

THE COURT: She testified on the first occasion -- the first occasion was Saturday, I believe, she had intercourse then with men.

MR. WELLER: Yes, but if your Honor will bear with me one moment --

THE COURT: Very well.

BY MR. WELLER:

Q What day was it after you went into the defendant's house that a man got his private parts into your private parts?

A Not until we moved to the new house, Manhattan avenue.

Q Not in 136th street house? A No.

Q Not until after you got into 161 Manhattan avenue?

A Yes.

Q Can you recall how many days elapsed in the Manhattan avenue house before he could get into you or anybody could get into you? A It was on Monday, I think.

CASE 1527

Q Do you remember the occasion? A Yes.

RECROSS EXAMINATION BY MR. CARPIL:

Q Do you know Mr. Schultz? A Yes.

Q Do you recollect Mr. Schultz taking you to a doctor to be treated when you were sick? A Yes.

Q And you were diseased then, were you not? A I had inflammation of the womb.

Q He paid the bill? A Yes.

Q How long do you know Mr. Schultz? A I don't know how long.

Q How long would you say -- how long before you went to your aunt's house did Mr. Schultz take you to a doctor and have you treated and pay your bill? A He only took me once to the doctor.

Q What year was that? A I don't know the year.

Q Would you say 1909? A No, sir.

Q Would you say 1910? A I don't know.

BY THE COURT:

Q Was it while you were working for this lace house?

A Yes.

Q Or before you went to work for it? A In the lace house.

Q It was while you were working at the lace house?

A Yes.

BY MR. CARPIL:

CASE 1527

Q Do you recollect using a syringe at the time, when you took the syringe at home, and your mother threw it out of the house? A I did not use it because I did not know how to use it.

Q Your mother threw the syringe out of the house, didn't she, and that is where the trouble occurred between you and your mother? A Yes.

Q Was that 1910? A No, sir.

Q 1911? A That was in 1912 that my mother threw it out.

Q When did you meet Mr. Schultz? A I told you I know Mr. Schultz for about three and a half years.

Q When did he take you to the doctor? A I don't know when he took me.

Q What year? A I don't know the year.

Q Would you say ten years ago? A No.

Q Fifteen? A No.

Q Twenty? A No.

MR. WELLER: I object to this.

THE COURT: I will not allow that.

BY MR. CARPPEL:

Q The reason why you stopped getting treatment at the doctor was because Mr. Schultz died, is not that right?

A Yes.

BY MR. WELLER:

Q Who is Mr. Schultz? A He was the man that used to live next door to us. We were friends -- just a friend.

CASE # 1527

Q Next door to you in New Jersey? A No, in New York when we lived in 20th street.

Q Is he known to the defendant? A I think she knows him.

Q What did he take you to the doctor for, what did you have? A I had inflammation of the womb. The doctor said I had catarrh of the womb.

Q Was it caused by any sexual intercourse or any sexual intercourse at all? A The doctor said no.

Objected to. Objection sustained.

Q Had you had sexual intercourse with any man at that time, that Schultz took you to the doctor? A No.

Q What was the name of the doctor he took you to? A I don't know the doctor's name.

Q How long ago is it since you have been to the doctor that Mr. Schultz took you to? A I don't know how long it is.

Q Was it last year? A Yes, sir, it was last year some time.

Q In 1912 sometime? A Yes.

BY THE COURT:

Q Where was the doctor's office? A I don't know where the doctor's office was.

Q What was the doctor's name? A I don't know his name.

Q How did you get to his office? A I think it was somewhere off Ninth avenue and 42nd street, somewhere around there.

CASE # 1527

Q Was it on the avenue or street? A On the street.

Q On the uptown side or downtown side? A The uptown side.

Q West of Ninth avenue?

BY MR. WELLER:

Q Towards the river? A No, sir.

Q Towards Fifth avenue? A Yes.

BY MR. CARPES:

Q Do you recollect testifying in the Magistrate's Court that you had intercourse with several men when you were at the age of sixteen years? A No, I never did.

Q Sure of that? A Yes.

MR. WELLER: Let us have the testimony --

THE COURT: You must exhaust your cross examination.

BY MR. CARPES:

Q Are you prepared to tell what testimony you gave in the police court when you appeared as the complaining witness against the defendant; can you recall the testimony you gave -- I will drop that subject -- how did you come to talk to Mr. Schultz about taking you to a doctor?

MR. WELLER: I object to that as being immaterial. It occurred sometime ago and has no connection with this case.

MR. CARPES: It has a great deal.

MR. WELLER: What is the connection.

THE COURT: I will sustain the objection.

CASE 1527

ARTHUR CAMMITZER, M.D., called as a witness on behalf of the People, duly sworn and examined, testified as follows:

(Residence 316 East 86th street.)

DIRECT EXAMINATION BY MR. WELLER:

Q What is your occupation? A Physician.

Q When were you admitted to practice? A Since about sixteen years.

Q Are you in general practice? A General practice.

Q Whereabouts? A In 86th street, East 86th street.

Q What number place? A 316.

Q Do you know the defendant? A Yes.

Q How long have you known her? A For about five years.

Q In the month of February of this year did she visit your office? A Yes.

Q In company with the witness who just left the stand?
A Yes.

Q Jennie Johnston? A Yes.

Q Have you refreshed your recollection as to what date she came there? A It was on the 15th.

Q The 15th of February? A Yes.

Q What did the defendant say to you at that time? A She introduced the lady as her niece and told me that she was a young married woman and she is not feeling well and that I shall

121
CASE 1527

give her an examination.

Q Did she state what the symptoms were? A No, just told me to examine the patient.

Q Did she say she was married? A A young married woman.

Q Did you put her on the table? A On the examination chair.

Q What did you do? A I let her sit down on the examination chair and performed an examination. She complained of pains in her vagina and I examined this part.

Q You examined the vagina? A Yes.

Q What did you find? A Found inflammation of the vagina and of the womb, congestion, inflammation and discharge.

Q What was the nature of that discharge? A It was a catarrhal discharge.

Q Was it a gonorrheal discharge? A I did not make examination about that, but I don't think it was.

Q You think it was a catarrhal discharge? A Yes.

Q Did you prescribe medicine for her? A Only prescribe antiseptic medicine to inject, to make a syringe -- no internal medicine.

Q Was anything said about sexual intercourse? A No.

Q Did you give her any advice about sexual intercourse?
A I told her not to have sexual intercourse for some time.

Q For what reason? A Because those parts are very much inflamed and inflammation of course will become much more when

CASE # 1527

there is any intercourse.

Q Did they come back again? A They came the next day.

Q What was said and done the next day? A The next day -- I told her the first day -- I have to correct this -- besides syringing there is some treatment necessary and I told her to come back the next day for treatment and the next day I started treatment.

Q What did you do, what was your treatment? A I syringed the vagina -- I cleaned the vagina with some medicine and put antiseptic medicine in a tampon in the vagina to be kept in until the next day.

Q Will you state what are the causes known to the medical profession ~~for~~ inflammation of the womb? A There are several causes. For instance lack of cleanliness; cold; over-strain of the lower part of the body by working at machines, machine sewing; excessive intercourse and self-abusing with finger or some instruments.

CROSS EXAMINATION BY MR. CARPTEL:

Q Do you recollect telling the girl she was in the family way? A No, she was not.

Q Did you make an examination? A I examined her womb too.

Q A thorough examination? A Yes, as far as could be done because the parts were very painful.

CASE 1527

Q Describe the examination that you made? A I first examined by the finger the vagina and the womb according to the size of the womb and the softness of the womb and then put an instrument, the speculum in which allows us to look at the lower part of the womb into the vagina and this operation was very painful.

Q Did you stretch the womb? A No.

Q You did not? A No.

Q You could make an examination as you described without stretching it? A Without stretching the womb, certainly. I stretched the vagina.

Q Well, stretching the vagina, did you do that? A Yes.

Q What instrument did you use? A The speculum.

Q I understand you to say from your observation, your conclusion is that the complainant was suffering from catarrh?
A Catarrh of the vagina and of the womb.

Q What deductions, if any, did you come to, by what process? A By the swelling of the parts, pain, discharge and redness.

Q Is not that brought on some times by intercourse?

A Yes, sir, it is brought on by intercourse.

Q Do you mean to say catarrh is due to the fact of intercourse? A To excessive intercourse.

THE COURT: This doctor has mentioned five different causes for the condition which he says he found.

CASE # 1527

BY MR. CARPIL:

Q Did the complaining witness complain to you about living at the house of the defendant and being compelled to live there? A No, not at all.

Q Not a word? A No.

LOUIS BOSSAK, called as a witness on behalf of the People, duly sworn and examined, testified as follows:

(Residence 342 Manhattan avenue.)

DIRECT EXAMINATION BY MR. WELLMER:

Q What is your business? A Furrier.

Q Who are you in business with? A Hochstein & Bossak.

Q In business for yourself? A Yes.

Q Whereabouts? A 18 West 20th street.

Q Do you know the defendant? A Yes.

Q How long have you known her? A About a year, something like a year.

Q Are you a married man? A No.

Q Have you visited the defendant's house? A Yes.

Q And did you visit her in 136th street? A Yes.

Q Whereabouts, what number, do you remember the number?

A No.

Q An apartment house, was it? A Yes.

Q And when did you visit her there? A I visited her about twice or three times a month.

Q In 136th street house? A Yes.

Q Did you have sexual intercourse with her? A Yes.

Q Did you see in the 136th street house the girl Jennie Johnston, who was on the stand? A Yes.

Q Can you remember the date about? A I don't remember the date.

Q Was it in the early part of February? A I think so.

Q You saw Jennie Johnston in the house? A Yes.

Q Did you see the defendant? A Yes.

Q State to the jury the day you went there, what did you do, who met you at the door? A Mrs. Mercury.

Q What was said when she let you in? A Step right in, and I went in a room, in a bed room.

Q Did she lead you into a room?

THE COURT: Let him tell.

THE WITNESS: I came in. Mrs. Mercury opened the door and she said, step right in, and I went in the bed room and the girl came afterwards in.

BY MR. WELLER:

Q What girl? A This girl.

Q Miss Johnston? A Mr. Johnston, yes.

Q Go on? A The girl came in.

Q Undressed? A Came in undressed.

Q You had sexual intercourse with her? A Yes.

Q How long were you with her, how many minutes? A Seven

CASE # 1527

or eight minutes.

Q When you got through, where was the defendant? A The defendant was in the other rooms.

Q After you got dressed did you see the defendant?

A I don't remember.

Q I mean the first time, did you see the defendant then?

A No.

Q Did you pay any money? A A dollar.

Q Who did you pay the dollar to? A Nobody was in the room and I left in something like a table, I left the dollar.

Q The girl had gone out? A Yes.

Q You left the dollar on the table? A Yes.

Q Did you see anybody pick the dollar up? A I think I saw Mrs. Mercury come in, whether she picked it up I don't know.

Q She came in later? A Yes.

Q Then you left? A Yes.

Q Did you come later to the house, 161 Manhattan avenue? A Yes, sir.

Q How long afterwards -- how long after the first time did you go there? A Nine or ten days.

Q In the meantime had you received a letter? A Yes.

Q From whom? A From Mrs. Mercury.

Q Have you got that letter now? A No.

Q Have you tried to find it? A No, I tore it in pieces.

CASE # 1527

Q Have you tried to find it? A I did not look for it.

Q What did you do with it? A I tore it in pieces.

Q Tore it up? A Yes.

Q Who was the letter from?

Objected to.

BY THE COURT:

Q Did you ever see this defendant write -- did you ever see the woman who is on trial write anything? A I did not see anything.

BY MR. WELLER:

Q What did the letter say.

Objected to. Sustained.

Q After you received the letter what did you do? A I came up about one or two days later.

Q Whereabouts? A This was Manhattan avenue.

Q That was an apartment block? A I think so, yes.

Q When you went upstairs and rang the bell, what did you do?

Objected to as leading.

BY THE COURT:

Q When you got there what did you do?

BY MR. WELLER:

Q What did you do? A I rang the bell and the door was opened. I came right in and said the same thing "Step right in".

Q Who said "Step in."? A Mrs. Mercury, and the girl

CASE 1527

was in the same time there.

Q What did she say? A Come in.

Q Was there anybody else there that day? A I saw a man go out.

Q Do you know Lenhoff? A I saw the man once.

Q Was he there, you saw him there once? A Once or twice - I heard only the voice of a man.

Q This man you saw come out, was that Lenhoff? A I do not think so.

Q What did you do after you got in there, did you go into a bed room? A Yes, sir.

Objected to. Sustained.

BY THE COURT:

Q Tell us what you did.

BY MR. WELLER:

Q What did you do? A The same thing like the first time.

Q You must tell the jury what you did, where you went and what you did and what occurred? A I came into the room. The girl was in front, she came in and she was undressed and she went in in bed. I was with the girl about five minutes and I take my hat and coat and I am going out. This girl was standing right in front of the door. I came out with Mrs. Mercury and I took a dollar from my pocket and gave it to the girl.

Q Gave it to whom? A Gave it to the girl.

Q Where was Mrs. mercury standing when you gave it to her?

CASE 1527

... ..



7
6
5
4
3
2
1

Q How long have you been employed at 18 West 20th street?

A The last four years, three years and nine months, since I am in this country.

Q The first time you went into the bed room with the complaining witness Jennie was about when? A Really I don't know.

Q What would you say, what month would you say? A The month of January or February.

Q The month of January or February, and you stayed in about seven minutes the first time? A Eight minutes.

Q She did not hesitate to undress and lay on the bed?

A She came in undressed.

Q She came in undressed? A She came in in a kimono.

Q She came in and laid on the bed? A Yes.

Q She came in in the bed room? A Yes.

Q You undressed? A Yes.

Q She undressed also? A Yes.

Q And laid on the bed? A Yes, sir.

Q She did not hesitate? A No.

Q Was not bashful? A No.

Q She did not complain about living there? A I did not ask her anything.

Q Did she say anything to you about being kept there against her will or anything? A No, nothing at all.

CASE 1527

A N N I E R A N D A L L, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

(Residence 161 Manhattan avenue.)

DIRECT EXAMINATION BY MR. WELLS:

Q What is your business? A Janitor.

Q At 161 Manhattan avenue? A Yes.

Q Do you know the defendant? A Yes.

Q Do you know that young girl, Jennie Johnston? A No, only saw her once.

Q Only saw her once? A Yes.

Q When did the defendant engaged the rooms in 161 Manhattan avenue? A The 6th of February.

Q The 6th or the 7th? A The 6th, I think. I am not sure whether it is the 6th or 7th, either of those two days.

Q Either the 6th or the 7th? A Yes.

Q You are sure it is either one of those two days?

A Yes.

Q And this was a five room apartment on the first floor?

A Five room apartment on the second floor.

Q Two flights up? A Yes, sir.

Q In the front? A In the front.

Q Now, what name appeared on the bell -- do you have ~~push~~ push buttons down in the vestibule? A Yes.

Q What name appeared on the push button down in the vesti-

CASE 1527

bule? A Mrs. Mercury.

Q Did the name Lehnhoff appear there? A I don't remember. I only think one name was on the bell.

Q Two Sunday mornings after they moved in, do you remember their moving in on Thursday? A No, they moved in on Tuesday.

Q Two Sundays after they moved in, do you remember that? A Yes.

Q Whereabouts were you in the morning? A Scrubbing the vestibule.

Q Did you see anybody come upstairs into that apartment? A No, not in the apartment.

Objected to. Overruled.

Q Did you see anybody come into the house? A Yes, I saw a lot of people coming in. Going in Mrs. Mercury's house, in the rooms?

Q Yes. A No.

Q Did you see anybody come into the house? A yes, I saw a lot of people coming in.

Q Did you speak to anybody that had anything for the Mercury apartment? A No, all I saw was a chinaman coming in the hall with washing and he went in the front door and I told him to not/come through the front door again, there is back stairs.

THE COURT: Never mind what you said.

THE WITNESS: So I don't know where he was going.

BY MR. WELLER:

Q You say you saw the girl Jennie Johnston on one occasion?

1721
CASE 1527

A Only once.

Q When was that? A The day they took the rooms, they moved in.

Q The day they moved in? A Yes.

Q What was she doing then? A She was standing by her aunt, standing in the hall all dressed.

CROSS EXAMINATION BY MR. CARPIL:

Q Did you hear Jennie complain to anybody or did she complain to you?

Objected to. Objection sustained.

Q Did this little girl Jennie Johnston say anything to you when you saw her standing besides your aunt, when they were moving in? A Never spoke.

Q That was on the ground floor? A No, sir, upstairs in the apartment.

JAMES W. CUMMINGS, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 48 Morningside avenue.)

DIRECT EXAMINATION BY MR. WELLER:

Q What is your business? A Manager for the Western Union Telegraph Company.

Q Whereabouts? A 2753 Broadway.

CASE 1527

Q What street is that? A Corner of 106th street and Broadway.

Q On the evening of February 6th, 1912, were you in the premises 2753 Broadway? A Until five o'clock.

Q Were you in charge of the office after five o'clock?

A I was -- I am manager at all times but leave at five, and I put a night force on.

Q Were you there when a telegram was received by Eric Roberts?

Objected to. Objection sustained.

BY THE COURT:

Q You were in that office up to five o'clock on the evening in question? A Yes.

Q Did you leave the office at five o'clock? A I could not say exactly five.

Q Did you leave about five? A About five.

Q At what time, if at all, on that night, did you come back to that office? A Not until the next morning.

Q Are you prepared to say that after six o'clock on that evening, you were not in that office until the next morning?

A Yes, sir.

Q How did you leave it at some time before six? A Between five and six, yes.

Q Do you know what telegrams, if any, were received by you at that office on the afternoon of that day? A No, sir, I

CASE # 1527

could not say.

Q Have you any record? A We have a record there, yes.

Q Who keeps the books? A The clerk.

Q What is the name of the clerk? A Jacob Siegelman.

Q What book is kept there by Siegelman? A A sheet. We keep a copy and send a copy downtown, -- take a carbon copy.

Q What do you mean by a sheet? A We have a sheet with a carbon between and that is our daily record. We send one copy downtown and the other we keep in the office.

Q Suppose a person comes into that office for the purpose of transmitting a telegram, what record, if any, would be kept in the office of the telegram received for transmission? A We keep the telegram, the original, and also a report of it on the sheet.

Q In other words, you would keep the original? A Certainly.

CASE # 1527

1

Q The paper handed to you as written out by the person desiring to have it sent would be kept by you in the office?

A Yes, sir.

Q Have you brought with you here to-day the telegrams as written out and delivered at that office for transmission on that afternoon? A Only the one telegram.

Q You have brought here a paper? A Yes.

Q You may look at the paper?

MR. WHEELER: People's Exhibit I for identification).

BY THE COURT:

Q Is that the paper you brought here, just look at it and answer yes or no to that question? A Yes.

Q Have you ever seen that piece of paper before to-day? A Yes.

BY THE COURT:

Q Are you able to say whether or not you ever saw it on the day that it bears date? A I did not see it on the date it bears date. I may have. I could not say. In running over my business I may have seen the piece of paper but not notice the message. We handle two or three hundred.

Q Where was this piece of paper when you first saw it so far as you know? A The first I saw of this paper an officer came in.

Q Never mind about that, where did you first see that piece of paper? A The first I saw of this piece of paper was in

CASE 1527

2

the business of this date, February 6th.

Q The paper was where at that time? A A bundle of business tied up in my closet.

Q In other words you went to the closet connected with your office and you took out a bundle of papers and you went through those papers and in that bundle you found the piece of paper which you now hold in your hand? A Yes.

Q When you speak of the piece of paper, do you mean the white paper or also the yellow paper? A I mean both. I refer to both. That is a postal blank.

Q You mean all these sheets? A Yes.

Q You mean this last sheet, the yellow paper, thin paper, and this piece of white and blue paper? A Yes.

Q You found them in that bundle altogether? A Yes.

Q Attached as they now are? A Yes.

Q Will you look at these pieces of paper and say whether there is any writing anywhere upon any one of those pieces of paper which you recognize? A No, sir, none of it my writing. I recognize the clerk's writing but not mine.

Q What is the name of the clerk? A Siegelman.

Q Did you ever see him write? A I see it every day.

Q Is there any writing on that piece of paper that is in his handwriting? A It is hard to say. These clerks all write about the same. I couldn't swear to that-- whether Siegelman or the night clerk.

CASE # 1527

Q What is the name of the night clerk? A Harry Erde.

Q Did you ever see him write? A I see him every day--
they mostly all write about the same.

Q Were there more clerks employed there than the two
you mention? A Just the two clerks.

Q Is there anything about these pieces of paper which in-
dicate the hour at which any one of them was left at your of-
fice? A This was filed at 7:35, that is the original.

Q So that the piece of paper, yellow paper, so far as
there is any indication at all, was left at your office after
you had left the office? A Yes, sir.

Q Would that be after the night clerk came on duty?
A The night clerk should be on duty.

Q What time does he come? A He comes at five o'clock.

MR. WELLES: With your Honor's permission I will
withdraw this witness and have the night clerk brought
down. Find out for me the name of the night clerk. That
is all.

THE COURT (to the witness): When you return to the
office you had better show the papers that you have seen
to the men in the office and find out whose handwriting
is upon them and have the persons whose handwriting ap-
pears upon them come here.

THE WITNESS: Also the telegraph operator? This
is the telegraph operator (indicating).

CASE # 1527

4

MR. WELLER: The man whose handwriting appears on the face of this telegram.

THE WITNESS: The face of the telegram.

A F R A P I S T E R, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

(Residence, 113 West 106th.)

DIRECT EXAMINATION BY MR. WELLER:

Q Are you the janitress of that house 113 West 106th?

A Yes.

Q How long have you been the janitress? A April 1st it was four years.

Q Do you know the defendant? A Yes.

Q Did she live in that house? A Yes.

Q From when to when? A I couldn't tell you from when but until February 6th.

Q Was it a matter of months or years that she lived in your house? A Months -- just two months.

Q Just two months? A Yes.

Q On what floor did she live? A One flight in the back.

Q Have an apartment? A Yes.

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

Q Do you know the young girl Jennie Johnston? A Yes, to see her but not to speak to.

CASE # 1527

Q Did you see her in the defendant's apartment? A Not in the rooms I never saw her.

Q Where did you see her? A When she used to come out, go out and in.

Q Going in and out of the door? A Yes.

Q When was that? A I couldn't tell you, I think it was the last couple of days she lived in the house.

CROSS-EXAMINATION:

Q Did she leave the house? A I used to see her a few times.

Q Alone? A Yes.

BY THE COURT:

Q What do you mean when you say alone? A I never saw her with the defendant.

Q When you saw her was she with anybody? A No, sir, never saw her with anybody.

Q Where was it that you did see her? A She would come down for letters in the letter-box, in the vestibule of the house.

BY MR. WELLER:

Q What was the name on the letter-box? A Mercury and Lehnhoff?

BY MR. CARPIL:

Q How often would you see her go to the grocery? A To the grocery?

CASE 1527

Q I mean to the corner? A I never saw her go out. I only said I saw her in the vestibule.

Q How often was that? A About three or four times.

Q The vestibule is how far away from the front door leading into the street? A That is the front of the hall.

Q Where the letter-boxes are kept, you know where the letter-boxes are on the side of the wall, how many feet away from the pavement? A From the pavement?

Q Yes? A You have to go up the stairs to the vestibule.

Q She was on the ground floor? A Yes.

Q The letter boxes are on the ground floor? A In the vestibule there.

Q And right out on the street? A I never saw her on the street.

Q She could have gone out in the street? A Yes.

Q She was alone downstairs? A Yes.

Q How often? A Three or four times.

Q What time of the day? A In the morning.

Q Will you describe where these letter-boxes are in the hallway, how far away from the front door leading out into the street? A On the side of the house when you come in the door.

Q That is the door leading into the hallway? A Yes. There is two doors from the street and a door to go in the

CASE # 1527

7

house.

Q In what part of the premises are these letter-boxes situated? A The side of the house.

Q At the first door? A Between the first and second door.

Q A few feet away from the stoop? A Yes.

BY THE COURT:

Q Did you ever see the witness Johnston in the street with this defendant? A No, sir -- yes, I saw her bring her into the house one afternoon.

BY MR. WELLER:

Q About what time was that in the afternoon? A I could not tell you.

Q Early or late? A I think it was late.

G E O R G E M. B I L A P P E R, called as a witness in behalf of the People, duly sworn and examined/testified as follows:

(Sixth Inspection District).

DIRECT EXAMINATION BY MR. WELLER:

Q Where you assigned on the 8th day of February, 1912, from the 8th to the 20th? A I was in the 6th Inspection District.

Q And were you assigned to look up the case of Rebecca Mercury and Theodore H. Lehnhoff? A Lehnhoff was not men-

CASE # 1527

tioned in the complaint. We had a complaint in regard to Mercury.

Q In regard to Mercury? A Yes.

Q What did you do upon receiving the instructions based on the complaint? A I went to premises 161 Manhattan avenue and made the investigation.

Q When did you go there?

BY THE COURT:

Q Tell us what you did, not what you said to anybody, except what you may have said, if anything to the defendant herself, or in her presence? A About nine p.m., February 20th, I went to the premises 161 Manhattan avenue. I looked on the bell to see if the name Mercury was there because I had a complaint --

Objected to.

BY THE COURT:

Q You looked on the bells? A I saw the name Mercury and I touched the button. Then the fastener that fastens the door clicked and I pushed the door and went in. I went up to the second floor and there a woman stood in the doorway with the door open of apartment No. 22 on the second floor.

BY MR. WELLER:

Q Front or rear? A Front. I asked "Are you Mrs. Mercury?" And she said "Yes."

Q What was the defendant? A That was the defendant.

CASE 1587

I said "Have you got a girl here?" She said "Who sent you?" I said "Louis Bossak, the little Jew furrier sent me here." She said "All right, come in." I said "I cannot come in now. I have a couple of friends of mine down in the corner saloon waiting for me. I said "We are going bowling and I told them to wait a few minutes and I will go down and tell them to go alone and I will come back again, or if you say so I will bring them with me." She said "Well, as long as you are a friend of Louis, you can bring your friends back." I said "All right." I went down on the street to the opposite side of Manhattan avenue from where the premises 161 is, and there I met Officers Donnelly, Gorman and Grossman.

BY THE COURT:

Q You said something to them? A Yes.

Q After you said that what did you do? A I went back.

BY MR. WEILER:

Q Were you officers in uniform that night? A No, in citizen's clothes.

Q Go on? A I went back to the premises 161 Manhattan avenue with Donnelly and Gorman. Pushed the button. When the door was released from the opener, I entered the premises and went upstairs and there met Mrs. Mercury the second time. I said "These are my friends." She said "All right, bring them in." I said, "Now, can they see the girl too?" She said "Yes." I said "How much will it be?" She said "Did

CASE # 1527

10

not Louis tell you?" I said "Louis said a dollar." She said "All right, give me a dollar." I paid her a dollar. Gorman paid her a dollar, and Donnelley paid her a dollar, the three of us together, one in the presence of the other. She told us to come inside and sit down. We went through a hall and on the end of the hall was a dining-room. There were two men sitting in the dining-room. There were two chairs vacant. I sat in one and Gorman sat in the other and Donnelly had to go out to the kitchen. There was no more room there. He sat in the kitchen. We were sitting there about five minutes when the door in this dining-room leading into a bed-room adjoining the dining-room opened. When the door opened a man came out and left the premises. The defendant, Mrs. Mercury went into this bed-room, took Jennie Johnston by the hand from the bed-room, through the dining-room into the parlor and brought her to a bed-room adjoining the parlor. There was a screen separating the two rooms, like a Japanese screen.

Q What was her costume? A She had a short petticoat on and like a little kimono on at that time.

Q What do you mean by a short petticoat? A It went down to about an inch or two inches below her knees, no further. Then I saw the man who was sitting in the parlor get up and go into the bed-room adjoining the parlor. They remained in the bed-room, this man and Jennie Johnston, about maybe ten

CASE 1527

minutes or a little longer, when the defendant, Mrs. Mercury went into the bed-room adjoining the parlor and took Jennie Johnston by the hand and brought her through the parlor into the dining-room and through the dining-room into the bed-room adjoining the dining-room.

Q At that time, did she leave the man in the bed room, or had he come out? A No, she left him in the bed-room.

Q Go on? A When she brought Jennie Johnston in the bed-room adjoining the dining-room, I went in the parlor and spoke to this man.

Q Do not say what you said unless it was in the defendant's presence? A No, it was not in her presence. I came back and sat in the dining-room, and the defendant Mrs. Mercury told another man sitting in the dining-room, who was there before we went in, to go ahead in, and he went in the bed-room. There was still another man to go in before any of us three, and I asked him --

Q Was this in the defendant's presence? A This was in the presence of the defendant.

Q Proceed? A I asked him if I could take his turn, I was in a hurry to get away, and he said "Yes." When this other man came out that had gone into the room with Jennie Johnston, I got up to go in, and the defendant Mercury said to me, "Go in there now and see if you can dig a sewer, nobody has done it yet." I entered the bed-room. She escorted

CASE #1527

me and there was a brown earthenware basin about that large in there and about that deep (indicating), had some water in it. She took the basin and went out to get some fresh water and I told Gorman to go out and get Donnelly. I entered the bedroom. She closed the door when she went to get the water, and then I asked Jennie Johnston how old she was.

Objected to.

THE WITNESS: I remained in the room I don't think over a minute, when I opened the door and called Gorman and Donnelly and said, "Have a look at this," and Jennie Johnston was lying on the bed with nothing on but a chemise and it was drawn up right under her arm pits and the whole lower part of her body was naked, was nude.. Donnelly and Gorman stood there and saw her naked, and then I started out of the room and the defendant Mercury came back with the basin of water from the bath-room. She said "Did you dig a sewer?" I said "No." She said "I will kill you; she is no good to me that way." I said "Nobody else will dig a sewer, either. I am a policeman and going to place you all under arrest." These two citizens were there. They got frightened. I told them not to be frightened. I said "If you will give me your name," I said, "and your address," I will let you go," and they gave me their name and address and I let them go, and I placed the defendant Mercury and Jennie Johnston under

1011
CASE 1527

arrest. The defendant Mercury asked me if she could speak to me. I said "No, you cannot speak to me." I said "A woman that will take a young girl like this and start her out in this kind of a life cannot speak to me." She said "I have some very good friends in New York and you may know some of my friends; you better let me tell you what I have to say." I said "What is it?" She said "If you will go out of here and let us stay, I will give you fifty dollars; this is my niece and you will make a lot of trouble for me." I said "No." I told them to get ready and took them both to the station house, and then from there to court the next morning -- Jennie Johnston went to court that night.

Q When was Lehnhoff arrested? A Lehnhoff was arrested the morning of the 21st, I think it was.

Q The following day? A Yes, in the 54th street Court.

THE COURT: I will strike out the statement regarding the money and instruct the jury to disregard it.

BY A JUROR:

Q Will you describe the rooms you were in?

BY MR. WELLES:

Q Will you give us a description of the rooms? A If you will give me a piece of paper I will make you a diagram of it.

(The witness makes a diagram of the premises).

Q Will you mark on there which is Manhattan avenue with

CASE # 1527

the front of the house?

(The witness indicates).

Q So, this is Manhattan avenue out here, this way (indicating)? A Yes.

Q And the first room on the street is the parlor with the bed-room next to it? A Yes.

Q Parlor and bed-room both being on the avenue? A Yes.

Q Directly behind the parlor is the dining-room? A Yes.

Q Directly behind the bed-room alongside of the parlor is the other bed-room? A Yes, sir, but there is no entrance from one bed-room into another.

Q You have to go around through the parlor and dining-room? A Yes.

Q This way (indicating)? A Yes.

Q Then the hall leading to the main hall runs from the dining-room to the main hall? A Yes.

Q And back of the dining-room is the bath-room, and back of the bath-room is the kitchen? A Yes.

The diagram is offered, received in evidence and marked People's Exhibit 2.

BY THE COURT:

Q Where is the entrance door to the flat? A That is the entrance door there (indicating).

BY MR. WELLER:

Q Officer, a question has been suggested by the tenth

CASE # 1527

15

juror, if there was an alcove or door leading from the dining-room to the parlor? A If I remember correctly there were the rolling doors and screen was across and I sat at one end of the screen so I could see behind the screen and see the man in the parlor.

Q The doors were folded back? A Yes, they were open. I asked the defendant at the time, I said, "Who is in the parlor?" She said "That is a friend of Louis' in there, don't let him see you," and I said "All right." While I was sitting in the dining-room one of these men sitting there had this card and showed it to me, and I asked Mrs. Mercury if this was one of her cards, and she said, "Yes, I will give you some of them before you go away," but she never gave me any of them because I placed her under arrest. This card was offered in evidence in the Magistrate's Court.

MR. WELLES: I offer the card in evidence.

The card is received in evidence and marked People's Exhibit 3.

MR. WELLES (continuing): I have other cards

BY MR. WELLES:

Q You were about to say you had other cards? A They are connected with the other case.

THE COURT: Never mind.

CROSS-EXAMINATION BY MR. CARPIS:

Q You are somewhat certain about what took place in the

CASE 1527

apartment? A While I was there.

Q You are also certain there is rolling doors? A I say as near as I remember there were rolling doors. It is a large door.

Q What do you mean by a rolling door? A A door that rolls in like to a partition.

Q This rolling door separated what rooms? A The parlor and dining-room.

Q You are positive of that? A Yes.

MR. CARPTEL: Is the janitor here?

THE WITNESS: I can make a correction there --

BY MR. CARPTEL:

Q No correction at all? A It was open -- a large opening may be opened by a rolling door.

Q You said a rolling door?

THE COURT: He said he was not sure whether it was a rolling door or not.

BY MR. CARPTEL:

Q You are attached to Inspector Sweeney's command?

A Yes, sir.

CASE # 1527

1

Q How long have you been attached to Inspector Sweeney's command or inspection district? A Well, I went to work in Harlem. I have been all around with Inspector Sweeney, but went to work in Harlem on the 23rd of January.

Q You ~~never~~ worked with him before that, didn't you? A Yes.

Q You are familiar with the Harlem districts? A No, sir.

Q You worked with him before? A Not in Harlem.

Q Where did you work with him? A Brooklyn and Queens.

Q You know where Cathedral Parkway is? A I know the station called Cathedral Parkway.

Q You know the houses in that neighborhood? A Never been in any of them that I can remember.

Q Do you know Manhattan Avenue between 103rd and 104th?

A Yes.

Q Furnished apartments? A I don't know whether furnished or not.

Q Did you make any investigation as to those different houses and apartments? A No, sir; I only go where I am sent.

STANLEY F. GORMAN, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(6th Inspection District).

DIRECT EXAMINATION BY MR. WELLER:

Q On the 20th of February, 1912, about 9 o'clock in the

CASE 1527

evening, where were you? A Between 107th and 108th streets on Manhattan Avenue.

Q With whom? A Officer Bilaffer, Donnelly and Grossman.

Q What occurred? A Officers Bilaffer entered premises 161 Manhattan Avenue, was there a few minutes around 9 o'clock, came downstairs again and --

BY THE COURT:

Q said something to you and after he spoke to you, what did you do? A We entered the premises 161 Manhattan Avenue and went up to the apartment 22, and the defendant Rebecca Mercury was standing at the door and Officer Bilaffer walked up to her and said, here are my friends. He said when they see the girl and she said yes. He said well, what do you want. She said did not Louis tell you. He said a dollar. She said that is all right and Officer Bilaffer gave her a dollar and Officer Donnelly gave her a dollar and I gave her a dollar. Officer Bilaffer and I walked in through the hall to the dining room. Officer Donnelly sat in the kitchen, and we sat down in the dining room and there were two men sitting in there. We were in there about five minutes I should say, and a man left the bedroom that was adjoining the dining room; pretty soon after that the defendant went into this bedroom and came through the dining room with the witness Jennie Johnston holding her by the hand. At the time she had a short kimono on and flannel petticoat; walked past us and through into the parlor and into the

CASE 1527

bedroom adjoining the parlor. There was a screen between the dining room and parlor. I got up and looked around the side of the screen and I could see this man in the bedroom with his trousers off in the bed with Jennie, and pretty soon the defendant, Rebecca Murphy, came in with a bowl and walked into the parlor and into the bedroom and came back with Jennie Johnston holding her by the hand and took her through the dining room past us and back into the bedroom where Jennie had first been. Then, one of the men sitting down in the dining room where we were, went in, and after he was in there for about ten minutes, Officer Bilaffer got up and asked this other man that was waiting if he could take his turn, as he was in a hurry, and the defendant, Rebecca Mercury said to him, now, don't forget to dig a sewer. Officer Bilaffer went in there and Rebecca Mercury in the meantime walked out through the hall some place and Bilaffer was in there just a few moments when he told me to call Officer Donnelly and I walked through the hall and called Donnelly and brought him in and he said -- Bilaffer said, take a look at this and the witness, Jennie Johnston, was lying on the bed with nothing on but a chemise which was drawn up to her armpits, above her bust, and then the defendant came in and she said to Bilaffer, well, did you dig a sewer. He said no, I did not dig a sewer and nobody else is going to. We are placing all you under arrest.

CROSS EXAMINATION:

Q I suppose Jennie cried when you placed them all under

CASE # 1527

arrest. A She felt bad. She did not cry very much.

Q She did not cry? A She cried during the course of the evening.

Q Where at the house or station house? A Why, I don't know just exactly, I didn't pay much attention to how much crying she did.

Q You are positive the defendant led Jennie by the hand like a little baby or a little lamb? A Yes.

Q And of course Jennie pulled back? A She was very bashful at the time.

Q Did she blush? A Yes, she blushed.

Q Did you blush? A No.

Q Did you attempt to pull Jennie away from her hand when she was leading her like a little lamb? A I did not.

Q You are positive this exactly took place? A I have testified to what took place.

Q Sure of that? A Yes.

Q Was there a rolling door separating the bedroom from the sitting room? A I did not say anything about a door, I said there was a screen there.

Q Was there a rolling door? A I don't know.

Q Did you look? A I looked around the screen.

Q The rolling door had to be situated parallel with that screen? A I did not say there was one there.

Q You say there was none? A I did not say there was none?

CASE # 1527

Q What was there between the screen and that door?

A A safe -- I did not see any door.

Q Was it an empty safe? A There was a doorway but I did not see any door. I did not look to see if there was any door or not.

Q Were there portieres there? A I don't remember that. I remember the screen.

Q But you remember the important incident of her leading her by the hand? A Yes, and the screen was there.

Q That impressed you very seriously? A Certainly.

Q But the other surroundings, from your observation, you are not able to recollect and tell the jury? A I remember there was a screen there but I don't remember what kind of a door was there. If there was one, it was open.

Q Do you know Louis Bossack? A From being in court.

Q He is a friend of Biloff's? A Not that I know of.

Q You heard him use the word, my friend Louis? A That was in the complaint -- that was our pretext.

Q Did you talk to Louis Bossack? A Outside, since this case has been adjourned a couple of times, that is all.

Q Why did your brother officer use Louis Bossack's name, if he did not know him? A The name Louis Bossack was used in the complaint that was sent to the Inspector and it was our pretext by using his name, to get in there.

Q How long have you been attached to Inspector Sweeney?

CASE # 1527

inspection district? A Since the 23rd of January.

Q In that neighborhood of Manhattan avenue? A Not particularly.

Q Manhattan street? A Not particularly.

Q Harlem? A Harlem.

Q Takes in the best part of Harlem? A From 86th street to Dyckman.

Q Also Cathedral Parkway and 110th street? A Yes, sir.

Q Furnished flats? A I don't know if they are furnished or not.

Q 108th and 109th streets? A Some of them are that I have been into.

Q Did you hear Jennie Johnston make any outcry or any resistance when her aunt held her by the hand? A I did not hear her say anything.

Q She did not complain? A I did not hear her complain.

Q That she was being used against her will? A I did not hear her say anything.

Q Did you go into the room where Jennie Johnston laid in bed, A yes, I did.

Q She remained exposed? A She did.

Q Did she blush then also? A She did not know what was going on. She did not know what was happening.

Q Did she blush?

Objected to as immaterial. Sustained.

CASE # 1527

WILLIAM S. DONNELLY, called as a witness in
behalf of the People, being duly sworn and examined, testi-
fied as follows:
(6th Inspection District).

DIRECT EXAMINATION BY MR. WELLER:

Q On the 20th of February about 9 o'clock in the evening,
where were you? A In company with Officers Bilaffer and Gor-
man.

Q Whereabouts? A At Manhattan Avenue in front of premises
161 Manhattan Avenue, between 107th and 108th streets on the east
side of Manhattan Avenue.

Q Did you see Bilaffer go into 161? A Yes.

Q And remain a few minutes? A Yes.

Q And come out? A Yes.

Q You went up with him? A Yes.

Q And saw the defendant? A Yes.

Q Go ahead and tell your story? A The defendant Mercury
was in the private hall of apartment No. 22, one flight up, in
front. Officers Bilaffer, Gorman and I went in. Officer Bilaffer
said, these are my friends. He said what do you want? So she
said, did not Louis tell you, and officer Bilaffer says yes,
Louis said a dollar. She said as long as Louis said it is a
dollar, it is all right. Officer Bilaffer handed her a dollar;
I handed her a dollar, and Officer Gorman. She then proceeded
through the private hall to the dining room. There were two men
sitting on the couch and two chairs were vacant which Officer

CASE 1527

Bilaffer and Gorman occupied, a chair each, and no more room for me, and I went back into the kitchen. I was there awhile. A short man passed out, dark complexioned, and then the second man passed out, through the private hall. Officer Gorman then came, in a lapse of about three or four minutes, and said, come in here Billy. We went through the private hall. The defendant Mercury was in the bathroom. Officer Bilaffer said, take a look at that, referring to the bedroom at the side of the dining room. Went in there and saw the complaining witness lying on the bed naked with a chemise rolled up under her arm-pits, above her breasts. The defendant Mercury then came in with an earthen bowl with water in it. She said did you dig a sewer yet and Officer Bilaffer said no, and nobody else will dig a sewer, we are policemen and we are placing you under arrest.

CROSS EXAMINATION BY MR. CARPIL:

Q You do not know who rolled up Jennie kimono, do you?

A No, sir.

Q You did not do it. A No.

The Court admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and takes an adjournment until to-morrow morning, April 12, 1912, at 10:30 o'clock.

CASE 1527

THE PEOPLE vs. MERCURY continued.

New York, April 12th, 1912.

N E T T I E M c G U I R E, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 764 McDonough Street, Brooklyn).

DIRECT EXAMINATION BY MR. WELLER:

Q For whom do you work? A John F. Patching & Company.

Q On Fifth Avenue? A No, we have moved. It is 20 East 20th street.

Q In the month of January of this year, where was your place of business? A Fifth avenue and 19th street.

Q They are in the lace business? A Yes.

Q Jennie Johnston, -may I inquire first what was your position in the house? A Forelady.

Q Did Jennie Johnston work for that firm? A Yes, sir; she did.

Q And was she under your supervision and control? A Yes.

Q What did she do? A Sewed lacework.

Q And how long was she employed by you? A Three and a half years.

Q Under your personal supervision? A Yes.

Q What time did she get there in the morning? A About half past seven.

CASE 1527

Q What time was she permitted to leave in the afternoon?

A About ten minutes to six.

Q Did she work steadily? A Yes, sir.

Q Had steady employment? A Yes.

Q And did she work every day? A Every day.

Q What was her salary a week? A Eight dollars.

Q Did she occasionally have over-time? A Very seldom.

Q In the latter part of January, 1912, did you see the defendant? A Yes.

Q When and under what circumstances? A In the work room.

Q Where? A In the work room, the last day of January.

BY THE COURT:

Q What work room? A John F. Patching & Company.

BY MR. WELLER :

Q Was the defendant there? A Yes.

Q What occurred? A Regular work during the day from eight to six.

Q Did you see the defendant there in January? A No, I did not.

Q Did you see her leave with Jennie Johnston, at any time in January? A I did not understand what you said -- the defendant?

BY THE COURT:

Q Did you at any time during the month of January, see the woman who is on trial? A I did not.

CASE # 1527

Q At the place of business of the concern for whom you work? A No, I did not.

Q Or outside of that place of business? A No.

BY MR. WELLER:

Q So far as you know, the defendant did not come there to take the girl away? A I did not see her.

Q Was Jennie a good girl? A Yes.

Objected to, and motion made to strike out.

THE COURT: I will strike it out.

BY THE COURT:

Q About how large was the room in which the complaining witness, Jennie Johnston, worked? A During the busy season I have forty girls, and this time of the year have about twenty-seven.

Q I mean the room in the place in which she worked? A I don't know.

Q Was she working in the same room in which you were?

A Yes, sir; right alongside of me.

Q Near you? A Right near me.

CROSS EXAMINATION BY MR. CARPIL :

Q This defendant was also employed by Patching & Company for about four years? A At one time.

Q Wasn't she getting work from your concern last winter?

A Yes, sir.

Q She was employed, the defendant, by Patching & Company

CASE 1527

how many years? A I don't remember.

Q Several years -- how long would you say? A I don't know. I know she did not stay long at a time.

Q You recollect last winter you gave her some work to be completed and performed by her at night time? A At home, during the day.

Q You don't know what Jennie Johnston does at night time?
A I do not.

THE COURT: She has not testified to anything of that kind.

BY MR. CARPPEL :

Q Do you know where she lived? A Yes.

Q Did you ever visit her? A No.

Q Ever go out with her? A No.

JAMES M. CUMMINGS recalled:

BY MR. WELLER:

Q Have you that telegram?

(Paper is produced by the witness).

Q Did you find out who was on duty that night in your office, at 2753 Broadway? A Yes, sir.

Q Who was it? A Jacob Siegelman.

MR. WELLER: That is all.

(No cross-examination).

CASE 1527

J A C O B S I E G E L M A N, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 69 Norfolk Street).

DIRECT EXAMINATION BY MR. WELLER:

Q What is your business? A Clerk, Western Union.

Q Where? A 2753 Broadway.

Q What are your duties at that point, and what were they in the month of February of this year? A To receive telegrams over the counter, and to send out telegrams.

Q I show you People's Exhibit 1 for Identification, and I ask you if you have seen that telegram before?

Objected to. Objection overruled.

THE COURT: I will allow him to answer yes or no.

BY THE COURT:

Q Yes or no to that, have you seen it before? A Yes.

BY MR. WELLER:

Q When, A I saw it last night.

Q When before last night did you see it? A At the time I checked it.

Q When was that? A February 6th.

BY THE COURT:

Q Look at that piece of paper you hold in your hand; is there any writing on there that you put on it? A Yes; my check and filing time.

CASE 1527

Q In other words, there is some writing you put on it?

A Yes, sir, and also some writing the operator put on it.

Q I am only asking you -- there is some writing you put on that piece of paper? A Yes, sir.

Q What is the writing there, in your handwriting? A 10 pd. 25, and the filing time 7:35.

BY MR. WELLER:

Q What is the date? A February 6th, according to this telegram.

Q That was the date you received it; do you stamp the date of the reception of the telegram when you receive one? A Sometimes I do, and if I do not stamp it, the night clerk stamps that.

BY THE COURT:

Q What time did you get to work on that date? A 7:30 in the morning.

Q How late did you remain in that office? A Until 2 A.M. The night clerk did not show up, and I had to take his place.

Q What are your duties in that place? A To receive telegrams and send out telegrams.

Q When you say you receive, what do you mean by that?

A Over the counter, from customers coming in.

Q Somebody hands you a blank with something written on it, in order that you may transmit that as a telegraphic message?

A Yes.

CASE # 1527

Q After you get that, what do you do? A Put the filing time on and check up the message, the amount, and put it do the hook, on the operator's hook.

BY THE COURT:

Q That is, you write something on the piece of paper handed you by the customer. A Yes.

Q After you have written out something on that piece of paper, you hang that piece of paper on a hook. A Yes.

Q You yourself do not do any work on the telegraphic instrument? A No.

Q Look at the piece of paper in your hand, and state, after looking at it, whether or not you have any personal recollection as to the receipt of that piece of paper; do you now recall as matter of personal memory, the receipt of that piece of paper?

A I do not think I can recall this telegram, because so many customers come in every day and so long ago, I would not know.

BY MR. WELLER:

Q But your handwriting 10 pd. 25 -- that is in your handwriting? A Yes.

Q In the ordinary course of business you would put that on the telegram?

Objected to. Objection overruled.

Q When do you put 10 pd. 25 on a telegram in your own handwriting? A Right on the counter as soon as I get it from the customer I put it on there, and put the filing time on.

CASE 1527

Q Was that telegram sent?

MR. CARPEL : I object.

THE WITNESS: It stands to reason --

THE COURT: Objection sustained.

BY MR. WELER:

Q Can you testify that telegram was sent?

Objected to. Sustained.

BY THE COURT:

Q Who was the telegraph operator in that place at that time?

A A man by the name of Sheehan.

Q What is his first name? A J.F., I think -- I don't know his first name.

Q That was the telegraph operator in that place at that time? A Yes.

Q The last you saw of telegrams you received was when you put them on the hooks? A Yes, sir, and occasionally when I had to notify the sender of the message, in case of non-delivery, then I take it out. That is the time I take the message out and have to notify them. I probably saw that the next day, because there is my notice notifying the party it was undelivered. It laid over until the following morning.

BY MR. WELER:

Q What note is there on there, in your handwriting, that it was undelivered? A This water copy.

Q What does it say there?

CASE 1527

Objected to. Sustained.

BY THE COURT:

Q When did you write that, which you call the water copy?

A According to this copy --

Q When did you write it? A February 6th.

BY MR. WELLER:

Q When was it sent out again? A The telegram?

Q When was this telegram sent out again?

MR. CARPEL : I object unless he knows himself.

Objection sustained.

BY MR. WELLER:

Q Do you know? A This telegram --

THE COURT: This man is not the operator there. He has told you what he does.

MR. WELLER: I think we have gone far enough with it and I offer it in evidence.

THE COURT: Excluded.

MR. WELLER: With the exception of the telegraph operator who sent the telegram, the People rest. I ask permission to call the operator later in the case, when he arrives in the court.

THE COURT: I will give you that permission.

MR. CARPEL: I ask the Court to take this case from the consideration of the jury upon the ground that the defendant is charged with violating Section 2,460 of the Penal Code.

CASE # 1527

THE COURT: The Penal Law.

MR. CARPES: The Penal Law. It must be affirmatively proved by the prosecution that this defendant did import, entice or induce, or influence this complaining witness to enter the house of the defendant for immoral purposes.

THE COURT: I will interrupt you a moment. What sub-division of the section do you contend the prosecution is under?

MR. CARPES: The whole section, 2460.

THE COURT: Under what sub-division of this section do you contend this prosecution is under. You pick out the sub-division.

MR. CARPES: Sub-division 1.

THE COURT: Your contention is it is under sub-division 1?

MR. CARPES: From the indictment.

THE COURT: Have you looked up the indictment?

MR. CARPES: Yes, the indictment says, entice and procure a certain female.

THE COURT: Have you examined the section?

MR. CARPES: Here is the section right here. The section says "The importation of women and girls into this State or the exportation of women and girls from this State for immoral purposes is hereby prohibited, and whoever shall entice, induce or procure or attempt to entice, induce

CASE 1527

or procure to come into this State or to go from the State, any woman or girl for the purposes of prostitution or -

THE COURT: Suppose you look at the third sub-division of the section.

MR. CARPEL: We have to follow the exact language under sub-division one.

THE COURT: Not at all -- look at sub-division 3.

MR. CARPEL: Any person who shall induce, entice or procure.

THE COURT: That is the sub-division.

MR. CARPEL: Or attempt to entice, induce or procure any woman or girl for the purposes of prostitution, &c. -- the question is, was there any inducement exercised by this defendant against this girl, the complaining witness; was she enticed; was there any moral persuasion or any other persuasion exercised by this defendant upon this complaining witness, to lead a life of shame and immorality? From the testimony of the complainant, it was not adduced from her, or from any other witness, that she was enticed. What does entice mean under Webster's dictionary? The word "entice" under Webster's dictionary means "to tempt". How was she tempted? Procure -- to bring about -- induce to influence. Now, was there an influence exercised by this defendant? If this complainant had said "No, I shan't, I will think it over, I am ashamed, I am afraid," and if she, the defendant,

CASE # 1527

continued to exercise influence and persuasion, then the Court might have construed that section which this defendant could have been charged with.

THE COURT: Your argument goes to the weight of the evidence, and is properly to be addressed to the jury. It does not go to the presence or absence of any evidence.

MR. CARPES: There is no evidence that she did induce this female person.

THE COURT: That is for the jury to say in the light of the testimony in the case.

Motion denied. Exception.

MICHAEL F. CLIFFORD, called as a witness in behalf of the defense, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. CARPES:

(Residence 275 West 150th street).

Q What is your business? A Court stenographer, City Magistrate's Court, First Division.

Q How long have you been a stenographer? A A stenographer since 1901.

Q Were you present in the City Magistrate's Court, 7th District, on the 24th day of February, 1912? A I was.

Q Were you acting in the capacity of stenographer? A I was.

CASE 1527

Q Have you the original minutes here? A I have.

Q Do you recollect the case of The People against Rebecca Mercury and Theodore Lehnhoff, in which you acted as stenographer? A I do.

Q Will you kindly refer to your minutes; do you recollect seeing the complainant, Jennie Johnston? A I think so -- I think so.

Q You have your notes here? A I have.

Q Now, do you recollect taking the testimony of Jennie Johnston as follows -- (referring to your page -- "Q Have you ever had sexual intercourse, Jennie, with men, before you went to live with Rebecca Mercury? A Yes, sir." A I have that here.

Q Have you got that, A Yes.

Q She did answer that way? A Yes.

CROSS EXAMINATION BY MR. WELLER:

Q May I ask you if these are your minutes furnished to the District Attorney's office by you? A Yes.

Q And did you compare all the minutes before you sent them down to us? A Yes.

Q It is a correct transcript? A Yes.

Q Of all the testimony? A Yes.

Q Referring to the beginning of the testimony of Jennie Johnston, have you your notes? A I have.

Q Page 13 of the stenographic minutes, was this question asked -- "Direct Examination by Mr. Murphy: Q Your name is

CASE # 1527

Jennie Johnston? A. Yes." Have you got that? A Yes.

Q "Q Where do you live? A 161 Manhattan Avenue. Q Were you living there on February 20? A Yes. Q Who were you living with? A My aunt. Q When did you go to live there? A February 7th." Is that correct?

A That is not all the question, is it?

Q "Q When did you go to live there? A February 7th", you have here? A Yes, sir, that is it, February 7th.

Q The next question is "Q About how many weeks ago? A About two weeks ago." A Yes.

Q That is correct? A Yes.

BY MR. CARPEL:

Q On page 13, cross-examination by counsel for the complainant, of Jennie Johnston --

MR. WELLER: The direct-examination.

MR. CARPEL: Direct-examination.

THE COURT: Who is examining?

MR. CARPEL: Direct examination by Mr. Sullivan -- I think it was an Assistant District Attorney -- Frederick Sullivan -- not the attorney for the other defendant.

BY MR. CARPEL:

Q Direct-examination by Mr. Sullivan, in the 54th Street Police Court, the following question was asked of the complainant at page 13, "Q When she came to see you, what did she say, if anything? A She asked me to get off for the afternoon, and

CASE # 1527

she took me along with her to another lady's house and she asked me questions. She asked me if I ever went with anybody before.

Q Did she ask you other questions? A Yes."

MR. WELLER: I object to all this because it does not tend to contradict anything the complainant has said.

THE COURT: How does it?

MR. CARPTEL: Because this complainant said she was a pure girl, on direct-examination, and she made a different statement in court. She said she was intimate with other men.

THE COURT: Pardon me. I will see your minutes.

(The minutes are shown to the Court).

THE COURT: I will allow it.

BY MR. CARPTEL:

Q (Continuing) "Q What other question did she ask you?

A She asked me if I had had anything to do with anybody before, and I told her yes." Is that right? A That is right.

Q That was what she testified to? A Yes.

THE COURT: Mr. Carpel, you have not made the connection very clear. That purports to have been a conversation between Jennie Johnston and the defendant Mercury?

MR. CARPTEL: Yes.

THE COURT: That is all.

CASE 1537

H A R R Y A. D I E T E R, called as a witness in behalf of the defense, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. CARPES:

(Residence Bergenfield, New Jersey).

Q How old are you? A Thirty.

Q What is your occupation? A Automobile business.

Q And what do you mean by automobile business? A Running cars and repairing them.

Q Where are you employed? A The Acton garage, 137 West 89th street.

Q In what capacity are you employed there? A Shop work.

Q You have been employed there how long? A Since 1906.

Q Do you know the complainant, Jennie Johnston? A Yes.

Q How long have you known her? A About three years.

Q How near to Jennie Johnston do you reside? A About two blocks.

Q What time do you usually leave your home to come to New York City? A About 6 o'clock in the morning.

Q How often, in the past year, did you and Jennie Johnston leave Bergenfield, New Jersey, on your way to New York; how often during the year 1911? A Well, almost every morning that we met together.

Q Were you keeping company with Jennie Johnston? A I have been.

Q How long did you keep company with her? A About three

CASE # 1527

months.

Q Were you engaged to her? A Yes.

Q What year were you engaged to her? A The end of last year.

MR. WELLER: That is December, 1911?

THE WITNESS: Yes.

BY MR. CARPIL:

Q The end of last year -- you do not know what month?

A In November.

Q Did you have any conversation with Jennie Johnston in the month of November, 1911, in relation with other men? A Yes.

Q Now, kindly tell these gentlemen of the jury, and his Honor, under what circumstances this conversation was brought up?

A It was just in regard to her, if she had any connection with any other men, so I asked her several times before that, but she said no. I wanted to know before we became engaged, but finally I got from her that there were two young men, one by the name of Maurice McDermott, and the other one was Ben Dunn.

Q She told you that? A Yes, she told me that.

Q And the engagement was broken off? A No -- I thought there was more than that, and I said if that was all, we would become engaged then.

Q Did you have any conversation with Jennie in 1911, when she said she was about tired staying home, and wanted to come to New York City; do you recall any conversation? A There was one conversation coming home on the train we had conversa-

CASE 1527

tion. She said another girl and her intended to come to the city and take up a room, because her mother was always nipping at her.

CROSS EXAMINATION BY MR. WELLER:

Q You thought a great deal of Jennie Johnston, didn't you?

A Yes.

Q You had a great many good times with her? A Yes.

Q She was a good girl, wasn't she? A She appeared to be so, as far as I could see.

Q You went back and forth from Bergenfield, New Jersey, to the 42nd street ferry, every morning? A Yes.

Q And came back at night -- used to wait for her at night?

A No, not at night, only when we were engaged, that is all.

Q You had been doing that for how many years? A We had been knowing one another the last three years, but never came up together at night time, only in the morning.

Q How far out is Bergenfield, New Jersey? A About twelve miles from the other side, Weehawken Ferry.

Q You have to take a train? A Yes.

Q At quarter after six in the morning, to get to work -- for her to get to work at half past seven? A Yes.

Q About how far do you live from the railroad station?

A About a mile.

Q So it is a pretty long walk? A Yes, it is rather.

Q And do you remember going to a carnival with Jennie?

A Yes, sir.

CASE 1527

Q When was that carnival? A That was in November, 1910.

Q That was just about the time you claim you had this talk with her? A Yes.

Q And there was a little dispute at the carnival that night between you and Jennie? A Certainly was, yes.

Q She had a plate of ice cream with another boy? A I do not say she had the ice cream, but she left me to go with the other boy.

Q And you went home angry at her? A I stayed around --

Q You did not wait to bring her home? A I stayed there until quarter past eleven to wait for her to come back.

Q But you went home without her? A Yes, I went home without her then.

Q That was the breaking of your relations? A Yes, sir, in a way.

BY MR. CARPEL:

Q You answered my friend here the breaking of the possible engagements. A Yes.

Q That was not the cause of it?

Objected to.

MR. CARPEL: You brought that out yourself.

MR. WELLER: Indeed I did.

MR. CARPEL: I have a right to go into it further.

THE COURT: No, I think I will exclude it.

Exception.

THE DEFENSE RESTS.

CASE # 1527

MR. CARPEL: I now renew my motion to take this case away from the consideration of the jury, upon the ground that it has not been proven this defendant is guilty of violating this section. The people have not proven their case within the meaning of the section.

Motion denied. Exception.

MR. WELLER: I would like to have an opportunity of putting that telegraph operator on the stand. I do not want to impede things and will be guided by your Honor's desires in the matter, but, personally, I think the State has introduced enough connecting proof here to corroborate the girl in her statement that the telegram was sent.

THE COURT: You may use your own judgment regarding it.

MR. WELLER: I ask the Court's permission to adjourn the matter until 2 o'clock. It is now quarter of one or twenty minutes to one, and I should like to have an opportunity of endeavoring to get the telegraph operator down here.

THE COURT: I will grant the application of the District Attorney.

The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure, and takes a recess until 2 o'clock.

CASE 1527

AFTER RECESS. TRIAL RESUMED.

J O H N P. S H E E H A N, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WELLER:

(Residence 210 West 10th street).

Q What is your business? A Telegrapher.

Q At 2783 Broadway? A Yes.

Q When were you on duty on the evening of February 20th, 1912, when did you go on duty? A 5 P.M., and got off at 2 A.M.

Q That evening did you see that telegram, People's Exhibit 1 for Identification? A Yes, I saw it.

Q Is there anything on that telegram which bears your handwriting, and if so, what is it? A On the left.

Q State it? A My initials at the time it was sent, the filing time, and the time I sent it.

Q You are the telegraph operator? A Yes.

Q You sent that message? A Yes.

MR. WELLER: I offer the message in evidence.

THE COURT: I will receive it.

(People's Exhibit 1 for Identification is received in evidence, and so marked).

CROSS EXAMINATION BY MR. CAMPBELL:

Q Do you know who gave you that telegram? A Yes, sir, the party is right here who handed me the telegram. He is right here in the hall.

CASE 1527

Q What is the name of that person, do you know? A The name is Jacob Siegelman, the clerk.

Q Do you know how many telegrams you received on the date in question? A I can, by looking at that telegram, up to that time that I came on duty at 5 o'clock.

Q Your recollection is only refreshed when the telegram is shown you? A I sent it, and received a notice it was undelivered, laying there until next morning; the office was closed.

Q Do you know who has had this telegram in charge since that day? A The message has not been out of the office, been locked up.

Q How many employees are attached to your office? A About twenty or twenty-five altogether, night and day.

Q Who does the cleaning of the office? A One of the head messenger boys.

Q Do you know how many messenger boys you had in your employ since February 20th? A I have nothing to do with the messenger boys; I couldn't tell you that.

Q You don't know how many --

MR. WELLER: The date is February 7th.

MR. CARPES: What date is the telegram?

MR. WELLER: February 6th.

BY MR. CARPES:

Q Are these telegrams committed to your office, put in any particular place? A Yes, sir, they are put away. They are put

CASE # 1527

away and tied up and put in a safe or a bundle so nobody can get at them.

Q In a bundle? A Yes.

Q Tied up in a bundle? A Yes, with a string.

Q Do you know who has charge of that bundle -- who has had charge of that bundle since February 7, 1912? A I suppose the manager has.

Q Anybody could have access to this bundle? A No, nobody could have access to them.

Q They are not locked up? A Nobody can touch them; nobody would go and look for them, only the manager or clerk.

Q They are there? A They are there.

Q On the premises -- and any of the messenger boys can go there if they want to? A No, cannot go there.

Q Do you observe every messenger boy? A No messenger boy is allowed inside of the counter. They do their business in front.

Q At night time -- you said a moment ago one of the messenger boys cleans up the office? A Yes.

Q He has access to the part of the room where this bundle of telegrams are kept; yes or no? A No, he don't go near where the bundles are kept.

Q He can go in the same room? A Yes.

Q He has access to that room? A Yes.

Q Are you prepared to swear that telegram has not been dis-

CASE # 1527

turbed since it was delivered to you, since February 7th?

A Yes, sir, I am.

Q How? A I do not see no marks or anything on it.

Q Are you prepared to swear no one handled that telegram since February 7th? A I am, yes.

Q You are not there at night times when the room is cleaned. A Yes, sir, I am there at night times.

Q Are you there in the daytime? A No.

Q You do not know what happens in the daytime? A No.

Q When you are not there? A No.

Q You do not know what transpires in your absence?

THE COURT: He says no.

BY MR. CARPENT:

Q Now, how many telegrams were there sent on the night of February 7th? A I will have to take a look at that, and tell you from that -- that was about an hour and a half after I was on duty.

Q Do you know how many were sent the previous day? A Yes, about over a couple of hundred -- probably two hundred and fifty, each way.

Q You are not in a position to identify any person who left the telegram? A This original telegram here?

Q Yes. A I cannot say. My back is turned to the counter, and I couldn't tell you.

Q You don't know if a messenger boy left it there, or a

CASE 1527

woman left it there, or a boy left it there? A No.

Q Is that right? A Yes, I don't know who left it there.

BY MR. WELLER:

Q These telegrams are kept in what, in a cabinet or something? A Kept in a sort -- sort of cabinet, under the counter.

Q Are they put in bundles? A It is tied up in a form and put away and put underneath the counter.

Q Tied up in what? A In a form.

Q Box, you mean? A No, just put together from A to Z, alphabetically, for each day.

Q And they are put under the counter? A Yes.

Q Is there a cabinet or a door or what? A A door that shuts.

Q Is the door shut? A Yes.

Q And locked? A No, it don't lock -- just a little catch.

Q This is behind the counter? A Yes.

Q Is anybody allowed behind the counter except the manager and telegraph operators? A That is all allowed behind the counter.

BY MR. CARPPEL:

Q You mean, that is the rule? A That is the rule.

Q You are not prepared to say some one else does not come behind the counter besides the manager and operator? A I have not seen anybody, in my time, come behind the counter.

MR. CARPPEL: I object to the admission of the telegram.

CASE 1527

THE COURT: It was admitted in evidence some time ago, without objection.

MR. CARPEL: It was marked for identification.

THE COURT: That telegram was admitted in evidence about ten minutes ago, without objection, and it can now be read.

MR. CARPEL: I object to the introduction of the telegram, as not binding upon this defendant.

THE COURT: It has been in evidence now for some time.

MR. CARPEL: You state the telegram was admitted ten minutes ago?

THE COURT: Yes, and the stenographer will read the record on that point.

(The stenographer does as directed).

(Mr. Weller reads Exhibit 1 to the Jury as follows:

"2-6-1912. Gassner, Grange House, Bergenfield, New Jersey. Jennie and self married to-day. Going up State. Writing later. Eric Roberts.")

MR. WELLER: THE PEOPLE REST.

TESTIMONY CLOSED.

Mr. Carpel sums up in behalf of the defense.

Mr. Weller sums up in behalf of the People.

CASE 1527

THE COURT'S CHARGE.

CRAIN, J.

Gentlemen of the Jury, this indictment, which is an accusation in writing, preferred by the Grand Jury of the County of New York, charges the defendant, Rebecca Mercury, with a violation of certain provisions contained in Section 2460 of the Penal Law.

The indictment creates no presumption that the defendant is guilty. The defendant has said by her plea that she is not guilty, and you have been impaneled and are now acting as jurors in this case so that in your capacity as the exclusive judges of the facts, you may determine from the evidence, and from the evidence alone, and from the evidence as you recollect it, whether or not the defendant is guilty as charged in the indictment.

That portion of Section 2460, which, in any conceivable view of the evidence in this case, is alone applicable, is found in the second sub-division of that section.

It is the law that any person who shall induce, entice, or procure any female to reside with her for the purposes of prostitution, shall be guilty of a felony.

It is charged in the first count in the indictment that that was what this defendant did.

It is also the law that any person who shall induce, entice or procure any female to live a life of prostitution,

CASE # 1527

shall be guilty of a felony, and, it is charged in the second count in this indictment that that was what this defendant did.

It is also the law, as contained in the second subdivision of Section 2460 of the Penal Law, that any person who shall induce, entice or procure a female for the purposes of prostitution, shall be guilty of a felony; and, in the third count in this indictment, it is charged in substance that that was what this defendant did.

It is also the law that no conviction shall be had under any provision contained in Section 2460 of the Penal Law upon the testimony of the female, unless supported by other evidence. By the testimony of the female is meant the testimony of that woman who is alleged to have been enticed, induced or procured for any one of the purposes mentioned.

You are the exclusive judges of the facts. Therefore any comment which it may appear to be appropriate for me to make upon the evidence, is made solely in aid of your application to the evidence, as you recollect it, of the law as stated in this charge, and if, in any comment which is made upon the evidence, the comment differs from your recollection of the evidence, your recollection will control you when you retire to deliberate.

As I recall the evidence, it is not a matter of dispute in this case, that in the month of January, 1912, and during

CASE # 1527

the first few days in the month of February, 1912, the witness, Jennie Johnston, lived at a place called Bergenfield, in the State of New Jersey, and that she lived there with her mother; that she was employed in the month of January, 1912, and during a few days in the early part of February, 1912, by a concern who were makers of laces, and who had their place of business in the county of New York; that she had been employed by that concern for a considerable period of time, and was accustomed to go to her place of business from her home in Jersey, in the mornings, and to return to her home after business hours.

I believe it is not a matter of dispute that at a comparatively early date in the month of February, 1912, this witness Johnston, visited the defendant at the defendant's home, No. 113 West 106th street, and upon those occasions, remained for considerable periods of time in the rooms that were occupied at that time, at that address, by the defendant, and that at a date somewhat later, the witness Johnston went to live with the defendant at the rooms taken by the defendant at 161 Manhattan Avenue, in the county of New York.

My recollection of the evidence is that there is testimony going to the point as to what the witness Johnston did in certain connections while in the premises of the defendant at 113 West 106th street, and, as to what the wit-

CASE # 1527

ness Johnston did in the premises of the defendant at 161 Manhattan Avenue.

I believe that I am justified in saying, particularly in the light of the summation of counsel for the defendant that it is not a matter of dispute in this case, that while the witness Johnston was in the premises of the defendant at 113 West 106th street, and while she was in those premises occupied by the defendant at 161 Manhattan Avenue, she, the witness Johnston, had sexual intercourse upon a number of occasions with a number of different men. My recollection of the evidence is that there is testimony going to the point that on at least some of such occasions, the men who had sexual intercourse with the complaining witness in the premises mentioned, paid sums of money, some of which were paid to her, and some of which were left upon articles of furniture in those premises, and that money was paid by certain persons to the defendant but, you will recollect what the evidence is in that regard.

The contested issue in this case, as I understand the contest, is primarily as to the circumstances under which the witness Johnston went to the premises of the defendant at 113 West 106th street, and as to the circumstances under which she went to the premises of the defendant at 161 Manhattan Avenue, and, more particularly in that connection, whether she went to these premises because she was thereto

CASE # 1527

induced or thereto enticed or procured to do so by the defendant.

Did this defendant induce, entice or procure the witness Johnston for the purposes of prostitution, to go to premises in which she, the defendant, lived, or, did this defendant entice, induce or procure the witness Johnston to live a life of prostitution in those premises, or, did this defendant entice, induce or procure the witness Johnston, within the language of the statute in that connection, for the purpose of prostitution? If, upon the evidence, you entertain no reasonable doubt that the life that was led by the witness Johnston in those premises was the life of a prostitute, then the question is, what was it that led her to lead that life? Was she induced or enticed thereto by this defendant? Did the defendant procure her to lead it? And, that opens up for your scrutiny and critical analysis, the entire testimony in this case. You may not improperly approach that question from the light, if any, which the evidence gives you as to the previous character of the witness Johnston; as to her home surroundings, and her business life.

If the witness Johnston did everything which she has testified that she did do, at any time while inside of the premises of this defendant, but did not do any of those things because she had been enticed or induced or procured

CASE 1527

to do them by this defendant, then this defendant may not be found guilty by you. But, if what the witness Johnston did was the outcome of that which was done by the defendant, and that which was said to the witness Johnston by the defendant, then if the other elements entering into and forming part of the crime as defined by Section 2460 are found by you on the evidence to exist, you may find her guilty as charged in the indictment.

To induce a person is to influence to an act or course of conduct, as by persuasion -- to prevail upon. To entice is to draw or attempt to draw by working on the desires or hopes. To procure is to obtain by effort, or bring about by means of effort.

What were the operating causes upon the mind of the witness Johnston which led to the doing of those things which she has testified to having done, if in point of fact, she did them?

Testimony relating to the character of the witness Johnston, in so far as it may appear in this case, has been received for two purposes, one of which has been in substance stated, namely, that in the light of that character as it may have been disclosed by the evidence, you may be in a position to determine what it was that operated upon the mind of the witness Johnston that led her to do the things which she has testified to having done, if she did

CASE 1527

them, and the other is that apart from that, you may determine in the light of that evidence, what credence or belief you will give to her testimony.

It is proper that I should say to you that it is not necessary for the People to establish, in order to entitle them to a verdict convicting this defendant of the crime charged in the indictment, that the witness Johnston was a pure girl, a chaste girl, before she entered the premises of the defendant, because, whatever may have been the purpose or the primary object of Section 2460 of the Penal Law, it is operative as well in the case of a woman who is unchaste as in the case of a pure virgin, in the sense that it is legally possible for a person to be guilty of the commission of the crime as charged in this indictment who induces, entices or procures a woman who has already fallen from virtue, to do any one of the things brought to your attention, as forming parts of the section in question. So that to repeat, the evidence, in so far as it may be found in this case regarding the character of the witness Johnston, is for a twofold purpose, ^{first} to enable you to say in the light of such testimony what credence you will give to her evidence, ^{and} more particularly to enable you to gauge and determine whether her character was such that she did that which she did, without the enticement, inducement or procurement by this defendant, or as the result of such entice-

CASE 1527

ment, inducement or procurement.

A defendant in a criminal action is presumed to be innocent until the contrary be proved, and in case of a reasonable doubt as to whether her guilt is satisfactorily shown, this defendant is entitled to an acquittal.

The burden of proof is upon the prosecution. That burden requires that before Rebecca Mercury can be found guilty, you must be satisfied from the evidence beyond a reasonable doubt, of her guilt.

A reasonable doubt is a doubt that is founded in and sustained by reason. It is not a whim; it is not a caprice; it is not the action of unreasonable sympathy. It is a doubt back of which there is a because.

You must bring the evidence in this case strictly to the test of the requirements of the law as those requirements are stated to you, and, putting aside sympathy, if there be any, or prejudice, if there be any, pass upon the question as one of fact.

It is unnecessary to say to you that anything said by any witness which was stricken out by the Court's action during the progress of the trial, forms no part of the evidence; that you are to be wholly uninfluenced in the rendition of a verdict, by any disposition which the Court has made of any motion during the pendency of the trial, as such disposition imports no opinion by the Court as to what

CASE # 1527

your verdict should be.

It is perhaps proper by way of abundant caution, in that connection, to allude to one item of evidence which the Court struck out of its own motion, and that was, testimony on the part of a police officer to the effect, or, going to the point that he had been offered certain money by this defendant. That is not in this case, and is not to be thought of by any one of you when you are in the jury room deliberating as to what your verdict should be, and of course, inasmuch as it is not to be the subject of thought by any one of you, it is not to be the subject of comment.

Now, gentlemen, you can retire.

MR. CARPEL: May I ask your Honor --

THE COURT: Hand it up.

(A paper is handed to the Court by defendant's counsel).

THE COURT: I will charge you gentlemen, generally, with respect to every witness, that if you believe that any witness has committed deliberate perjury with respect to a material matter, then and in that event, you are at liberty to wholly disregard the evidence of such witness. Now, gentlemen, you can retire.

(The jury retired).

Later: The jury rendered a verdict of guilty as charged in the indictment.

CASE 1527

(The defendant is remanded).

-----0-----

CASE # 1527